

South Australian
Adult Safeguarding Unit

Annual Report

2020 - 2021



Government
of South Australia

SA Health



Director's Foreword



I am pleased to present the Adult Safeguarding Unit (the Unit) Annual Report for 2020-21. This report highlights the work of the Unit in 2021-21 and its role in promoting the rights of older people and adults living with a disability to live free from abuse and neglect.

Established under legislation, the Unit has a strong focus on safeguarding the rights of adults at risk of abuse. For its first year of operation, the Unit had a legal mandate to respond to reports of abuse or neglect of adults aged 65 and over, and 50 and over for Aboriginal and Torres Strait Islander people, who may be vulnerable to abuse.

On 1 October 2020, the Unit expanded its legal mandate to also respond to reports of abuse or neglect of adults living with a disability who may be vulnerable. The expansion, two years ahead of schedule, occurred in accordance with the recommendations of the Safeguarding Task Force, of which I was privileged to be a member. The ability of the Unit to adapt to such significant change within the past year has been a key achievement for Office for Ageing Well.

Importantly, an independent evaluation of the Unit's first year of operations found that the service is fulfilling its legislative obligations and has developed positive relationships with diverse stakeholders.

I acknowledge the support of all who have contributed to the Unit's development and expansion, including older people and adults living with a disability. Safeguarding the rights of older people and adults with a disability relies on community connection and collaboration. I am grateful for the significant relationships Office for Ageing Well has built over many years, which now support and strengthen the important work undertaken by the Unit.

I wish to express my gratitude to the Adult Safeguarding Unit and broader Office for Ageing Well staff for their strong commitment to upholding the rights of older people and people living with a disability, as well as their dedication to the important and diverse work undertaken by the Office to support all South Australians to age well.

Cassie Mason

Director, Office for Ageing Well



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Background

The “Protecting our Vulnerable Adults” election commitment outlined the Marshall Government’s intention to legislate to empower a government agency to conduct investigations into allegations of abuse or neglect of vulnerable adults.

This commitment was fulfilled and the Adult Safeguarding Unit (the Unit), established under the *Ageing and Adult Safeguarding Act 1995* (the Act - Appendix One), commenced operations on 1 October 2019 with a legislative mandate to respond to reports of abuse or neglect of adults vulnerable to abuse.

Part 3 of the Act sets out Adult Safeguarding provisions, including: Principles for the operation of the Act and the Unit (s12); Composition of the Unit (s14); Functions (15); Powers of authorised officers (Part 3, Div3); Reporting suspected risk of abuse of vulnerable adults (22); Assessment and investigation of reports (Part 4, Div 4); Consent (s24); Further referral of matters (Div 5); Court orders (Div 6); Review of certain decisions (Part 5); and Information gathering (Part 6).

Given that both the legislation and the Unit are the first of their kind in Australia, the Act included a transitional provision to limit the Unit’s remit to responding to reports of suspected or actual abuse of people aged 65 and over, or 50 and over for Aboriginal and Torres Strait Islander people, for its first three years of operation.

However, on 1 October 2020, following the recommendation by the Safeguarding Task Force, the Unit expanded its legal mandate to include responding to reports of adults living with a disability who may be vulnerable to abuse. The Unit will further extend its service to include all adults who may be vulnerable to abuse in October 2022, as planned.

Role of the Adult Safeguarding Unit

The role of the Adult Safeguarding Unit is to walk alongside older people and adults living with a disability who may be vulnerable to abuse, to understand their situation and develop tailored safeguarding strategies in accordance with a person’s wishes and unique situation.

The Unit is underpinned by a rights-based legal framework and has an additional role in preventing abuse through early intervention, community awareness and education.

The Unit complements existing agencies and statutory authorities, ensuring the best outcomes for adults who may be vulnerable to abuse.





Functions of the Adult Safeguarding Unit

Section 15 of the Act sets out its functions, which include:

- > promoting and advocating for the rights and interests of vulnerable adults in South Australia
- > promoting participation by vulnerable adults in the making of decisions that affect their lives
- > promoting and assisting in the development of coordinated strategies for prevention and early intervention of abuse of vulnerable adults
- > to receive reports relating to the suspected abuse of vulnerable adults
- > to assess reports relating to the suspected abuse of vulnerable adults
- > to investigate reports relating to the suspected abuse of vulnerable adults
- > to coordinate responses to reports relating to the suspected abuse of a vulnerable adult with State authorities and other persons and bodies
- > to refer reports relating to the suspected abuse of a vulnerable adult to appropriate persons and bodies
- > to follow up on reports that have been assessed or investigated where it is appropriate to do so
- > to collate data on matters relating to the abuse of vulnerable adults
- > to advise Ministers, State authorities and other bodies (including non-Government bodies) on matters relating to the abuse of vulnerable adults at a systemic level
- > to prepare and publish reports on matters relating to the abuse of vulnerable adults at a systemic level
- > to prepare and publish reports on issues relating to vulnerable adults that are of public importance
- > to perform such other functions as may be assigned to the Adult Safeguarding Unit by the Minister or under this or any other Act.

When performing its functions, the Unit must apply the following principles:

- > all vulnerable adults are entitled to be treated with respect for their dignity, autonomy and right to self-determination
- > it is presumed that a vulnerable adult has decision-making capacity, unless there is evidence to the contrary
- > except in those cases involving serious and imminent harm, the primary consideration in the operation of this Act is to ensure that a vulnerable adult's autonomy is respected and maintained rather than safeguarding the person from abuse
- > vulnerable adults must be allowed to make their own decisions about their health care, residential and accommodation arrangements, financial affairs and other personal affairs to the extent that they are able, and be supported to enable them to make such decisions for as long as they can
- > dignity in risk must be observed through acknowledging the right of all vulnerable adults to take informed risks and to make decisions that others (no matter their experience or background) may regard as wrong, reckless or inappropriate
- > a vulnerable adult with decision-making capacity who is experiencing abuse has the right to decline support, assistance or other measures designed to safeguard them from abuse
- > vulnerable adults must be involved in, and their wishes must directly inform, decisions made or actions taken to support and safeguard them
- > the best approach to safeguarding vulnerable adults from abuse is through coordinating a multi-agency and multi-disciplinary response, drawing on the expertise of relevant persons and bodies in order to effectively support and empower vulnerable adults to safeguard their rights and mitigate against abuse
- > subject to the laws of the State and Commonwealth, the will, preferences (including sexual preferences and sexual orientation), cultural and heritage beliefs, religious beliefs, racial origin, ethnicity, background and other beliefs or rights of a vulnerable adult must always be respected
- > safeguarding measures should consist of those which are the least interventionist and the least intrusive to the vulnerable adult, thus ensuring that any consequential erosion of that person's rights is kept to a minimum
- > safeguarding vulnerable adults from abuse is ultimately achieved through preventing abuse in the first place, and therefore awareness raising and community education programs must be a priority in the administration and operation of the Unit.





The Act has significant information sharing provisions that enable information sharing between a range of organisations to assist in the safeguarding process. With increasing community awareness and broad knowledge of the Unit, information sharing with other agencies has significantly increased and has become easier over time as formalised processes with individual agencies are established.

In addition to the Director, the Unit comprises a Chief Adult Safeguarding Practitioner, two Senior Adult Safeguarding Practitioners, eight Adult Safeguarding Practitioners, a Community Education and Engagement Project Officer and Administrative support, with a budget of \$1.638 million in 2020-2021.

Current Unit Staffing 2020-21 FTE

Chief Adult Safeguarding Practitioner	1.0FTE
Senior Adult Safeguarding Practitioner	2.0FTE
Safeguarding Practitioners	8.0FTE
Project Officer - Community Education and Engagement	1.0FTE
Administrative support	0.8FTE
Current Staffing - Actual	12.8FTE

Elder Abuse

One in 20 older Australians experiences some form of abuse, often by someone they know and trust, and usually a family member. For every one case reported, it is likely that another five remain hidden without any suspicions being aroused.

Abuse is any deliberate or unintentional action, or lack of action, carried out by a person, often in a trusted relationship, which causes distress and/or harm to a person who may be vulnerable.

Elder abuse can be physical, financial, sexual, chemical, neglect or emotional, with financial and emotional abuse occurring most frequently and often together.

Abuse is most likely to occur at home, or where services are provided, by someone familiar or trusted, such as an adult son or daughter, spouse or domestic partner, adult grandchild, friend, neighbour, or paid or unpaid carer.



Elder Abuse Prevention

The South Australian Government, through Office for Ageing Well, has taken a strong leadership role in developing and implementing a rights-based approach to elder abuse prevention, recognition and response through the *Strategy to Safeguard the Rights of Older South Australians 2014-2021* and its *Action Plan 2015-2021*. Ninety eight percent of the actions outlined in the Action Plan have been completed. A suite of new and ongoing initiatives has been progressed in 2020-2021, in partnership with a range of government and non-government organisations, including older people.

In the reporting period, innovative elder abuse prevention work by Office for Ageing Well, in partnership with many South Australian organisations, continues to support the abuse prevention work of the Unit.

South Australia's Plan for Ageing Well 2020-2025 (the Plan) was released by the Minister for Health and Wellbeing on 1 July 2020, following significant statewide consultation over two years with a diverse range of older South Australians and other stakeholders.

The Plan's Strategic Priorities: Meaningful Connections; Home and Community; Navigating Change and, its Enablers: Tackling Ageism; Recognising Diversity; and Increasing Accessibility; all contribute to upholding the rights of older South Australians and address risk factors for elder abuse.

The broader Office for Ageing Well work undertaken in 2020-21 included:

- > Partnering with local government to create an Age Friendly South Australia, supporting seven projects across the state through the annual Age Friendly SA grant program.
- > Partnering with Office of the Public Advocate, Legal Services Commission,

- SA Health and Donate Life to deliver the Plan Ahead Week between 7-12 September 2020. This ongoing campaign raises awareness about the importance of planning ahead to safeguard future rights, by completing the legal tools available.
- > Partnering with four local governments over two years to develop and deliver a sustainable peer led program to support people to complete their Advance Care Directives.
 - > Partnering with Office of the Public Advocate over two years to co-design a toolkit and deliver a workshop series to support Substitute Decision Makers appointed under an Advance Care Directive to understand their role and responsibilities.
 - > The inaugural Office for Ageing Well Tackling Ageism Award, introduced as a new initiative under the Plan, recognises an individual, community group or organisation that understands the pervasive nature of ageism and is taking action to challenge it. Ms Kerry Jones was the inaugural award recipient in December 2020.
 - > Partnering with Think Human to codesign an Age Inclusive Communications Toolkit to shift the dominant negative narrative/ stereotypes of older people and ageing, which will be rolled out in 2021-2022.
 - > The Loneliness Warriors Pilot, in partnership with Community Centres SA, to facilitate conversations and awareness about the existence and dangers of loneliness and social isolation on wellbeing, through trained local 'loneliness warriors'.
 - > Partnering with Community Centres SA to deliver the Abuse Prevention Hubs project that builds the Adult Safeguarding Unit's capacity to deliver abuse prevention education for Community Centres SA staff and volunteers. The project is developing a co-designed training program, tailored

to the needs of community organisations, which will be piloted in two metropolitan Adelaide council areas over two years.

- > Contributing to the South Australian Law Reform Institute's review of the role and operations of Enduring Power of Attorney in South Australia. Significant input was provided by the Unit, including attendances at a roundtable meeting and face to face interviews, leading to a number of positive recommendations for reform.

South Australia's leadership in Elder Abuse policy and practice contributed to progress of the National Plan to Respond to the Abuse of Older Australians 2019-2022 Implementation Plan. Office for Ageing Well and the Unit, as well as other South Australian organisations, are involved in supporting and reporting against the National Plan's implementation.

Key initiatives under the National Plan funded by the Australian Government include:

- > National Elder Abuse Phone Line - 1800 ELDERHelp, that redirects South Australian callers to the SA Phone Line. Data for 2020-21 shows that the SA Abuse Prevention Phone Line receives low numbers of redirected calls from the National Phone Line.
- > The Specialist Elder Abuse Unit, managed by Uniting Communities, provides free information, support and legal advice to people who have been impacted by elder abuse in Adelaide. The Adult Safeguarding Unit works collaboratively with the Specialist Elder Abuse Unit and has referred a number of cases where legal assistance is required.

