

Abuse of Older People



SHARING A HOME WITH FAMILY OR FRIENDS

This information is from the **Seniors Legal and Support Service** at Caxton Legal Centre. The service is funded by the state government. It offers free, confidential legal and social work services to older people to help them deal with harm or neglect by trusted family members or friends.

HOW TO GET FREE HELP — STEP BY STEP

Abuse can be financial, verbal, emotional, physical or a combination of these. It is often hard to talk about these problems, and it is common to feel shame about what is happening. If you are worried or fearful and want to know about your options to improve your situation, you can call the statewide helpline on 1300 651 192 and ask for help.

COMMON STORIES

Giving money to a family member to build a granny flat at their property

Jan wanted to live with her daughter, Linda. Jan and Linda agreed that Jan should pay for modifications to Linda's property to make it comfortable for Jan to live there. The agreement was not in writing. Jan put all of her money into building a granny flat on Linda's property.

After moving into the granny flat, Jan found that she and Linda could not get along and disagreements became a problem. Now Linda has told Jan to leave.

Family member or friend living in an older person's house

Carol has lived in her mother's home for 10 years. Over this time Carol has provided some care to her mother and paid money for the upkeep of the

property. Carol has now met Joe and wants him to move into Alice's home.

Alice doesn't want Joe in her house, but Carol claims that some of Alice's home is hers and insists Joe can stay.

SOME LEGAL CONSIDERATIONS

When a person lives in another person's house and pays money for renovations, building a granny flat or upkeep of the property, a legal interest in the property may develop. When things go wrong, this sort of interest can be very difficult to prove. If it can be proved, this interest can sometimes mean that the person who has paid the money will be entitled to a share of the property.

For Jan, establishing her interest would be simple if she had her name on the title of the property. This is easy to do if there is an agreement from the person

who is already the registered owner. However, now that disagreements have started, Linda is not likely to register Jan as an owner. Because Jan is not a registered owner, she will now need to see a lawyer, and she may need to take costly legal action to prove that she has an unregistered interest.

Some people living in a home owned by someone else can develop an expectation that they have an interest in that home. Alice should be worried about Carol claiming a legal interest over part of the house that they have been sharing. Carol and Alice did not make a formal agreement that Carol would get anything for the care she has provided and the money she has paid for upkeep. This will make it difficult for Carol to establish a legal interest.

Agreement is very important. Sometimes, however, memories of the arrangement can be difficult and disputes still occur, especially in relation to financial contributions when it is unclear whether the contribution is a gift or not. Legal action, which is very costly, may be needed to resolve the matter.

QUESTIONS TO ASK YOURSELF WHEN CONSIDERING LIVING WITH FAMILY OR FRIENDS

- What if we do not get along?
- What if my needs change?
- If I need to go into a nursing home, where will the money for the accommodation charge come from?
- How will my pension be affected?
- Should I speak to a Centrelink financial services officer?
- Should we get assistance from a solicitor, mediator or counsellor to help us make the agreement?
- Have I had independent legal and financial advice?
- Has the agreement been put into writing?
- Am I sure that this is the best thing for me now and into the future?
- Have I considered a binding financial agreement?
- What if my family member's or friend's circumstances change? How would their divorce, partnering or relocation affect me?
- Will I have security (e.g. my name on the certificate of title)?

CENTRELINK MATTERS

If an aged pensioner contributes money to someone else's property for renovations of the building the pensioner will live in, Centrelink may consider them to have a 'granny flat interest' in the property.

If Jan is an aged pensioner, she may be considered to have a 'granny flat interest' in Linda's property. This may affect Jan's pension. Alternatively, Jan may be able to convince Centrelink to treat her granny flat interest as an unrealisable asset.

WHAT TO DO IF THINGS GO WRONG

If there is a binding financial agreement, most problems can be resolved by referring to that document. For families without written agreements, resolution of disputes can be difficult.

Getting legal advice as soon as a problem arises is important. Delaying seeking advice can be very harmful as action may need to be taken within a certain time frame.

After seeking legal advice, mediation is often the best first step to resolving matters and can be very useful. If court action is needed, it will be beneficial if there is a good record of transactions, conversations, agreements and other details of the arrangement and the dispute, so documents need to be kept in a safe place. Keeping a diary may be valuable too.

USEFUL RESOURCES

Australian Human Rights Commission (2013) *Your Rights at Retirement: A Guide to Making Decisions and Navigating Your Entitlements in Later Life*, Australian Human Rights Commission, Sydney.



WHERE TO GET FREE HELP

SENIORS LEGAL AND SUPPORT SERVICE

at Caxton Legal Centre for legal advice and social work support and advocacy

Tel: (07) 3214 6333

Cairns 1800 062 608

Hervey Bay (07) 4124 6863

Toowoomba (07) 4616 9700

Townsville (07) 4721 5511

ELDER ABUSE HELPLINE

Tel: 1300 651 192

ADA AUSTRALIA

for help to speak up for your decision-making rights or your concerns with aged-care services

Tel: 1800 818 338 or 3637 6000

COMPASS

the national website on recognising elder abuse and how to get help

www.compass.info

DIVERSICARE

for help with quality in-home care services for culturally and linguistically diverse people

Tel: 1300 348 377

FINANCIAL COUNSELLORS

for help with common debt problems

Tel: 1800 007 007

POLICE LINK

Tel: 13 14 44 or 000 for emergencies

PUBLIC TRUSTEE OF QUEENSLAND

for drafting of free wills and EPAs (for a fee)

Tel: 1300 360 044

TELEPHONE INTERPRETING SERVICE

Tel: 13 14 50

OFFICE OF THE PUBLIC GUARDIAN

for allegations of abuse against an adult who has impaired decision-making capacity

Tel: 1300 653 187

QUEENSLAND ADVOCACY INCORPORATED

for legal advocacy for people with disability

Tel: 1300 130 582

QUEENSLAND LAW SOCIETY

for contact details for private lawyers

Tel: 1300 367 757

SENIORS ENQUIRY LINE

when you are not sure where to go with a question or problem

Tel: 1300 135 500

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