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**KELVIN THOMSON MP**  
**Federal Member for Wills Speech to;**

***Seniors Rights Victoria-Launch of the 'Report Responding to the financial abuse of older people: understanding the challenges faced by banking and finance sectors'.***

19 November 2008

- As a member of the House of Representatives Standing Committee on Legal and Constitutional Affairs in 2007 I was involved in the Inquiry into Older People and the Law and the subsequent report that was tabled in Parliament on 20 September 2007.
- It is worth noting that it is expected that by 2051, people aged 65 years or over will represent more than a quarter of our population.
- Australia's population is getting older. We now have the world's second longest life expectancy after the Japanese.
- Today, around 9 per cent of our population is aged 70 years or older – that is some 2 million people.
- This is a world wide phenomenon.
- What this reflects is the high-quality level of care that is provided by our health and aged care systems.
- However the need to provide care will also increase and this includes protection of the nation's frail and elderly who may be exposed to fraud and financial abuse.
- I would like to speak in reference to Chapter 2 of the Report, *Fraud and financial abuse*, as it was noted that "within the older age group, consumer fraud occurs more frequently than other types of crime".
- The Australian Institute of Criminology "referred to a survey conducted in 17 industrialised countries in the year 2000. In that study, figures for Australia showed:

....older people were more likely to experience consumer fraud than other offences. Consumer fraud was more than twice as frequent as assault or theft and 13 times more frequent than robbery".

- "The AIC further noted that the impact of such fraud and financial crime against older people can be particularly severe:

Not only can a comfortable lifestyle collapse, but they may not have the time or the opportunity for financial recovery. A blow to financial security is often a permanent and life-threatening setback, characterised by fear, lack of trust, and is often the onset of acute and chronic anxiety. Loss of assets may ruin a person's otherwise well-planned retirement...it has also been found that the

personal emotional and psychological consequences of fraud for older persons are much more profound than for younger persons”.

## 2.

- “Other studies have confirmed financial abuse as the most common form of abuse of the elderly, including in Indigenous and culturally and linguistically diverse communities”.
- There is no one single solution to the problem of financial abuse and fraud involving older Australians.
- Information and education programs on the part of older persons, their families, their carers and solicitors could contribute as a preventative measure against financial abuse.
- The House of Representatives Committee came out in favour of “ensuring people have the skills necessary to manage their finances effectively and avoid being defrauded”.
- “The Committee also supported the proposal for a national financial literacy program for older Australians.”
- We said,” In addition to providing targeted financial advice, such a campaign should inform older people of the processes by which they can seek recourse after abuse has occurred and the regulatory bodies who have the power to investigate and prosecute misleading and deceptive practices”.
- Community Legal Centres have a role in assisting older people in a community education role.
- The Community Legal Services Program plays a key role in assisting members of the community with legal and related problems, having the expertise, and adopting an innovative approach to providing this assistance.
- The Labor Government recognises this and that is why \$10 million of one-off funding was injected into Community Legal Centres.
- The Government is committed to assisting vulnerable people to access much needed legal assistance services.
- The role of banks and financial institutions is also particularly important in safeguarding older Australians from financial abuse.
- The Committee noted the “concern that current privacy laws impose restrictions on the roles that banks can play in reporting financial abuses”.
- When this concern was raised with the Attorney-General’s Department, it was advised that the *Privacy Act* ‘has in place arrangements to allow disclosure of information where that is appropriate-for example, with the consent of the person whose personal information it relates to or where a law authorises or requires the disclosure as well’.
- In the Committee’s opinion banks and financial institutions should be providing such assistance to customers as part of their normal duty of care. It is vital that the staff of banks and financial institutions are trained to recognise signs of potential abuse and that there are specific protocols with the bank or financial institution, and indeed across the industry, for dealing with such reports.

- I fully support the Committee’s Recommendation 5 “that the Australian Government work in cooperation with the banking and financial sector to develop national, industry-wide protocols for reporting alleged

### 3.

financial abuse and develop a training program to assist banking staff to identify suspicious transactions”.

- The Loddon Campaspe Community Legal Centre report *Responding to the financial abuse of older people: understanding the challenges faced by banking and finance sectors* is an excellent and significant contribution to addressing some of the barriers in the banking and financial sector that need to be overcome in order to effectively take action on financial abuse of older people.
- Its makes recommendations supporting the Committee report and its conclusions, particularly Recommendation 5.
- It identifies that in order for the Australian Government to fulfil Recommendation 5 “Australian legislatures and the banking and financial sector will have to identify and overcome significant challenges and constraints-practical, commercial and legal”.
- The key recommendations of the report include amendments to the Banking Code of Practice in order that adopting banks implement appropriate training for staff to “recognise signs of abuse, recognise the common profile of a vulnerable customer and/or potential abusers, understand protocols to deal with suspected abuse; and understand enduring powers of attorney and administration orders made by tribunals”.
- It proposes to amend relevant legislation and codes (including the Banking Code of Practice and the Privacy Act), to protect financial institutions from any suit of defamation, breach of contract, breach of confidentiality, or interference with privacy if they report suspected abuse in good faith.
- It further proposes that the Australian Banker’s Association undertake a review of the Banking Code of Practice to consider amendments to include new or separate standards and contractual terms for consumer banking services to elderly customers. As part of the review, to conduct research on overseas trends and experiences that allows banks to assist older customers experiencing or vulnerable to financial abuse.
- The banking and financial services industry has a key role to play on the frontline of defence against abuse by identifying it early, and acting promptly to prevent the assets of older people of being defrauded.
- The recommendations in the Loddon Campaspe Community Legal Centre report would further the interests of older people by reducing their vulnerability to financial abuse.
- The Australian Government is committed to ensuring older Australians have robust protection and effective care.
- It is considering the recommendations of the House Committee report and will respond accordingly.
- It has already strengthened the protection of older Australians by moving to introduce an amendment to the *Age Discrimination Act 2004*

to remove the 'dominant reason' test. Its removal was a recommendation of the Committee.

#### **4.**

- The current test means that a person's age must be the dominant reason for something to constitute discrimination under the Act. This is inconsistent with other federal unlawful discrimination laws.
- The amendment will mean that a person need only show that their age was one of the reasons they were discriminated against.
- The removal will harmonise the Act with other federal unlawful discrimination laws, and better align it to State and Territory laws.
- I have been an active campaigner for financial and other assistance, for retirees and pensioners.
- I spoke in my Budget reply speech this year about the difficulties pensioners are facing with cost of living pressures.
- I have also presented a petition in Parliament from the Moreland Seniors Action Group regarding the difficulties of seniors/pensioners in the current cost of living crisis.
- The launch today of the Loddon Campaspe Community Legal Centre report marks a significant contribution to the aged and their protection, and I commend it for the role it helps to play in sound public policy development.

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