2020 - 2021 Activity



1,886

99.4%
increase from
2019/20

Total number of calls to the South Australian Elder Abuse Prevention Phone Line



927

44.8%
increase from
2019/20

Number of advice and information calls

959

213.4%
increase from 2019/20



Number of reports to the Unit

Older People and People Living with Disability Statistics

1 October 2020 (extended scope) to 30 June 2021

Older People

Calls relating to adults aged 65 years and over and 50 years and over for Aboriginal and Torres Strait Islander people.

996 | **52.8%**
of calls

No. of calls to the SA Abuse Prevention Phone Line

458 | **46.0%**
of calls

No. of advice and information calls

538 | **54.0%**
of calls

No. of reports to the Unit

People Living with Disability

Calls relating to adults living with disability, aged 18 to 64 years and 18 to 49 years for Aboriginal and Torres Strait Islander people.

394 | **20.9%**
of total calls

No. of calls to the SA Abuse Prevention Phone Line

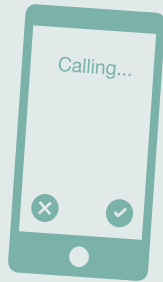
155 | **39.3%**
of calls

No. of advice and information calls

239 | **60.7%**
of calls

No. of reports to the Unit

Older People



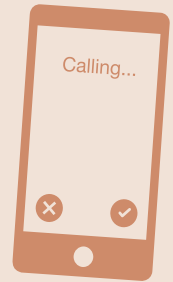
28.1% from a service provider

27.3% from a family member

9.3% the person themselves

4.5% South Australian Police

People Living with Disability



56.6% from a service provider

8.1% from a family member

4.1% South Australian Police

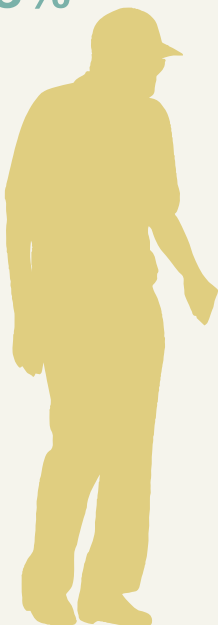
4.1% allied health

Older People

65-74 yrs
16.7%

75-84 yrs
18.5%

85+ yrs
16.8%



People Living with Disability

18-24 yrs
12.7%

25-34 yrs
8.1%

35-49 yrs
17.3%

50-54 yrs
4.8%

55-64 yrs
16.2%

In many calls age is not provided. Particularly where the call is for information and advice only.

Alleged Perpetrators

Older People
28.2%
sons

18.1%
daughters

People Living with Disability

12.9%
mother

10.4%
father



Gender

of those Experiencing Abuse

Female

67.5%
older people

52.0%
disability

Male

30.8%
older people

45.9%
disability



Gender is not always identified.



Disability Type for Adults Living with Disability

41.1%
intellectual

18.3%
psychiatric

18%
physical

16%
neurological

Type of Abuse

Older People

43.6%

emotional



42.7%

financial



20.3%

neglect



17.3%

physical



People Living with Disability

34.8%

30.2%

28.2%

22.6%

It is important to note that in a number of calls, more than one type of abuse was identified.





Expanding the Scope - Adults with a Disability

On 21 May 2020, in response to the significant gaps in support for adults living with a disability, the State Government established the Safeguarding Task Force co-chaired by Dr David Caudrey and Ms Kelly Vincent. The Safeguarding Task Force examined the safeguarding gaps for adults living with a disability and provided recommendations to the State Government for immediate reform.

In its final report, released on 31 July 2020, the Task Force recommended the legal remit of the Unit expand to respond to reports of abuse of adults living with a disability, earlier than originally planned.

This recommendation was accepted by the State Government, and the Unit's legal mandate expanded on 1 October 2020.

To support this, staffing increased from 5 FTE to 12.8 FTE and the Unit's messaging and collateral was updated to reflect the broadened scope. The Unit also focused on strengthening relationships with key disability agencies to ensure robust referral pathways and multi-agency collaboration to support safeguarding. Regular meetings have occurred with the NDIS Quality and Safeguarding Commission, as well as a number of disability advocacy and non-government organisations.

The Unit has been incredibly grateful for the support of many disability organisations in raising awareness of its service and remit; working alongside the Unit to establish effective safeguards and service responses for adults living with a disability.

Stakeholder Engagement

Significant energy has been invested in the development of relationships across the community over the last year. Broad engagement has occurred with those with lived experience, and government and non-government organisations, with a particular focus on disability organisations.

The Adult Safeguarding Advisory Group (Appendix Two) provides strategic advice on the operations of the Unit and includes key representatives from a diverse range of government and non-government organisations. During 2020-21, this group met on three occasions.

The Interagency Phone Line and Adult Safeguarding Unit Implementation Workgroup (Appendix Two) provides operational input and advice in relation to the ongoing operations of the Unit, including its role on prevention, community education and awareness. The Implementation Workgroup met on three occasions during the reporting period, contributing to the development of internal procedures, referral pathways, promotional material, and providing assistance to the Unit to navigate complex cases.

The Unit worked alongside culturally and linguistically diverse organisations to promote its role and to seek guidance about how best to deliver a culturally appropriate service and culturally specific educational material. This has included two trips to meet with services in Anangu Pitjantjatjara Yankunytjatjara (APY Lands) and present to the APY Board of Management.

In 2020-21, eight Ageing Well Community Networks continued to bring together community leaders and stakeholders to share ageing well and safeguarding information in culturally appropriate ways and through trusted networks to Aboriginal people, people who are gender and/or sexually diverse, regional communities and culturally and linguistically diverse communities. The Networks have developed to meet the needs

of their communities and adapt to COVID-19 restrictions, using various communication methods to stay connected and informed. The Unit has presented at Network meetings upon request.

Community Education and Awareness

A function of the Unit is to raise community awareness about abuse and its signs, and strategies to safeguard rights and prevent abuse.

Between 1 July 2020 and 30 June 2021, Unit staff presented on 46 occasions to stakeholders, including government and non-government organisations, service providers and community members, including culturally and linguistically diverse groups, professional associations and SA Police, to promote the Unit and provide information about making a report.

The Unit presented to 5th year Geriatrics and General Practice students at the University of Adelaide, 4th year Social Work students at University of South Australia, SAPOL Domestic Violence Investigator's Course, and the Attorney General Department's training to SA Police Victim Contact Officers and Victims Register Staff.

Reciprocal training has been provided between the Unit and Multi-Agency Protection Service staff, with a specific focus on the Family Safety Framework.

Information sessions have also been provided to Disability Advocacy and Complaints Service of South Australia (DACSSA), National Disability Insurance Scheme (NDIS), aged and disability providers, and the NDIS Quality and Safeguards Commission.

Public Campaigns

To coincide with the one-year anniversary of the opening of the Unit, and the expansion of its remit to respond to reports of abuse of adults living with disability, a community awareness campaign was launched on 1 October 2020. The four week campaign (which was extended by an additional two weeks) used refreshed imagery and a 'Speak Up!' message to spread the word about the Unit's additional focus, phone line and website via print, digital, social media and radio. Calls to the phone line during the campaign period doubled, and there were also twice as many cases involving Aboriginal and Torres Strait Islanders and people from culturally and linguistically diverse backgrounds from the previous year.

In 2021, Office for Ageing Well's annual public awareness raising campaign Stop Elder Abuse focussed on the message 'Older people have rights.' The campaign ran from 10 May until 20 June, and promoted the phone line 1800 372 310 and website as sources of information,

advice, and support. The campaign message was spread through digital and social media, metropolitan and regional radio, press, and display screens in GP waiting rooms and pharmacies. COVID-19 continued to cause disruptions to face-to-face events, but partner organisations included campaign information in their online communications. On World Elder Abuse Awareness Day (15 June), Office for Ageing Well released a new video series featuring Aboriginal ambassadors talking about the importance of respecting the rights and safety of older Aboriginal people as part of the five-year Respect.Connect campaign.

The Unit recorded a noticeable increase in calls and reports during and following the campaign period. In April 2021, the Unit received 98 calls relating to older people. In May, this increased to 135, and further increased to 150 in June. In comparison, in 2020, the Unit received 56 calls in April, 92 in May and 110 in June in relation to older people. This demonstrates both the general increase in calls over time to the Unit, but also the impact of the Stop Elder Abuse campaign on calls to the Unit.



SA Abuse Prevention Phone Line

To reflect the Unit's legal remit to include adults with a disability, the SA Elder Abuse Prevention Phone Line (Phone Line) changed its name to SA Abuse Prevention Phone Line. The Phone Line is the portal to the Unit and operates 9-5pm, Monday to Friday (1800 372 310). Anyone with concerns about abuse of an older person or an adult with a disability can call the Phone Line for information, advice or to make a report to the Unit.

Between 1 July 2020 and 30 June 2021, the Phone Line received 1,886 calls compared to 946 calls in the previous year. During the first quarter of the reporting period, the Phone Line provided advice and information and could only take reports for older adults. From 1 October 2020, the Phone Line provided advice, information and took reports for adults with a disability.

The Phone Line is an important resource for the community, as many community members do not feel comfortable making a report for a variety of reasons. The Phone Line offers an opportunity for community members to seek initial support and advice, and be provided with comprehensive information and reassurance about the process of making a report.

Total Number of Calls to the Phone Line

1 Jul - 30 Sep 2020	337
1 Oct - 31 Dec 2020	495
1 Jan - 31 Mar 2021	473
1 Apr - 30 Jun 2021	581

The number of calls to the Phone Line has continued to increase, coinciding with the Unit's expanded scope and increased community awareness.

The Unit continued to analyse trends of the calls to the Phone Line to shape targeted community education and identify systemic issues or concerns.

Adult Safeguarding Unit Operations

The Act sets out requirements for receiving and responding to reports of abuse, referring and investigating matters, as well as consent and information sharing requirements.

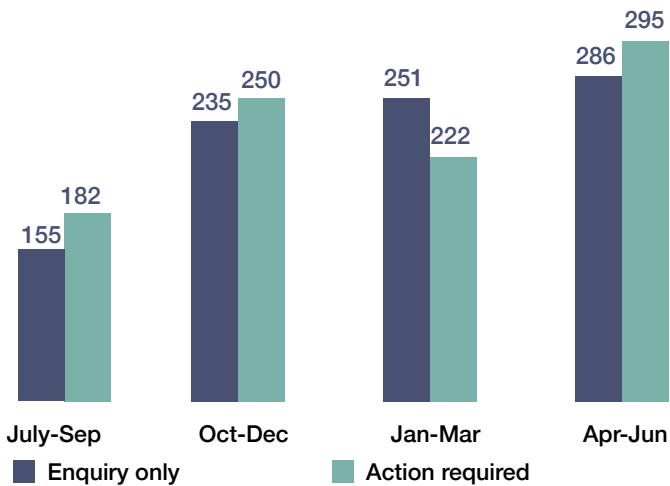
As a statewide service, client visits and stakeholder meetings occurred in both metropolitan and regional South Australia. The increase in volume of reports from regional areas has necessitated two person visits to a number of country locations, including Port Augusta, Whyalla and Mount Gambier. Regional travel enabled staff to meet with clients and families and has enabled opportunities to promote the Unit and build positive relationships with regional services.

