

AGEING AND LIVING WELL

A collaborative initiative between
MWV and **USMAA**.

Supported by the **Victorian Multicultural
Commission** and the **City of Monash**.

Legal Matters

Know your rights

Understand, speak up and advocate
for you and your community

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First Nations Acknowledgement

We acknowledge the Traditional Owners and Custodians of the lands on which we work and pay our respects to Indigenous Elders past, present, and emerging. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.



Introduction

Understanding own rights as a first generation Australian is very complex. Many countries have introduced a Bill of Rights protecting its seniors citizens and Australia is well advanced in its treatment of seniors.

So you can better understand your rights, a legal resource portal has been put in place to support. The portal currently brings your information different areas and in several languages.

Important note:

Information provided in this document, (in particular text has been copied verbatim from Government sites and/or booklets provided at many locations.

Our aim is to convey the same message provided by Federal and State government without any interpretations of services.



<https://seniorsrights.org.au/your-rights/>

Should the content of the website not be translated to your home country language, or the complexity of the legal matter is too great, you can always count on the Translation and Interpreting services to assist you.



ELDER ABUSE CAN HAPPEN IN ANY TYPE OF FAMILY OR RELATIONSHIP.

Elder abuse comes in many forms. It can be financial, emotional, or psychological, physical, sexual, mistreatment or neglect. Elder abuse can occur once, or many times. It can include one or a combination of the different types of abuse. Most often, elder abuse is carried out by someone known to the older person, with two thirds of abusers being an adult child.

Senior Rights Victoria covers in details some of the key abuse suffered by seniors. Please see the definition below:



FINANCIAL ABUSE

Financial abuse includes using an older person's property, finances or other assets illegally or wrongly.

Abusers may borrow money and not repay it; use the older person's bank accounts, credit cards, online banking or digital passwords without permission; apply pressure to hand over personal property like jewellery; or misuse an Enduring Power of Attorney.

Financial abuse can also include refusing to contribute to rent or other household expenses when living with an older person.



PSYCHOLOGICAL AND EMOTIONAL ABUSE

Psychological and emotional abuse happens when an abuser causes an older person emotional pain, anguish, or distress, or does not treat them with respect.

It may include name-calling, yelling or swearing at an older person, treating the older person like a child or regularly blaming them when things go wrong.



PHYSICAL ABUSE

Physical abuse is any act or behaviour which causes pain, hurt or injury. Physical abuse includes hitting or shoving the older person, or restraining a person by tying them to a chair or a bed, or locking them in a room, building or yard.

Wrongly giving an older person alcohol, medications, household chemicals or poisons is also physical abuse.



SOCIAL ABUSE

Social abuse isolates a person from family, friends, social groups and services.

The abuser may withhold mail; not allow phone calls or listen in on calls; or prevent the older person's involvement in religious or cultural practices.



SEXUAL ABUSE

Sexual abuse is unwanted sexual contact, language or behaviour, and includes rape; rough or inappropriate touching or washing of an older person's genital areas; and watching sexually explicit material or making sexually explicit phone calls around the older person without their consent.



NEGLECT

Neglect is when someone's everyday needs are not provided for.

It includes restricting food, medical care, warmth or dental care. Family friends or a carer might receive the Carer Allowance but not actually provide care.

Elder abuse can happen in any kind of family or relationship.

WHERE TO TURN TO?

Seniors Rights Victoria provides information, support, advice and education to help prevent elder abuse and safeguard the rights, dignity and independence of older people.

We help Victorians 60 and above, or any Indigenous Victorians 45 and above.



AGEISM

Ageism is the discrimination and devaluing of an older person because of their age. Ageism categorises older people negatively. Some common examples of these categories about older people are that they:

- can't look after themselves
- don't know what's best for them
- are a burden on society
- are slow and incapable of learning new things.



These are called stereotypes because they group all older people into these categories or labels. Stereotypes fail to recognise the rights, needs, dignity and valuable contribution of older people in our community and translate into ageist actions.

