

Prosecution of Elder Abuse Scottish Parliament: Justice Committee

February 2019

Introduction

Age Scotland welcomes the opportunity to give evidence to the Justice Committee, and considers the introduction of new legislation to be a helpful step in providing older people with additional protection. It is important to note there may be serious barriers that prevent older people reporting elder abuse, or indeed offences against them more generally, and these must be seriously considered by the Committee to ensure every effort is made to understand and mitigate these where possible.

Some older people in Scotland experience abuse, harm and neglect. They are abused by people they thought they could trust in places where they should be safe. Anyone can be at risk, but older people can be particularly vulnerable if they need to depend on others, are frail, have health problems or have problems with thinking or memory. Abusers often pick on people who feel isolated or are not connected to their community or other people. Some abusers try to make their victim feel more isolated to increase the victim's dependence on them and the control they have. We know from our research that 100,000 older people in Scotland feel lonely all or most of the time, and that half of over 75s says that their main form of company is the TV or a pet.

Age Scotland welcomed Lord Bracadale's independent report, in particular Recommendation 10 which calls for a new statutory aggravation based on age hostility and Recommendation 11 which called for the introduction of a general aggravation which covers exploitations and vulnerability. The sad reality is that older people are often targeted by criminals because of their perceived vulnerability, especially if they are living alone, have a disability or health condition. Research conducted by Age UK and Age Scotland found that 400,000 older people in Scotland were targeted by scammers in 2017, and research from Citizen Advice Scotland found that on average people aged 75-79 lose £4,500 to scams.

The merits of having a specific statutory offence of elder abuse

Age Scotland recognises the fact that abuse from close relations can happen between older people that is not covered by Domestic Abuse (Scotland) Act (2018). For example, older people may also fall victim to financial abuse from their family members, such as

their children or grandchildren, or people supposed to be providing support and services who are financially grooming older people to leave them money in their will. These people are in a position of trust and often power, especially when the perpetrator has caring responsibilities. This sort of exploitation of someone's vulnerability for financial gains should be taken seriously and be prosecuted accordingly.

The introduction of a statutory offence of elder abuse makes sense. We understand why abuse committed by, for example, children, does not fit within domestic abuse legislation so should be wholly separate. It is a serious offence which has a devastating impact on the individual's life and their health, both mentally and physically.

The merits of introducing a new statutory aggravator applying to situations where a more general offence involves elder abuse.

We agreed with Lord Bracadale that it is not within the scope of Hate Crime legislation to include crimes which cover exploitation and vulnerability, and does not fit with the current public understanding of what constitutes a hate crime. Therefore, a general aggravation is necessary to give older people confidence to report crimes, such as scams, knowing that they will be taken seriously by the police.

Age Scotland is supportive of any legal mechanism which will provide further protection to older people who have been targeted because of their age. We believe this would encourage older people to report abuse and have confidence that this is a serious issue they should not have to tolerate, and will be taken seriously by the police and prosecution system. It can also act as a deterrent from people committing these crimes in the first place, knowing there is a tough sentence can act as preventative measure. The introduction of new legislation will also help to improve awareness of elder abuse amongst those who work in the statutory service, and the general public. It is hoped this will improve reporting and prosecuting of these crimes. Whether this form of added protection to older people's rights is a statutory offence or statutory aggravator is not something, however, Age Scotland have the legal expertise to recommend one above the other.

The ability and willingness of victims to be able to report elder abuse?

There are numerous issues that must be taken into account when considering an older person's ability and willingness to report elder abuse. There may be a reluctance due to a number of reasons such as embarrassment, shame, guilt, and dependency on the abuser.

It is important to recognise that there may be communication barriers which prevent an older person from speaking out, such as cognitive impairments such as dementia or language barriers if English is not their first language. There may also be situations

where an older person has no means of reporting the abuse, if for example they live in a care home.

There are also likely to be psychological barriers that they may have to overcome if the abuse they have experienced is from a relative that they love and fear getting them into trouble, or if they are dependent on the person for care. This psychological barrier can be further compounded if the abuse has been happening for numerous years and has become normalised. The power dynamic is very difficult to navigate and can prevent older people from reporting elder abuse.

As with other victims of abuse, they may feel shame and guilt if they have been led to believe the abuse is their own fault and this can make it difficult for older people to talk about their experience.

It is also worth considering the role intersectionality can have on an older person's ability and willingness to report elder abuse, such as race, disability, sexual orientation, and gender.

Any specialist skills which may be required within the police and prosecution system to adequately address elder abuse offences?

Any professional working within the justice system such as police and those within the prosecution system should be trained to deal sensitively with victims of elder abuse. As discussed in the previous question, they should be aware that victims may find it difficult to talk about it, especially if they were abused by someone close to them.

It would be helpful for police and prosecutors to be adequately trained on how to communicate appropriately with older people who may have cognitive impairments such as dementia, recognising it might be helpful to change the language they use and the formats of which they normally communicate.

It also worth considering that during the prosecution process that long delays may be felt more extremely by older people who may not have the psychological stamina to deal with disappointment due to delays.

Want to find out more?

As Scotland's national charity supporting people over the age of 50, Age Scotland works to improve older people's lives and promote their rights and interests. We aim to help people love later life, whatever their circumstances. We want Scotland to be the best place in the world to grow older.

Our Policy, Communications and Campaigns team research, analyse and comment on a wide range of public policy issues affecting older people in Scotland.

Our work is guided by the views and needs of older people themselves.

Further information

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