Reports

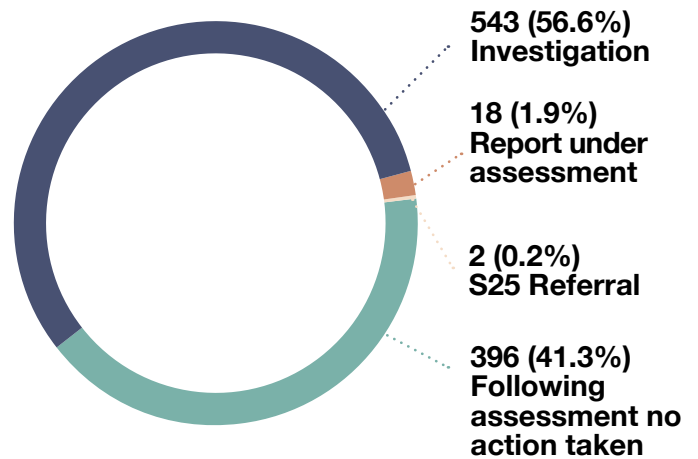
Anyone who suspects abuse of an older person or an adult with a disability who may be vulnerable, can report their concerns to the Unit via the Phone Line. Making a report to the Unit is voluntary however, once a report is made the Unit has a legal mandate to assess the report and take one of the following three actions:

- > investigate the matter
- > refer the matter to a more appropriate organisation or body
- > take no further action.

Cases Requiring Action Versus Enquiry Only



Recommended Action Following Assessment



Section 23 of the Act enables the Unit to gather confidential information without the consent of the person for the purposes of assessing the initial report and determining the most appropriate action. Consistent with the recommendations of the one-year evaluation and feedback from the Adult Safeguarding Advisory and Implementation Groups, the Unit has made full use of these provisions to ensure all reports are comprehensively assessed, so appropriate next action can be determined. Relying on these provisions to the fullest extent possible enables staff to gather information about the risks for staff and the person, as well as any information relevant to the concerns such as current support, decision-making capacity and legal orders. This approach ensures well informed, targeted and sensitive discussions occurs.

In 2020-21, 543 reports (56.6%) resulted in the Unit investigating the matter and two reports (0.2%) resulted in the Unit referring the matter to a more appropriate organisation or body. 396 reports (41.3%) required no further action (see No Further Action page 24), 18 reports (1.9%) are still under assessment.



Consent

Under the Act, the Unit is required to seek the consent of the person to whom the report relates prior to taking any action. However, in some instances it may be appropriate for the Unit to take action without a person's consent, and the Act outlines limited circumstances in where this can occur. These include:

- > when the person's life or physical safety is at immediate risk
- > where the risk of abuse to which the report relates consists of an allegation that a serious criminal offence has been, or is likely to be, committed against the person
- > when the person to whom the report relates has impaired decision-making capacity in respect of a decision to consent to action of the relevant kind being taken
- > when the Adult Safeguarding Unit has not, after reasonable inquiries, been able to contact the person.

In the vast majority of reports received during 2020-21, the Unit sought the consent of the person experiencing abuse before taking action. Where the Unit did take action without a person's consent, in most instances, this was due to the person having impaired decision-making and being unable to consent to the proposed action. Prior to taking action without a person's consent, in most situations and where appropriate, the Unit met with the person to establish their wishes and preferences and ensure that, where possible, the person had the opportunity to be supported in their decision-making.

Under the Act, when taking action without a person's consent, the Unit must ensure that any action taken is the least interventionist and the least intrusive, ensuring that any consequential erosion of a person's rights is kept to a minimum (s12(f)).

Investigations

Where the Unit determined that further information was needed to better understand a person's situation following the initial assessment, an investigation was undertaken. The purpose of an investigation is to gather further information to establish facts about an allegation of abuse, explore risk factors, and identify the person's wishes and preferences to assist with safeguarding actions.

The significant information sharing provisions and powers of an authorised officer within the Act ensures information is provided with relative ease. Investigations are undertaken based on an individual's unique situation and preferences and, as such, the majority of investigations are undertaken with the cooperation of the parties involved. A high volume of reports relate to unintentional abuse, and in these circumstances the investigation is undertaken with a strong focus on preserving family relationships.



Case Study One – Cindy

Megan* is employed as a support worker with a registered NDIS service provider, and directly works with Cindy* a woman in her 50s with an intellectual disability. Megan contacted the Adult Safeguarding Unit via the SA Abuse Prevention Phone Line to make a report concerning Cindy.

In her report, Megan stated that she had witnessed Cindy's brother-in-law Stephen* speak to Cindy in derogatory ways that made fun of her disability. Megan also reported that Stephen was locking Cindy's personal items away and had previously prevented her from independently leaving her home by deadlocking the doors and taking keys away. Megan informed the Unit that Stephen identified himself as Cindy's carer, was in receipt of a carer's pension, and was also the nominee on her NDIS plan.

The report was allocated to a safeguarding practitioner for further assessment.

The practitioner contacted Cindy and arranged a time to visit to discuss the concerns raised. Stephen was not present for the visit. Cindy indicated that she had a long standing, close relationship with her sister and brother-in-law and very much wanted Stephen to continue in his capacity as carer and nominee. Cindy stated that she enjoyed her brother-in-law's 'joking' nature however, she did not like having her personal items put away and wanted to be able to access them as she pleased. Cindy informed the Unit that Stephen had not locked the doors to her home for quite a while, but when that did happen, she felt anxious about not being able to get out if she needed to.

Cindy provided the Unit with consent to speak with her brother-in-law. The practitioner assured Cindy that the Unit would be very mindful to preserve the important relationship between her and Stephen while working to safeguard her rights.

In speaking with Stephen, it became apparent he had not realised his actions could be interpreted as disrespectful or hurtful, and was genuinely remorseful for anything he'd done that may have been construed as restrictive or insensitive. Stephen was very receptive to suggestions made by the Unit to use more appropriate language when speaking to Cindy and welcomed the input of a Positive Behaviour Support practitioner. The Unit was able to liaise with Cindy's Support Coordinator to implement this support. The Positive Behaviour Support Practitioner worked with Cindy and Stephen to implement support measures that supported Cindy's rights and freedoms, and ensuring adequate safety and support.

The Unit recognised the considerable amount of time and support Stephen provided to Cindy; supporting her to attend appointments, getting to and from family functions and other activities, as well as helping her with the care of her two cats.

Cindy provided the Unit with consent to provide feedback to her NDIS support service. The Unit contacted the reporter to advise of the actions taken, including the education provided and safeguarding outcomes.

*Name has been changed to protect their identity.

In other more serious cases, the ability to easily obtain information from relevant parties has been highly beneficial to ensure the Unit has all necessary information to guide safeguarding responses, which can include referring to South Australia Police.

Case Study Two – Harry

A worker from a Community Housing organisation contacted the Unit via the SA Abuse Prevention Phone Line to make a report regarding Harry*.

The reporter described Harry as a 21 year old man with a diagnosis of Autism, who lives in a Community Housing property with his father Aaron*. The worker informed the Unit that the provider had been trying to work with Aaron for several months in relation to the condition of the property, which was described as squalid and in need of significant repairs. Aaron was reported as being behind in his rent and the provider had received numerous reports from neighbours that he was dealing drugs from the property. The provider had been finding it very difficult to engage with Aaron and were considering evicting him and Harry from the property unless Aaron complied with conditions of his tenancy.

The Community Housing provider had been visiting the property frequently to try to address some of the concerns and in that time had grown very concerned for Harry. The reporter described Harry as having significant communication issues and support needs. Harry presented in a dishevelled state and was often inappropriately dressed for the weather. The Community Housing provider was not aware of Harry being in receipt of any formal support services, although according to their records, he was at one stage attending a day options programme with an NDIS provider.

Because of the significance of the concerns raised, the Unit allocated the report to a practitioner as a priority, who then obtained information from multiple parties as part of a comprehensive initial assessment. Given the Act's significant information sharing powers, and powers of an authorised officer, the Unit gathered information as part of the safeguarding investigation.

Contact was made with the NDIS provider whose day options programme Harry previously attended. The provider confirmed that Harry had been a participant in their programme several years ago, although his attendance had been sporadic. The provider had concerns about Harry's welfare when he was attending as his hygiene was always poor, he had considerable behaviours of concern, and was frequently absent. The provider had tried to address these concerns with Aaron, who then withdrew Harry from the day options programme.

The Unit contacted local GP surgeries within a certain radius of Harry's home, however, none had Harry listed as a patient of their practice. The Unit made a formal request for information from the NDIS and obtained details of Harry's Specialist Support Coordinator and support provider. The Specialist Support Coordinator had only been working with Harry for a few months but had found it very difficult to engage with Aaron. The support provider was engaged to provide social support to Harry but had also found it difficult to provide this support as Aaron would often turn supports away.

The Unit also sought information from the Multi Agency Protection Service and South Australia Police, who confirmed concerns about family violence and criminal activity occurring from the home.

*Name has been changed to protect their identity.

The Unit (two staff) visited Harry and Aaron at their home, during which they developed significant concerns about Aaron's care of his son and the decisions he was making for Harry. The Unit staff were also concerned about Harry's physical and emotional safety, exposure to criminal activity, and risk of homelessness due to Aaron's refusal to comply with his tenancy conditions.

The Unit made an urgent application to the South Australian Civil Administrative Tribunal (SACAT) seeking the appointment of a Guardian and Administrator for Harry. The Public Advocate was appointed as full guardian and made a decision for Harry to move into supported accommodation with access to a range of support services. Public Trustee were appointed to manage Harry's financial affairs.

A report was made to SAPOL, who are undertaking further investigations.

Harry is gradually adapting to his new life.



Under section 19 of the Act, Authorised Officers have significant powers when investigating cases of serious abuse, including but not limited to the ability to:

- > enter and remain on any premises, place, vehicle or vessel (and for that purpose require a vehicle or vessel to stop)
- > inspect any premises, place, vehicle or vessel
- > use reasonable force to break into or open any part of, or anything in or on, any premises, place, vehicle or vessel
- > require any person (whether on particular premises or otherwise) who has possession of books of account or any other records relevant to a vulnerable adult to produce those books of account or records for inspection
- > examine, copy or take extracts from such books of account or records
- > remove and retain such books of account or records for so long as is reasonably necessary for the purpose of making a copy of the book of account or record
- > take photographs, films, audio, video or other recordings
- > require any person who is in a position to provide information relating to a vulnerable adult to answer any question put by the authorised officer on that subject
- > require any such person to state their full name, address and date of birth
- > give such directions as may be reasonably required in connection with the exercise of a power conferred by a preceding paragraph or otherwise for a purpose related to the administration, operation or enforcement of this Act. (s19).

Referrals

Under section 25 of the Act, the Unit can formally refer a matter, requiring a formal written request from the Unit to the organisation, with the organisation required to provide a formal response within a reasonable timeframe.

As part of the assessment of a report, the Unit considers whether one or more other organisations may be more appropriate to play a role in the development and/or implementation of a safeguarding plan. The Unit's role is to complement rather than duplicate existing services, so where appropriate services are able to assist with safeguarding, and with the person's consent, cases are referred for a safeguarding response.

The Unit made two formal referrals to other agencies using these provisions in 2020-2021 however, this does not reflect the true number of referrals made by the Unit over this period. In the vast majority of matters, referrals were made using established referral pathways already in place at the receiving

organisation, rather than relying on the formal referral provisions within the Act. This less formal approach is generally more conducive to a collaborative approach and ensures multi-agency responses are provided in a timely and collaborative manner.

During the reporting period, the Unit has referred to a broad range of stakeholders to assist with safeguarding.

These include, but are not limited to:

- > South Australia Police
- > Multi Agency Protection Service
- > South Australian Civil and Administrative Tribunal
- > Office of the Public Advocate
- > Public Trustee
- > Uniting Communities Specialist Elder Abuse Unit
- > Community Geriatric Services
- > Aged Care Providers
- > NDIS Providers.



Case Study Three - Kate

Sarah*, a member of the community contacted the Unit to make a report in relation to Kate*, aged 70. Sarah advised she had found Kate standing on the side of the road looking lost and confused. Sarah had stopped to assist Kate who became teary. Kate was able to provide her address and Sarah subsequently transported Kate to her home. When Kate arrived home, she appeared worried and stated her son gets angry with her. Sarah was unable to provide any further information however remained concerned Kate may be experiencing abuse or neglect. Kate had heard about the Unit from the SA Health Facebook page.