Experiences of ageism often affect older people's mental and physical well-being and therefore their quality of life. Ageism can result in feelings of loneliness, sadness, anger and shame.

In an Australian Human Rights Commission (AHRC) study, for example, 71% of Australian adults over 65 reported that they had been insulted or mistreated on the basis of their age. With an increasing ageing population in Australia, ageism is a significant human rights issue.

Elder abuse is a serious form of ageism. Elder abuse is any act which causes harm to an older person and is carried out by someone with whom the older person has a trusting relationship. The abuse may be physical, social, financial, psychological or sexual and can include the neglect of an older person. Elder abuse often takes away an older person's rights and choices.

We all need to take responsibility for combatting ageism and preventing elder abuse to ensure that older people can participate with full potential in a community that is age-friendly.

Seniors Rights Victoria develops various [tip sheets](#) on a multitude of subjects related to elder abuse.

PLANNING FOR THE FUTURE

Being in control of your future should be paramount to your ageing process. At different points in your life, you may need to delegate powers to other to make decisions on your behalf. So why not understand them early in life?

What if an injury, illness or disability meant you needed support to make decisions? Who would you want to support you? If you became unable to make some decisions, would those close to you know the preferences and values that guide you when you make decisions? For example, decisions about your finances, medical treatment, or how you live. Who would you trust to make decisions for you?



<https://www.publicadvocate.vic.gov.au/your-rights/enduring-power-of-attorney>



WHAT IS A WILL?

A Will is a legal document that says how your estate will be distributed after you die. The property that you leave when you die is known as your estate. Your Will can also include your wishes about things such as who you want to care for your children after you die and your burial wishes. However, these are not legally binding. For more information on what items to include in your Will, see 'Making a Will'. Beneficiaries are the people you leave your estate to.

Gift or bequest are terms used to refer to what a beneficiary receives. Estate includes property that you own, and can include things of significant value such as a house or car, or items that are more sentimental in value such as family heirlooms..

WHY MAKE A WILL?

Everyone should have a Will. A Will is a legal document where you say what you want to happen to your estate when you die. If you don't have a Will, your estate may not go to the people you want it to. For more information on what happens if you don't make a Will, see 'What happens if I die without a Will?'

WHAT IF I DIE WITHOUT A CURRENT WILL?

If you die without a current Will the law will decide what happens to your estate. This may mean that your estate is not distributed in the way that you wish.

Your estate may be distributed in accordance with an old Will. Otherwise the court will appoint an administrator to distribute your estate following legal rules known as the rules of intestacy. That means, your assets may go to: • your spouse or domestic partner, children or parents, or more distant relatives, or • if you have no relatives at all, your property will go to the State



WHAT SHOULD I INCLUDE IN MY WILL?

Making a Will When you make a Will there are many different things that you need to think about, **including who will be your executor and who you want your estate to go to**. Things to think about Before you make a Will, you need to think about:

- Do you need help making your Will?
- What assets do you own, either in your own name or with other people?
- Who will be your executor?
- Who you want to leave your estate to?
- Who might claim to have rights over your estate?
- If you have young children, who will be their guardian?
- Do you want to leave money to charity?
- Do you want to make an organ donation?
- What are your funeral and burial wishes?



WHERE TO GET HELP TO MAKE A WILL?

Making a Will can be complex. **These professional services and resources** can help you make your Will.

Professional services (lawyers and commercial providers) Private lawyers.

All information compiled in this document came from the following Government and not for profit sites:

The Office of the Public Advocate

<https://www.publicadvocate.vic.gov.au/opa-s-work/advice-service>

Justice Victoria

<https://www.justice.vic.gov.au/justice-system/legal-assistance/wills-online-witnessing>

Legal Aid Victoria

<https://www.legalaid.vic.gov.au/sites/default/files/2022-04/vla-resource-your-will.pdf>