Given the limited information provided, the Unit conducted an unannounced visit. Kate was at home by herself and spoke with Unit staff through a screen door. It was unclear if Kate was able to open her front door. Kate was unsure who else lived with her and was unable to recall if she had any support. Kate presented as confused with significant cognitive issues.

The Unit referred the matter in accordance with section 25 of the Act to the Community Geriatric Service who indicated they had been previously involved. The Community Geriatric Service undertook a comprehensive cognitive assessment, which indicated Kate had significant cognitive impairment due to advanced dementia. The Unit ascertained Kate lived with her two adult sons and there were some concerns about their ability to make appropriate decisions on Kate's behalf. The two sons appeared to lack insight into Kate's needs and, despite education from the Unit, refused to agree to in-home support due to the cost. Despite no evidence of financial abuse, there were concerns about the son's reluctance to use Kate's money for the purposes of support.

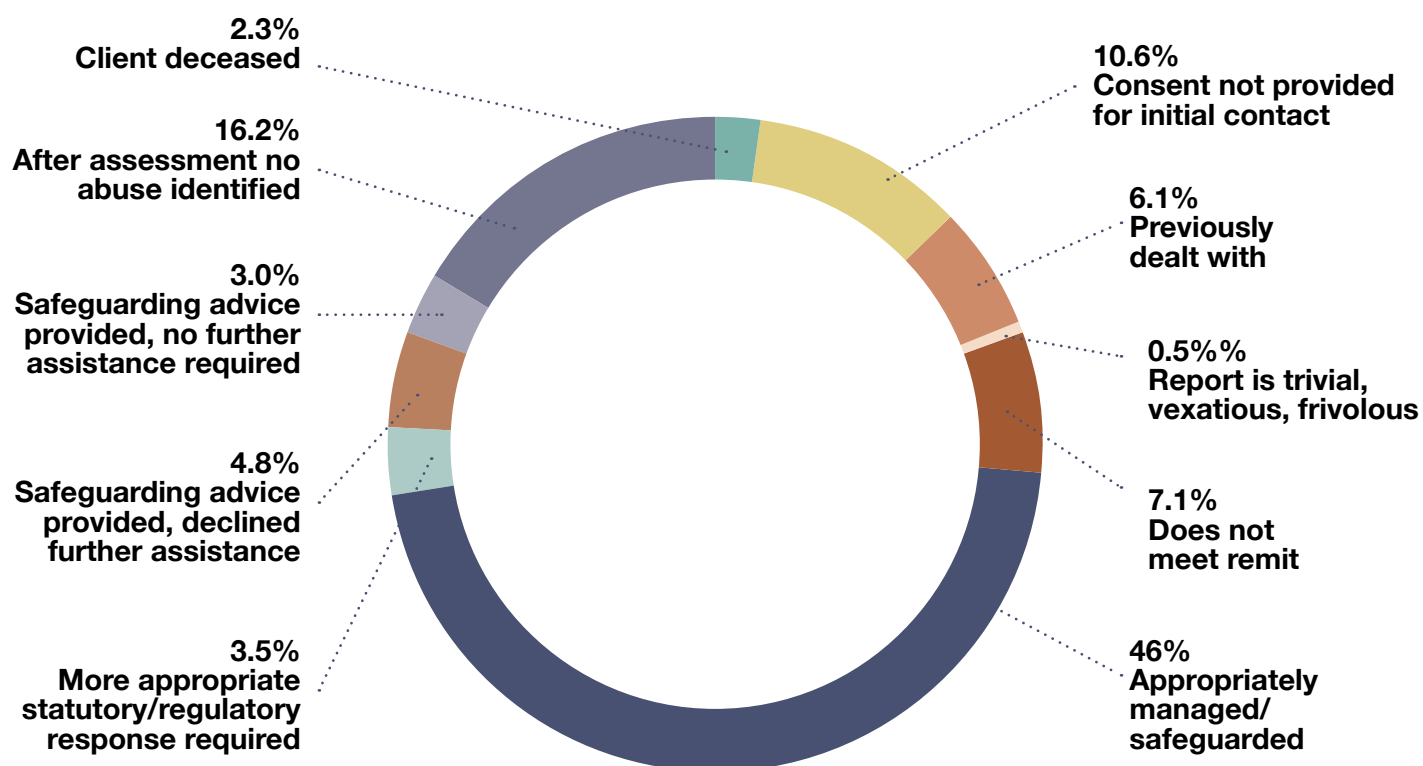
The Unit worked alongside the Community Geriatric Service to make an application to the South Australian Civil Administrative Tribunal (SACAT). SACAT appointed Public Advocate and Public Trustee as guardian and administrator, which enabled Kate to remain at home with support.

Taking No Further Action

There are many reasons the Unit determines no further action is necessary. Following a comprehensive assessment, 46% of the reports requiring no further action were assessed as appropriately managed and therefore did not require the Unit's involvement. Such situations occur where there are significant services involved and an established safeguarding plan already in place.

In 6.1% of reports requiring no further action, the Unit had previously dealt with the case (and no new information was provided), and in 16.2% of reports, no abuse was identified after initial assessment. In 3.0% of cases, advice was provided at the time of assessment and no further assistance was required. In 4.8% of cases, the person declined assistance from the Unit and no exception to consent was present. In the remaining 10.6% of cases, consent was withdrawn.

*Name has been changed to protect their identity.



Where the Unit recommended no further action, where appropriate, the caller was provided with contact details for the organisations involved with the person so they could liaise directly. Callers were encouraged to re-contact the Unit should they have any future concerns. In addition, staff assisted callers to access other services such as counselling, advocacy and dispute resolution services.

On occasion, the initial assessment of the report provided sufficient information to determine there was no abuse, but often found significant family conflict and breakdown in communication. Where conflict was identified and, where appropriate, the Unit provided information to family members regarding family counselling and/or family dispute resolution services.

Safeguarding

Once an investigation is completed and, on occasion during the course of an investigation, the Unit worked with the person to develop an appropriate safeguarding plan. Safeguarding plans map out actions to safeguard the person's rights and are aimed at reducing the risk of future abuse. Plans are developed in accordance with the person's wishes and can be informal or formal in nature.

During the reporting period, the Unit provided flexible service responses for older adults and adults living with a disability. In the majority of reports, safeguarding approaches were guided by the person at risk, in line with the strong focus within the Act on the right to self-determination and autonomy.

For example, to reduce the risk of further financial abuse, the Unit can work with a person to change their banking details, set up direct debit arrangements, or support them to make a Power of Attorney/Enduring Power of Attorney. To reduce the risk of further physical abuse, the Unit can assist a person to increase formal supports or speak with South Australia Police and/or family violence services.

Case Study Four - Jane

The Unit received a phone call from a dementia advisor, who became aware there had been physical abuse of Jane* by her husband in the past two weeks. It was described that there had been a long history of verbal, financial and at times physical aggression over the past twenty years. Although Jane has some memory loss and mobility issues due to multiple strokes, she was wanting to make plans to remove herself from the relationship. Jane had expressed to the caller that she did not want to make a report to SAPOL.

The Unit contacted the initial caller, who facilitated a joint visit with Jane at her home when her husband was not at home. As the caller already knew Jane it was helpful for them to attend to ensure that Jane felt well supported.

At the first visit, Jane talked about her concerns over many years in her marriage and that she felt frightened of her husband. Jane agreed to continue to work with Unit with safety planning as she was not ready to leave her home at the time. Jane was very concerned as she did not receive her own income and was reliant on her husband. She was not aware of her entitlements if she were to leave the relationship. She was also worried her children were not supportive of her leaving the relationship and could not ask them to help her.

The Unit assisted Jane to discuss her concerns with SAPOL. The current service provider and GP were also involved in the meeting, as agreed with Jane. Although Jane did not want to make a formal report to SAPOL, it was agreed the Unit would lodge a third-party report so Police were aware of the concerns. A mobile phone was organised for Jane to keep in case of an emergency.

An ACAT assessment was also arranged by the Unit, who were with Jane for a phone assessment. Approval was given for respite and permanent care in a residential care facility in the event Jane decided she wished to leave her relationship.

Assistance was provided to set up a bank account with a different bank that Jane's sister could access and receive all correspondence. Jane updated her Advance Care Directive and Enduring Power of Attorney with assistance from the Unit. The Unit were able to connect Jane with free legal advice in her area.

With the support of the Unit, Jane now feels supported if she decides to leave her relationship and has a plan in place. Her GP and her siblings are now fully aware of her situation and can provide support at short notice. Jane told the Unit that she had not previously known about the services and support available to her however, now she knows if she wants help, she can seek support. Jane indicated if the abuse escalates, she will leave and will seek support.

*Name has been changed to protect their identity.

Year One Evaluation

An evaluation of the Unit's first year of operation undertaken by Tetra Tech (formerly Coffey), found that the Unit is effectively discharging its legislative responsibilities and has efficient operating procedures and systems in place. The evaluation highlighted the effective working relationships the Unit has developed with a broad range of stakeholders, supported by Memoranda of Administrative Agreements with several key agencies. In addition, the evaluation made several recommendations in relation to process improvements, the majority of which have been implemented or are in progress.



Key recommendations and opportunities for improvement:

- > Enhance operating procedures on undertaking assessments, risk management, investigations and safeguarding to improve guidance available to staff and consistency in decision-making and record-keeping.
- > Capture data and information on client and referrer pathways and outcomes, to better assess the effectiveness of service delivery and engagement with key organisations, as well as enable communication of outcomes achieved.
- > Establish protocols for closing information and feedback loops to build and maintain effective key stakeholder relationships.
- > In the long-term, consider delegation and automation of approval processes for low-risk reports of abuse and actions to improve efficiency and allow management to focus on matters of a strategic nature.
- > Increased focus on awareness raising and abuse prevention activities by undertaking strategic and stakeholder engagement planning.
- > Enhance engagement (and protocols) with Culturally and Linguistically Diverse and Aboriginal and Torres Strait Islander organisations and communities to improve responses and awareness raising.

Addendum - Expansion to All Adults Vulnerable to Abuse

On 1 October 2022, the Adult Safeguarding Unit will expand its legal mandate to include all adults vulnerable to abuse. To support the expansion, the ASU has commenced engagement with a broad range of stakeholders, which will assist the development of a high-level operating model aimed at strengthening current service responses for adults vulnerable to abuse.

Appendix One - Ageing and Adult Safeguarding Act 1995

An Act to establish the Office for Ageing Well, to safeguard the rights of ageing persons and other vulnerable adults, to provide for the establishment of the Adult Safeguarding Unit, to prevent abuse of ageing people and other vulnerable adults, and for other purposes.

Version 1.10.2019

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1 - Preliminary

1 - Short title

This Act may be cited as the *Ageing and Adult Safeguarding Act 1995*.

2 - Interpretation

- (1) In this Act, unless the contrary intention appears -

abuse, in relation to a vulnerable adult - see section 4;

Adult Safeguarding Unit means the Adult Safeguarding Unit established in accordance with section 13;

authorised officer means an authorised officer under section 18;

Charter of the Rights and Freedoms of Vulnerable Adults or **Charter** means the Charter of the Rights and Freedoms of Vulnerable Adults prepared by the Minister under Part 4 Division 1, as in force from time to time;

Chief Executive means the person for the time being holding or acting in the office of Chief Executive of the Department;

code of practice means a code of practice published under Part 4 Division 2, as in force from time to time;

Court means the Magistrates Court of South Australia;

Department means the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act;

Director means the person for the time being holding or acting in the office of Director of the Office for Ageing Well;

impaired decision-making capacity - see section 5;

member of the Adult Safeguarding Unit - see subsection (2);

State authority means -

- (a) a person who holds an office established by an Act; or
- (b) a public sector agency; or
- (c) South Australia Police; or
- (d) a local council constituted under the *Local Government Act 1999*; or
- (e) an incorporated or unincorporated body -
 - (i) established for a public purpose by an Act; or
 - (ii) established for a public purpose under an Act (other than an Act providing for the incorporation of companies or associations, cooperatives, societies or other voluntary organisations); or
 - (iii) established, or subject to control or direction, by the Governor, a Minister of the Crown or any instrumentality or agency of the Crown or a local council (whether or not established by or under an Act or an enactment); or

- (f) any other person or body declared by the regulations to be a State authority,

but does not include a person or body declared by the regulations not to be a State authority for the purposes of this Act;

vulnerable adult - see section 3.

- (2) For the purposes of this Act, a reference to a **member of the Adult Safeguarding Unit** will be taken to be a reference to a person assigned or appointed to the Adult Safeguarding Unit and includes a reference to the Director.
- (3) For the purposes of this Act, a reference to a **report under this Act** will be taken to be a reference to a report made in accordance with section 22, but does not include a report taken not to be a report under this Act pursuant to section 22(3).

3 - Meaning of vulnerable adult

For the purposes of this Act, a reference to a **vulnerable adult** will be taken to be a reference to an adult person who, by reason of age, ill health, disability, social isolation, dependence on others or other disadvantage, is vulnerable to abuse.

4- Meaning of abuse

- (1) For the purposes of this Act, a reference to **abuse** of a vulnerable adult means -
 - (a) physical, sexual, emotional or psychological abuse of the vulnerable adult; and
 - (b) financial abuse or exploitation of the vulnerable adult; and
 - (c) neglect of the vulnerable adult; and
 - (d) abuse, exploitation or neglect consisting of a person's omission to act in circumstances where the person owes a duty of care to the vulnerable adult; and
 - (e) the abuse or exploitation of a position of trust or authority existing between the vulnerable adult and another person; and

- (f) a denial, without reasonable excuse, of the basic rights of the vulnerable adult; and

- (g) any other act or omission of a kind declared by the regulations to be included in the ambit of this section,

but does not include an act or omission of a kind declared by the regulations to be excluded from the ambit of this section.

- (2) For the purposes of this section, a reference to the **basic rights** of a vulnerable adult will be taken to be a reference to the rights of vulnerable adults as set out from time to time in the Charter.
- (3) For the purposes of this section, a reference to the **physical abuse** of a vulnerable adult will be taken to include a reference to the unlawful physical or chemical restraint of a vulnerable adult.
- (4) For the purposes of this section, a reference to the **physical or chemical restraint** of a vulnerable adult will be taken to include a reference to the over-medication or under-medication of the vulnerable adult.

5 - Decision-making capacity

- (1) For the purposes of this Act, a person will be taken to have **decision-making capacity** in respect of a particular decision unless the person has impaired decision-making capacity in respect of the decision.
- (2) For the purposes of this Act, a person will be taken to have **impaired decision-making capacity** in respect of a particular decision if -
 - (a) the person is not capable of -
 - (i) understanding any information that may be relevant to the decision (including information relating to the consequences of making a particular decision); or
 - (ii) retaining such information; or

- (iii) using such information in the course of making the decision; or
 - (iv) communicating his or her decision in any manner; or
- (b) if the person has given an advance care directive in which the person sets out when they are to be considered to have impaired decision-making capacity (however described) in respect of a decision of the relevant kind - if the person has impaired decision-making capacity as so set out.
- (3) For the purposes of this Act -
- (a) a person will not be taken to be incapable of understanding information merely because the person is not able to understand matters of a technical or trivial nature; and
 - (b) a person will not be taken to be incapable of retaining information merely because the person can only retain the information for a limited time; and
 - (c) a person may fluctuate between having impaired decision-making capacity and full decision-making capacity; and
 - (d) a person's decision-making capacity will not be taken to be impaired merely because a decision made by the person results, or may result, in an adverse outcome for the person.

6 - Interaction with *Independent Commissioner Against Corruption Act 2012*

Nothing in this Act limits the operation of the *Independent Commissioner Against Corruption Act 2012*.

Part 2 - Office for Ageing Well

7 - Office for Ageing Well

- (1) The *Office for the Ageing* established under this Act continues as the *Office for Ageing Well*.
- (2) The Office for Ageing Well consists of -
 - (a) the Director of the Office for Ageing Well (who is to be a Public Service employee); and
 - (b) such other Public Service employees as may be assigned or appointed to assist the Director.
- (3) A person cannot be appointed as Director, nor can the employment of the Director be terminated, except with the approval of the Minister.

8 - Objectives of Office for Ageing Well

The objectives of the Office for Ageing Well include -

- (a) supporting South Australians of all ages to age well, unencumbered by stigma and discrimination; and
- (b) achieving proper integration of ageing persons within the community thus ensuring that the skills and experience of the ageing are not lost to the community through social alienation; and
- (c) creating social structures in which ageing persons are able to realise their full potential as individuals and as members of the community; and
- (d) creating a social ethos in which ageing persons are accorded the dignity, appreciation and respect that properly belong to them; and

- (e) ensuring that the multicultural nature of the community is reflected in the planning and implementation of programs and services relevant to ageing persons; and
- (f) achieving a proper understanding within the community of the problems affecting ageing persons and other vulnerable adults and ameliorating those problems so far as it is practicable to do so by modification of social structures and attitudes.
- (d) to ensure as far as practicable that the interests of the ageing are considered when programs or services that may affect them are being developed or implemented;
- (e) to undertake or commission research into matters affecting the ageing;
- (f) to compile data relating to the ageing;
- (g) to disseminate information for the assistance of the ageing;
- (h) to ensure as far as practicable that financial and investment advice is available to the ageing;

9 - Functions of Office for Ageing Well

The functions of the Office for Ageing Well are -

- (a) to assist in the development and coordination of State Government policies and strategies affecting the ageing and for that purpose to consult with the ageing, providers of services to the ageing and organisations for the benefit of or representing the interests of the ageing and other relevant persons;
- (b) to advise on the development and implementation of programs and services for the ageing and to actively foster and seek the involvement of the ageing, wherever practicable, in the development and implementation of programs or services that are intended for their benefit or that will have a special effect on them;
- (c) to monitor the effect on the ageing of -
 - (i) practices of the Government of the State, as well as the Commonwealth and local government; and
 - (ii) Commonwealth and State law (including local government by-laws), and to make appropriate representations in the interests of the ageing;
- (i) to keep social attitudes towards the ageing under review and to promote a better understanding of the ageing within the community;
- (j) to assess the incidence of discrimination against the ageing in employment and to promote action to overcome such discrimination;
- (k) to keep under review the special needs of individual groups of the ageing (including Aboriginal peoples, those who suffer from physical or mental disabilities and those who are economically disadvantaged), and to promote various methods by which those needs may be satisfied;
- (l) to consult and cooperate with other bodies and persons that assist the ageing;
- (m) to plan, coordinate or administer, or assist in the planning, coordination or administration of, programs and services that may assist the ageing;
- (n) to consult with the ageing in relation to the means of promoting their interests and, as the Director considers appropriate, to represent the views of the ageing to the Minister;

- (o) to report to the Minister on any matter relating to the ageing referred by the Minister;
- (p) to support the Adult Safeguarding Unit in exercising their functions and powers under this Act;
- (q) to carry out such other functions as may be assigned to the Office by the Minister or under this or any other Act.

10 - Delegation

- (1) The Director may delegate a function or power under this Part (other than a prescribed function or power) to any person or body that is, in the Director's opinion, competent to perform or exercise the relevant function or power.
- (2) A delegation under this section -
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

11 - Annual report

- (1) The Director must, on or before 31 October in each year, report to the Minister on the operations of the Office for Ageing Well during the preceding financial year.
- (2) The Minister must, within 6 sitting days after receiving a report from the Director, have copies of the report laid before both Houses of Parliament.

Part 3 - Adult Safeguarding Unit

Division 1 - Principles

12 - Principles

The following principles apply in relation to the operation of this Act to the extent that it relates to vulnerable adults:

- (a) all vulnerable adults are entitled to be treated with respect for their dignity, autonomy and right to self-determination;
- (b) it is presumed that a vulnerable adult has decision-making capacity, unless there is evidence to the contrary;
- (c) except in those cases involving serious and imminent harm, the primary consideration in the operation of this Act is to ensure that a vulnerable adult's autonomy is respected and maintained rather than safeguarding the person from abuse;
- (d) vulnerable adults must be allowed to make their own decisions about their health care, residential and accommodation arrangements, financial affairs and other personal affairs to the extent that they are able, and be supported to enable them to make such decisions for as long as they can;
- (e) dignity in risk must be observed through acknowledging the right of all vulnerable adults to take informed risks and to make decisions that others (no matter their experience or background) may regard as wrong, reckless or inappropriate;
- (f) a vulnerable adult with decision-making capacity who is experiencing abuse has the right to decline support, assistance or other measures designed to safeguard them from abuse;

- (g) vulnerable adults must be involved in, and their wishes must directly inform, decisions made or actions taken to support and safeguard them;
- (h) the best approach to safeguarding vulnerable adults from abuse is through coordinating a multi-agency and multi-disciplinary response, drawing on the expertise of relevant persons and bodies in order to effectively support and empower vulnerable adults to safeguard their rights and mitigate against abuse;
- (i) subject to the laws of the State and Commonwealth, the will, preferences (including sexual preferences and sexual orientation), cultural and heritage beliefs, religious beliefs, racial origin, ethnicity, background and other beliefs or rights of a vulnerable adult must always be respected;
- (j) safeguarding measures should consist of those which are the least interventionist and the least intrusive to the vulnerable adult, thus ensuring that any consequential erosion of that person's rights is kept to a minimum;
- (k) safeguarding vulnerable adults from abuse is ultimately achieved through preventing abuse in the first place, and therefore awareness raising and community education programs must be a priority in the administration and operation of this Part.

Division 2 - Adult Safeguarding Unit

13 - Separate Adult Safeguarding Unit to be established

- (1) The Chief Executive must ensure that a separate unit (the **Adult Safeguarding Unit**) is established within the Department to carry out functions under this Act.
- (2) To avoid doubt, the Adult Safeguarding Unit may be established within the Office for Ageing Well.
- (3) Where this or any other Act confers a power on the Adult Safeguarding Unit or requires that the Adult Safeguarding Unit perform any function (including requiring that the Adult Safeguarding Unit make a determination, or form an opinion, as to any matter) -
 - (a) the power or function may only be exercised or performed by a person who is authorised to do so on behalf of the Adult Safeguarding Unit by the Director; and
 - (b) the exercise of that power or the performance of that function by a person so authorised will be taken to be the exercise of that power or the performance of that function by the Adult Safeguarding Unit.

14 - Composition of Adult Safeguarding Unit

The Adult Safeguarding Unit is to consist of -

- (a) the Director of the Office for Ageing Well; and
- (b) other Public Service employees assigned or appointed to assist the Director.

15 - Functions of Adult Safeguarding Unit

- (1) The functions of the Adult Safeguarding Unit are -
 - (a) promoting and advocating for the rights and interests of vulnerable adults in South Australia; and

- (b) promoting participation by vulnerable adults in the making of decisions that affect their lives; and
- (c) promoting and assisting in the development of coordinated strategies for prevention and early intervention of abuse of vulnerable adults; and
- (d) to receive reports relating to the suspected abuse of vulnerable adults; and
- (e) to assess reports relating to the suspected abuse of vulnerable adults; and
- (f) to investigate reports relating to the suspected abuse of vulnerable adults; and
- (g) to coordinate responses to reports relating to the suspected abuse of a vulnerable adult with State authorities and other persons and bodies; and
- (h) to refer reports relating to the suspected abuse of a vulnerable adult to appropriate persons and bodies; and
- (i) to follow up on reports that have been assessed or investigated where it is appropriate to do so; and
- (j) to collate data on matters relating to the abuse of vulnerable adults; and
- (k) to advise Ministers, State authorities and other bodies (including non-Government bodies) on matters relating to the abuse of vulnerable adults at a systemic level; and
- (l) to prepare and publish reports on matters relating to the abuse of vulnerable adults at a systemic level; and
- (m) to prepare and publish reports on issues relating to vulnerable adults that are of public importance; and

(n) to perform such other functions as may be assigned to the Adult Safeguarding Unit by the Minister or under this or any other Act.

- (2) The Adult Safeguarding Unit must, in carrying out its functions, have regard to, and seek to give effect to, the Charter of the Rights and Freedoms of Vulnerable Adults.

16 - Delegation

- (1) The Director may delegate a function or power of the Adult Safeguarding Unit under this Act (other than a prescribed function or power) to any person or body that is, in the Director's opinion, competent to perform or exercise the relevant function or power.
- (2) A delegation under this section -
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

17 - Annual report

- (1) The Director must, on or before 31 October in each year, report to the Minister on the operations of the Adult Safeguarding Unit during the preceding financial year.
- (2) The Minister must, within 6 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.
- (3) A report under this section may be combined with the annual report of the Office for Ageing Well under section 11.

Division 3 - Authorised officers

18 - Authorised officers

- (1) The following persons are authorised officers for the purposes of this Act:
 - (a) the Director;
 - (b) a member of the Adult Safeguarding Unit who is authorised by the Director by instrument in writing for the purposes of this paragraph.
- (2) An authorisation under subsection (1)(b) may be made subject to conditions or limitations specified in the instrument of authorisation.
- (3) An officer authorised under subsection (1)(b) must be issued with an identity card -
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer under this Act; and
 - (c) if the powers of the authorised officer have been limited by conditions - stating those limitations.
- (4) An authorised officer must, at the request of a person in relation to whom the officer intends to exercise powers under this Act, produce for inspection their identity card or other evidence of their authority.
- (5) The Director may, by notice in writing to an authorised officer, vary or revoke the authorisation of the officer, or a condition or limitation of the authorisation, on any grounds the Director thinks fit.

19 - Powers of authorised officers

- (1) Without limiting any other powers conferred under this Act, an authorised officer may, in the course of an investigation under section 26 relating to a vulnerable adult who is, or is suspected of being, at risk of serious abuse, exercise 1 or more of the following powers:
 - (a) enter and remain on any premises, place, vehicle or vessel (and for that purpose require a vehicle or vessel to stop);
 - (b) inspect any premises, place, vehicle or vessel;
 - (c) use reasonable force to break into or open any part of, or anything in or on, any premises, place, vehicle or vessel;
 - (d) require any person (whether on particular premises or otherwise) who has possession of books of account or any other records relevant to a vulnerable adult to produce those books of account or records for inspection;
 - (e) examine, copy or take extracts from such books of account or records;
 - (f) remove and retain such books of account or records for so long as is reasonably necessary for the purpose of making a copy of the book of account or record;
 - (g) take photographs, films, audio, video or other recordings;
 - (h) require any person who is in a position to provide information relating to a vulnerable adult to answer any question put by the authorised officer on that subject;
 - (i) require any such person to state their full name, address and date of birth;
 - (j) give such directions as may be reasonably required in connection with the exercise of a power conferred by a preceding paragraph

or otherwise for a purpose related to the administration, operation or enforcement of this Act.

- (2) However, an authorised officer may only use force to enter any premises, place, vehicle or vessel, or to break into or open any part of, or anything in or on, any premises, place, vehicle or vessel-
- (a) on the authority of a warrant issued by a magistrate; or
 - (b) if -
 - (i) entry to the premises, place, vehicle or vessel has been refused or cannot be gained; and
 - (ii) the authorised officer believes on reasonable grounds that the delay that would ensue as a result of applying for a warrant would significantly increase the risk of harm, or further harm, being caused to a vulnerable adult; and
 - (iii) the Director has approved the use of force to enter the premises, place, vehicle or vessel.
- (3) A magistrate must not issue a warrant under this section unless satisfied on information given on oath, personally or by affidavit, that there are reasonable grounds for the issue of a warrant.
- (4) An application for the issue of a warrant under this section -
- (a) may be made either personally or by telephone; and
 - (b) must be made in accordance with the rules of the Court.
- (5) A magistrate by whom a warrant is issued under this section must file the warrant, or a copy of it, and any supporting affidavit in the Court.
- (6) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.

- (7) A person must not, without reasonable excuse, refuse or fail to comply with a requirement or direction under this section.

Maximum penalty: Imprisonment for 1 year.

- (8) To avoid doubt, this section does not limit any other powers conferred by any other provision of this Act, or any other Act.

Part 4 - Safeguarding vulnerable adults

Division 1 - Charter of the Rights and Freedoms of Vulnerable Adults

20 - Charter of the Rights and Freedoms of Vulnerable Adults

- (1) There is to be a *Charter of the Rights and Freedoms of Vulnerable Adults*.
- (2) The Charter is to be prepared by the Minister with the support of the Office for Ageing Well.
- (3) The Minister and Office for Ageing Well must, in preparing the Charter -
- (a) consult with the persons and bodies prescribed by the regulations for the purposes of this paragraph (and may consult with any other person or body that the Minister or Office for Ageing Well thinks appropriate); and
 - (b) engage vulnerable adults, and their carers and families; and
 - (c) ensure an appropriate focus on the needs of priority population groups.
- (4) The regulations may make further provisions with regard to the Charter including, without limiting the generality of this subsection, provisions relating to-
- (a) the form of the Charter and any variation of the Charter; and

- (b) the kinds of information to be included in the Charter; and
 - (c) consultation requirements relating to the Charter; and
 - (d) requirements as to the ongoing review of the Charter.
- (5) The Minister must cause the Charter, as varied from time to time, to be published-
- (a) in the Gazette; and
 - (b) on a website determined by the Minister.
- (6) A prescribed State authority must, in carrying out functions or exercising powers under this Act, have regard to, and seek to give effect to, the Charter.
- (7) The Charter does not create legally enforceable rights or entitlements.

Division 2 - Code of practice

21 - Minister may publish codes of practice

- (1) The Minister may, by notice in the Gazette, publish codes of practice for the purposes of this Act.
- (2) The Minister may, by subsequent notice in the Gazette, vary, substitute or revoke a code of practice published under subsection (1).
- (3) The Minister must cause each code of practice published under subsection (1), as varied from time to time, to be published on a website determined by the Minister.
- (4) A code of practice published under subsection (1) must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified by the Minister.
- (5) A prescribed State authority must, in the administration, operation or enforcement of this Act, to the extent that it is reasonably practicable to do so, comply with any relevant code of practice published under subsection (1).

Division 3 - Reporting suspected risk of abuse of vulnerable adults

22 - Reporting suspected risk of abuse of vulnerable adults

- (1) A person may, in accordance with this section, report to the Adult Safeguarding Unit a suspicion that a vulnerable adult is at risk of abuse.
- (2) A report under this section is to be made to the Adult Safeguarding Unit in accordance with any requirements determined by the Director.
- (3) However, a report will be taken not to be a **report under this Act** if -
 - (a) the report relates only to alleged abuse or suspected abuse of a vulnerable adult that occurred before the commencement of this section; and
 - (b) there is no ongoing risk of abuse in respect of the vulnerable adult to whom the report relates (whether because the vulnerable adult no longer resides in particular premises or for any other reason).
- (4) To avoid doubt -
 - (a) nothing in this section requires a person to report a suspicion that a vulnerable adult has been abused, or may be at risk of abuse; and
 - (b) nothing in this section prevents a person from reporting a suspicion that a vulnerable adult has been abused, or may be at risk of abuse, in any other manner or to any other person or body that the person thinks fit.

Division 4 - Assessment and investigation of reports

23 - Assessment

- (1) The Director must cause each report under this Act to be assessed in accordance with any requirements set out in the regulations.
- (2) The Director may, in the course of an assessment under this section, make use of or rely on such systems of information gathering, collating or reporting as the Director thinks fit (whether or not the system is operated or provided by a State authority).
- (3) Without limiting any other action that may be taken by the Director or the Adult Safeguarding Unit, but subject to section 24, the Director must, on completion of an assessment under this section, cause at least 1 of the following actions to be taken:
 - (a) an investigation into the matter must be carried out under section 26;
 - (b) the matter must be referred to an appropriate State authority or other person or body under section 25;
 - (c) if the Director is satisfied that-
 - (i) the matter has previously been dealt with under this or any other Act and there is no reason to reexamine the matter; or
 - (ii) the matter is trivial, vexatious or frivolous; or
 - (iii) there is good reason why no action should be taken in respect of the matter,the Director may decline to take further action.
- (4) The Director must, in accordance with any requirements set out in the regulations -

- (a) cause a record of each action taken under this section, and the reasons for the action, to be kept in relation to each report under this Act; and
 - (b) include statistical information relating to action taken under this section to be included in the annual report of the Adult Safeguarding Unit.
- (5) The regulations may make further provision in relation to an assessment under this section (including provisions relating to a system referred to in subsection (2) and the disclosure and confidentiality of information gathered, collated or provided under the system).
 - (6) The Director may, for the purpose of an assessment under this section, by written notice, require a specified person or body to produce a written statement of information about a specified matter, or to answer specified questions, within a specified period and in a specified form, verified if the written notice so requires by statutory declaration.
 - (7) A person must not refuse or fail to comply with a requirement of a notice under subsection (6)
Maximum penalty: \$10 000.

24 - Consent of vulnerable adult should be obtained before certain action taken

- (1) Subject to this section, the Adult Safeguarding Unit should not take action in respect of a report under this Act unless the vulnerable adult to whom the report or notification relates consents to the action being taken.
- (2) Subsection (1) does not apply in relation to the assessment of a report under section 23.
- (3) The Adult Safeguarding Unit may take action of a specified kind in respect of a report under this Act without first obtaining the consent of the vulnerable adult if the taking of such action is authorised by an order of the Court under this Act.

- (4) The Adult Safeguarding Unit may take action in respect of a report under this Act without first obtaining the consent of the vulnerable adult if -
- (a) -
- (i) the vulnerable adult's life or physical safety is at immediate risk; or
 - (ii) the risk of abuse to which the report relates consists of an allegation that a serious criminal offence has been, or is likely to be, committed against the vulnerable person; or
 - (iii) the vulnerable adult has impaired decision-making capacity in respect of a decision to consent to action of the relevant kind being taken; or
 - (iv) the Adult Safeguarding Unit has not, after reasonable inquiries, been able to contact the vulnerable adult; or
 - (v) in any other circumstances declared by the regulations to be included in the ambit of this paragraph; and
- (b) the Director approves the taking of the action.

- (5) The regulations may make further provision in relation to obtaining consent for the purposes of this section (including by allowing another person to consent on behalf of a vulnerable adult in specified circumstances).

25 - Director may refer matter

- (1) If, following an assessment of a report under section 23, the Director determines that it is more appropriate that the matter, or a particular part of the matter, be dealt with by -
- (a) a State authority other than the Adult Safeguarding Unit; or

- (b) a specified person or body other than a State authority, the Director may refer the matter, or part of the matter, to that State authority or that person or body.

- (2) To avoid doubt -
- (a) a matter may be referred to more than 1 State authority, or person or body, or a combination of State authorities and persons or bodies; and
 - (b) the Adult Safeguarding Unit may take action in relation to the matter even if it is referred to a State authority, or other person or body, under another Act.
- (3) Without limiting this section or any other Act or law, a matter that is referred under this section must be dealt with within a reasonable timeframe, having regard to the need to ensure that vulnerable adults are protected from abuse.
- (4) A person or body to whom a matter is referred under subsection (1)(b) must, as soon as is reasonably practicable after dealing with the matter, provide a report in relation to the matter to the Director.
- (5) The regulations may make further provision in relation to referrals under this section (including, to avoid doubt, by providing that a person or body may refuse a referral).

26 - Director may cause circumstances of vulnerable adult to be investigated

- (1) Subject to this Act, the Director may cause an investigation into the circumstances of a vulnerable adult to be carried out -
- (a) if a report is made under section 22 and the Director suspects on reasonable grounds that the vulnerable adult may be at risk of abuse; or
 - (b) in any other circumstances that the Director thinks appropriate.

- (2) An investigation under this section must be carried out by the Adult Safeguarding Unit in accordance with any requirements set out in the regulations.

Division 5 - Further referral of matters

27- Director may report certain matters to appropriate professional body

- (1) If, in the course of performing functions under this Act, the Director becomes aware of a matter that raises the possibility of professional misconduct or unprofessional conduct, the Director may report the matter to the relevant regulatory body for that profession.
- (2) The Director must comply with any reasonable request of the relevant regulatory body for further information in relation to the subject matter of a report under subsection (1).

28 - Director may make complaints to Ombudsman

- (1) Despite a provision of the *Ombudsman Act 1972*, the Director may, on behalf of a vulnerable adult, or a class of vulnerable adults, make a complaint to the Ombudsman in respect of an administrative act and, for the purposes of the *Ombudsman Act 1972*, such a complaint will be taken to be a complaint made under that Act.
- (2) In this section -
administrative act has the same meaning as in the *Ombudsman Act 1972*.

29 - Director may make complaints to Health and Community Services Complaints Commissioner

Despite a provision of the *Health and Community Services Complaints Act 2004*, the Director may make a complaint to the Health and Community Services Complaints Commissioner on behalf of a vulnerable adult, or a class of vulnerable adults, in respect of a ground referred to in section 25 of that Act (and such a complaint will be taken to be a complaint made under that Act).

30 - Referral of matters to inquiry agencies etc not affected

- (1) Nothing in this Act prevents a matter from being referred to an appropriate person or body at any time (whether or not an investigation or other action is being or has been undertaken under this Act).
- (2) The referral of a matter does not prevent the Director or the Adult Safeguarding Unit from performing functions or exercising powers in respect of the matter (but in such a case the Director and Adult Safeguarding Unit must endeavour to avoid, as far as practicable, prejudice to any person affected by the referral).

Division 6 - Court orders

31 - Director may apply for Court orders

- (1) *The Director may apply for an order of the Court under this Division -*
 - (a) *if the Director -*
 - (i) *reasonably suspects that a vulnerable adult is at risk of abuse; and*
 - (ii) *is of the opinion that the making of such orders is necessary or appropriate to -*
 - (A) *protect the vulnerable adult from such abuse; or*

- (B) *to properly assess whether the vulnerable adult has been abused, or is at risk of being abused; or*
- (C) *to allow the exercise of powers or the performance of functions under this Act in respect of the vulnerable adult; or*
- (b) *in any other circumstances with the permission of the Court.*
- (2) *The regulations may make further provision in relation to an application under this section (including by limiting the circumstances in which an application, or application of a class, can be made).*

32 - Parties to proceedings

- (1) *The following persons are parties to an application for an order under this Division, or for the variation, extension or revocation of such an order:*
 - (a) *the Director;*
 - (b) *the vulnerable adult to whom the application relates.*
- (2) *If the Court is satisfied in any proceedings that it should make an order under this Division binding on a person who is not a party to the proceedings, the Court -*
 - (a) *may join that person as a party to the proceedings; and*
 - (b) *must allow the person a reasonable opportunity to make representations to the Court as to why such an order should not be made.*

33 - Orders that may be made

- (1) *If, on an application under this Act, the Court is satisfied that it is appropriate to do so, the Court may make 1 or more of the following orders in relation to a vulnerable adult:*
 - (a) *an order authorising or requiring an examination or assessment of a specified kind of the vulnerable adult;*

- (b) *an order requiring a specified person to do a specified thing, or to refrain from doing a specified thing, in respect of the vulnerable adult;*
- (c) *an order authorising the Adult Safeguarding Unit, the Director or an authorised officer to take specified action where the vulnerable adult has refused to consent to the taking of that action;*
- (d) *such other orders as may be necessary or appropriate to enable the functions conferred on the Adult Safeguarding Unit under this Act to be performed in respect of the vulnerable adult;*
- (e) *such consequential or ancillary orders as the Court thinks fit.*

- (2) *The Court may make such interim orders in relation to an application under this Act as the Court thinks fit.*

- (3) *The Court may, on an application by a party to the proceedings, vary or revoke an order under this section.*

34 - Court not bound by rules of evidence

- (1) *Subject to this section, in any proceedings under this Division, the Court -*
 - (a) *is not bound by the rules of evidence but may inform itself as it thinks fit; and*
 - (b) *must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.*
- (2) *A fact to be proved in proceedings under this Division is to be proved on the balance of probabilities.*

35 - Views of vulnerable adult to be heard

- (1) *In any proceedings under this Act, a vulnerable adult to whom the proceedings relate must, unless the Court is satisfied that the vulnerable adult is not capable of doing so, be given a reasonable opportunity to personally present to the Court their views relating to the proceedings.*

- (2) *This section applies whether or not the vulnerable adult is represented by a legal practitioner in the proceedings.*

36 - Right of other interested persons to be heard

In proceedings under this Division relating to a vulnerable adult, the Court may, on the application of -

- (a) *a member of the vulnerable adult's family; or*
- (b) *a person who has at any time been responsible for or otherwise had care of the vulnerable adult (including, to avoid doubt, a guardian of the vulnerable adult); or*
- (c) *any other person who, in the opinion of the Court, has a proper interest in the matter, hear submissions the applicant wishes to make in respect of the vulnerable adult, despite the fact that the applicant is not a party to the proceedings.*

37 - Contravention of Court order

- (1) *A person who contravenes a term of an order of the Court imposed under this Division is guilty of an offence.*
- Maximum penalty: \$10 000.*
- (2) *A person is not guilty of an offence of aiding, abetting, counselling or procuring the commission of an offence against this section if the person is a vulnerable adult protected by the order that has been contravened.*

Note -

Part 4 Division 6 comes into operation on 1 October 2020.

Part 5 - Reviews of certain decisions

Division 1 - Internal

38 - Internal review

- (1) A person who is aggrieved by a decision of the Adult Safeguarding Unit or the Director under Part 4 of this Act is entitled to a review of the decision under this section.
- (2) An application for review -
 - (a) must be made in a manner and form determined by the Chief Executive; and
 - (b) must be made within 30 days after the day on which notice of the decision was given to the applicant (or such longer time as the Chief Executive may allow).
- (3) On an application for review under this section the Chief Executive may confirm, vary or reverse the decision under review.
- (4) The Chief Executive must, on completing a review under this section, give written notice to the applicant of the Chief Executive's determination in respect of the decision under review.
- (5) The regulations may make further provision in respect of a review under this section (including, to avoid doubt, by limiting the kinds of decisions that may be the subject of an application for review).

39 - Delegation

- (1) The Chief Executive may delegate a function or power under this Division to any person or body that is, in the Chief Executive's opinion, competent to perform or exercise the relevant function or power.

- (2) A delegation under this section -
- (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

(and for the purposes of such an investigation may exercise such of the investigative powers as are conferred on the Ombudsman by the Ombudsman Act 1972 in relation to an investigation duly initiated under that Act as the Ombudsman considers appropriate); and

- (b) may -
 - (i) *try to effect a settlement between the persons to whom the review relates at any time during the review; and*
 - (ii) *at the request of a person to whom the review relates, suspend a review under this section at any time to allow an opportunity for a settlement to be negotiated.*

Division 2 - External review by Ombudsman

40 - External review by Ombudsman

(1) If -

- (a) *a person is dissatisfied with a determination of the Chief Executive following an internal review under section 38; and*
 - (b) *that determination relates to circumstances in which a vulnerable adult is, or is suspected of being, at risk of serious abuse, the person may apply to the Ombudsman for a review of the determination.*
- (2) *An application for a review of a determination under this section -*
- (a) *must be made in a manner and form determined by the Ombudsman; and*
 - (b) *must be made within 30 days after notice of the determination is given to the applicant (or such longer period as may be allowed by the Ombudsman).*
- (3) *The Ombudsman may refuse to conduct a review under this section if the Ombudsman is of the opinion that the application is unreasonable, trivial or vexatious.*
- (4) *In conducting a review under this section, the Ombudsman -*
- (a) *may carry out an investigation into the subject matter of the application*

- (5) *The Chief Executive, the Adult Safeguarding Unit and the Director (as the case requires), any relevant State authority and the applicant must cooperate in any process proposed by the Ombudsman for the purposes of a review under this section (including any attempt of the relevant review authority to effect a settlement between the participants), and must do all such things as are reasonably required to expedite the process.*
- (6) *The Ombudsman may dismiss an application if the Ombudsman considers that the applicant has failed to comply with subsection (5).*
- (7) *On completion of a review under this section, the Ombudsman may (based on the circumstances existing at the time of the review) confirm, vary or reverse the determination the subject of the review.*
- (8) *On making a determination on a review under this section, the relevant review authority must notify each of the following persons of the determination and the reasons for the determination:*
 - (a) *the applicant;*
 - (b) *the Chief Executive;*
 - (c) *the Adult Safeguarding Unit.*

- (9) *If the Ombudsman considers it to be in the public interest or the interests of a State authority to do so, the Ombudsman may publish, in such manner as the Ombudsman thinks fit, the reasons for a determination made on a review under this section (however the Ombudsman must not include in the reasons any information from the which the identity of the vulnerable adult can be determined).*
- (10) *In publishing reasons for a determination, the Ombudsman may comment on any unreasonable, frivolous or vexatious conduct by the applicant, the Chief*

Executive, the Adult Safeguarding Unit or any relevant State authority.

- (11) *If, following a review under this section, the Ombudsman is of the opinion—*
- (a) *that the practice in accordance with which a specified act was done, or specified decision made, should be varied; or*
- (b) *that the reasons for any act or decision to which the review relates should be given to a specified person; or*
- (c) *that any other steps should be taken,*
- the Ombudsman may report that opinion and the reasons for it to the Minister, and to the responsible Minister for any relevant State authority, and may make such recommendations as the Ombudsman thinks fit.*

- (12) *If it appears to the Ombudsman that appropriate steps have not been taken to give effect to a recommendation made under this section, the Ombudsman may make a report on the matter (containing a copy of the earlier report and the recommendation) to the Minister.*
- (13) *If the Ombudsman reports to the Minister under subsection (12), the Ombudsman may forward copies of the report to the Speaker of the House of Assembly and the President of the Legislative Council with a request that they be laid before their respective Houses.*

- (14) *In this section -*

responsible Minister for a State authority means -

- (a) *if the State authority is a public sector agency - the Minister responsible for the public sector agency;*
- (b) *if the State authority is a local council - the Minister responsible for the administration of the Local Government Act 1999;*
- (c) *if the State authority is a body established by or under an Act - the Minister responsible for the administration of that Act;*
- (d) *in any other case - the Minister responsible for the administration of this Act.*

41 - Views of vulnerable adult to be heard

In any review under this Division, the vulnerable adult to whom the review relates must, unless the Ombudsman is satisfied that the vulnerable adult is not capable of doing so, be given a reasonable opportunity to personally present to the Ombudsman their views in relation to the review.

Note -

Part 5 Division 2 comes into operation on 1 October 2020.

Part 6 - Information gathering

42 - Authorised officer may require information

- (1) An authorised officer may, by notice in writing, require a specified person (whether or not the person is a State authority, or an officer or employee of a State authority) to provide to them such information, or such documents, as may be specified in the notice (being information or documents in the possession of the person that the authorised officer, the Director or the Adult Safeguarding Unit reasonably requires for the performance of functions under this Act).

- (2) A person required to provide information or documents under subsection (1) must give the specified information or documents to the authorised officer, or in any other manner specified by the authorised officer, within the period specified in the notice.
- (3) A person who refuses or fails to comply with a notice under subsection (1) is guilty of an offence.
Maximum penalty: \$10 000.
- (4) If a State authority refuses or fails to comply with a notice under subsection (1), the Director may, after consultation with the State authority -
 - (a) report the refusal or failure to the Minister and to the Minister responsible for the State authority (if any); and
 - (b) include details of the refusal or failure in the annual report of the Director.
- (5) The Minister may, by notice in writing, exempt a specified person or body, or persons or bodies of a specified class, from the operation of this section.
- (6) An exemption -
 - (a) may be conditional or unconditional; and
 - (b) may be varied or revoked by the Minister by further notice in writing.

43 - Sharing of information between certain persons and bodies

- (1) This section applies to the following persons and bodies:
 - (a) the Adult Safeguarding Unit;
 - (b) a State authority;
 - (c) any other person or body declared by the regulations to be included in the ambit of this subsection.

- (2) Despite any other Act or law, a person or body to whom this section applies (the **provider**) may, in accordance with any requirement set out in the regulations, provide prescribed information and documents to another person or body to whom this section applies (the **recipient**) if the provider reasonably believes that the provision of the information or documents would assist the recipient -
 - (a) to perform official functions relating to the health, safety, welfare or wellbeing of a vulnerable adult or class of vulnerable adults; or
 - (b) to manage any risk to a vulnerable adult or class of vulnerable adults that might arise in the recipient's capacity as an employer or provider of services.
- (3) Despite any other Act or law, information or documents that do not directly or indirectly disclose the identity of any person may be provided by one person or body to whom this section applies to another without restriction.
- (4) Subsection (3) applies -
 - (a) whether or not the information or documents consist of or include prescribed information and documents; and
 - (b) whether the information or documents ever disclosed the identity of a person, or has been redacted so as to de-identify a person.
- (5) Information may be provided under this section regardless of whether the provider has been requested to provide the information.
- (6) In this section -

prescribed information and documents means -

 - (a) information or documents relating to the health, safety, welfare or wellbeing of a vulnerable adult; or
 - (b) information or documents relating to the financial affairs of a vulnerable adult; or

- (c) any other information or document of a kind prescribed by the regulations for the purposes of this definition.

44 - No obligation to maintain secrecy

No obligation to maintain secrecy or other restriction on the disclosure of information applies in relation to the disclosure of information to the Director, the Adult Safeguarding Unit or an authorised officer under this Act.

45 - Interaction with Public Sector (Data Sharing) Act 2016

Nothing in this Part affects the operation of the *Public Sector (Data Sharing) Act 2016*.

Part 7 - Miscellaneous

46 - Obstruction of person reporting suspected abuse of vulnerable adults

A person must not, without reasonable excuse -

- (a) prevent another person from making a report under this Act relating to a suspicion that a vulnerable adult may be at risk of abuse; or
- (b) hinder or obstruct another person in making such a report.

Maximum penalty: \$10 000 or imprisonment for 2 years.

47 - Obstruction of Director etc

A person must not, without reasonable excuse, hinder or obstruct the Director, an authorised officer or a member of the Adult Safeguarding Unit in the performance or exercise of a function or power under this Act.

Maximum penalty: \$10 000.

48 - False or misleading statements

A person must not make a statement

knowing that it is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided under this Act.

Maximum penalty: \$10 000.

49 - Confidentiality

- (1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except -

- (a) as required or authorised by or under this Act or any other Act or law; or
- (b) with the consent of the person to whom the information relates; or
- (c) in connection with the administration or enforcement of this or any other Act; or
- (d) for the purposes of referring the matter to a law enforcement agency, or a person or agency exercising official duties under an Act relating to the care or protection of vulnerable adults; or
- (e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
- (f) if the disclosure is reasonably necessary for the protection of the lawful interests of that person.

Maximum penalty: \$10 000.

- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by -

- (a) the person to whom the information was disclosed; or
- (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

- (4) The regulations may make further provision in respect of the disclosure of information obtained in the course of the administration of this Act.

50 - Victimisation

- (1) A person who causes detriment to another on the ground, or substantially on the ground, that the other person or a third person has provided, or intends to provide, information under this Act commits an act of victimisation.

- (2) Causing detriment on the ground that a person -

- (a) has made a false allegation; or
- (b) has not acted in good faith,

does not constitute an act of victimisation.

- (3) An act of victimisation under this Act may be dealt with -

- (a) as a tort; or
- (b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

but, if the victim commences proceedings in a court seeking a remedy in tort, the victim cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, the victim cannot subsequently commence proceedings in a court seeking a remedy in tort.

- (4) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the

subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

- (5) In proceedings against a person seeking a remedy in tort for an act of victimisation committed by an employee or agent of the person, it is a defence to prove that the person exercised all reasonable diligence to ensure that the employee or agent would not commit an act of victimisation.

- (6) A person who personally commits an act of victimisation under this Act is guilty of an offence.

Maximum penalty: \$10 000.

- (7) Proceedings for an offence against subsection (6) may only be commenced by a police officer or a person approved by either the Commissioner of Police or the Director of Public Prosecutions.

- (8) In this section -

detriment includes -

- (a) injury, damage or loss; or
- (b) intimidation or harassment; or
- (c) discrimination, disadvantage or adverse treatment in relation to a person's employment; or
- (d) threats of reprisal.

51 - Protections, privileges and immunities

- (1) No liability attaches to the Director or any other person for any act or omission in good faith in the exercise or purported exercise of powers or functions under this or any other Act.
- (2) Nothing in this Act affects the privileges, immunities or powers of the Legislative Council or House of Assembly or their committees or members.
- (3) Nothing in this Act affects any rule or principle of law relating to -

- (a) legal professional privilege; or
 - (b) “without prejudice” privilege; or
 - (c) public interest immunity.
- (4) A person is excused from answering a question or producing a document or other material if the person could not be compelled to answer the question or produce the document or material in proceedings in the Supreme Court.
- (5) A person who provides information or a document under this Act has the same protection, privileges and immunities as a witness in proceedings before the Supreme Court.
- (6) A person who does anything in accordance with this Act, or as required or authorised by or under this Act, cannot by so doing be held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.

52 - Service

- (1) Subject to this Act, a notice or document required or authorised to be given to a person for the purposes of this Act may -
- (a) be given to the person personally; or
 - (b) be posted in an envelope addressed to the person at the person’s last known residential, business or (in the case of a corporation) registered address; or
 - (c) be left for the person at the person’s last known residential, business or (in the case of a corporation) registered address with someone apparently over the age of 16 years; or
 - (d) be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

- (2) Without limiting the effect of subsection (1), a notice or other document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be served on the person in accordance with that Act.

53 - Review of Act

- (1) The Minister must cause an independent review of the operation of this Act to be conducted, and a report on the review submitted to the Minister, before the third anniversary of the commencement of this section.
- (2) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

54 - Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for -
- (a) the exemption of a person, or a class of persons, from the operation of a specified provision or provisions of this Act; and
 - (b) fines, not exceeding \$10 000, for offences against the regulations; and
 - (c) facilitation of proof of the commission of offences against the regulations.
- (3) The regulations may -
- (a) be of general or limited application; and

- (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (c) make provisions of a saving or transitional nature; and
 - (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of a specified person or body; and
 - (e) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or another specified person or body.
- (4) If a code, standard or other document is referred to or incorporated in the regulations -
- (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
 - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

Legislative history

Notes

- In this version provisions that are uncommenced appear in italics.
- Please note - References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Formerly

Office for the Ageing Act 1995

Legislation repealed by principal Act

The *Ageing and Adult Safeguarding Act 1995* repealed the following:

Commissioner for the Ageing Act 1984

Principal Act and amendments

New entries appear in **bold**.

Year	No	Title	Assent	Commencement
1995	82	<i>Office for the Ageing Act 1995</i>	7.12.1995	20.6.1996 (<i>Gazette 20.6.1996 p2971</i>)
1999	69	<i>Office for the Ageing (Advisory Board) Amendment Act 1999</i>	18.11.1999	1.7.2000 (<i>Gazette 15.6.2000 p3131</i>)
2015	8	<i>Statutes Amendment (Boards and Committees - Abolition and Reform) Act 2015</i>	18.6.2015	Pt 27 (ss 177- 179) - 1.7.2015 (<i>Gazette 25.6.2015 p3076</i>)
2018	34	<i>Office for the Ageing (Adult Safeguarding) Amendment Act 2018</i>	22.11.2018	1.2.2019 (<i>Gazette 31.1.2019 p370</i>) except ss 4, 5, new Pt 3, Pt 4 Divs 1 to 5, Pt 5 Div 1, Pts 6, 7 (as inserted by s 6), s 7 & Sch 1 - 1.10.2019 and except new Pt 4 Div 6 & Pt 5 Div 2 (as inserted by s 6) - 1.10.2020 (<i>Gazette 20.6.2019 p2206</i>)

Provisions amended

New entries appear in **bold**.

Entries that relate to provisions that have been deleted appear in *italics*.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
	amended by 8/2015 s 177	1.7.2015
	amended by 34/2018 s 7	1.10.2019
Pt 1		
s 1	amended by 34/2018 s 4	1.10.2019
<i>s 2 before insertion by 34/2018</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	
ss 2-6	inserted by 34/2018 s 5	1.10.2019
Pt 2	substituted by 34/2018 s 6	1.2.2019
<i>Pt 3 before deletion by 8/2015</i>		
s 8		
s 8(2)	<i>amended by 69/1999 s 3(a)</i>	1.7.2000
s 8(3)	<i>substituted by 69/1999 s 3(b)</i>	1.7.2000
s 8(5)	<i>amended by 69/1999 s 3(c)</i>	1.7.2000
Pt 3	inserted by 34/2018 s 6	1.10.2019
Pt 4	inserted by 34/2018 s 6	1.10.2019 except Div 6 - 1.10.2020
Pt 5	inserted by 34/2018 s 6	1.10.2019 except Div 2 - 1.10.2020
Pts 6 and 7	inserted by 34/2018 s 6	1.10.2019
<i>Sch</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Boards and Committees - Abolition and Reform) Act 2015

179 - Transitional provision

A member of the Advisory Board on Ageing ceases to hold office on the commencement of this section.

Office for the Ageing (Adult Safeguarding) Amendment Act 2018, Sch 1 - Transitional provision

1 - Application of certain provisions of Act limited during first 3 years of operation

(1) The following provisions of the *Ageing and Adult Safeguarding Act 1995* (as amended or enacted by this Act) will, to the extent that the provision relates to the safeguarding of vulnerable adults, be taken only to apply to, or in relation to, prescribed vulnerable adults during the prescribed period:

- (a) Part 3;
- (b) Part 4;
- (c) Part 5.

(2) In this clause -

prescribed period means the period commencing on the day on which this clause comes into operation and ending on the third anniversary of that commencement;

prescribed vulnerable adult means -

- (a) a vulnerable adult within the meaning of section 3 of the *Ageing and Adult Safeguarding Act 1995* (as enacted by this Act) who is, on the commencement of this clause, aged -
 - (i) if the vulnerable adult is an Aboriginal or Torres Strait Islander Person - 50 years or older; or

(ii) in any other case - 65 years or older; or

- (b) any other vulnerable adult, or vulnerable adult of a class, declared by the Minister by notice in the Gazette to be included in the ambit of this definition.

Historical versions

Reprint No 1 - 1.7.2000

1.7.2015

1.2.2019

Appendix Two – Meeting Memberships

Adult Safeguarding Advisory Group

Membership:

Aboriginal Affairs and Reconciliation
Aboriginal Health Strategy
Adult Safeguarding Unit, Office for Ageing Well
Aged Care Quality Strategy, Commonwealth
Department of Health
Aged Rights Advocacy Service
Attorney Generals Department
Commissioner for Aboriginal Engagement
COTA SA
Dementia Australia SA
Department of Child Protection
Disability Policy and Inclusion, DHS
Disability Rights Advocacy Service (SA)
Legal Services Commission of SA
Oakden Family's representative
Office of the Chief Psychiatrist, SA Health
Office of the Public Advocate
Mental Health Coalition of SA
Multicultural Communities Council of SA
Public Trustee
South Australia Police
South Australian Council of Social Service

Interagency Phone Line and Adult Safeguarding Unit Implementation Workgroup

Membership:

Adult Safeguarding Unit, Office for Ageing Well
Aged Rights Advocacy Service
Carers SA
Legal Services Commission of SA
Multicultural Aged Care Inc
Multicultural Communities Council of SA
(MCCSA)
Office of the Public Advocate
Public Trustee
Relationships Australia
South Australia Police
UnitingSA - Ethnic Link Services
Uniting Communities Law Centre



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မော်ဒယ်

PLESS

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