

17 February 2025

Ms Tamsyn Harvey  
Deputy Secretary  
Justice and Communities Group  
Attorney-General's Department

Via email: [nationalplan@ag.gov.au](mailto:nationalplan@ag.gov.au)

Dear Ms Harvey

### **National Plan to End the Abuse and Mistreatment of Older People**

COBA welcomes the opportunity to respond to the Attorney-General's Department on the National Plan to End the Abuse and Mistreatment of Older People (the National Plan).

COBA is the industry association for Australia's customer owned banks (mutual banks, credit unions and building societies). Collectively, our sector has over \$179 billion in assets and is the fifth largest holder of household deposits. Customer-owned banks (i.e. mutual banks) account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

#### **Key Points**

COBA supports prioritising a national approach to enduring powers of attorney. This can include a national register and nationally prescribed documents with standard uniform clauses across all Australian jurisdictions. This will make it easier for banks to ensure they are using valid enduring powers of attorney.

We encourage developing clear and consistent pathways to refer suspected abuse. Alongside better guidance, this will support banks to report suspected cases to authorities for action.

We support greater public education on financial abuse to improve understanding of financial abuse and the services available to help.

COBA supports cross-sector collaboration including a resources hub supporting staff training across the banking sector.

COBA and our members strongly support ending mistreatment of any persons experiencing vulnerability, including older Australians, who have the right to feel safe, valued and heard whilst living free from mistreatment and abuse.

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The [Customer Owned Banking Code of Practice](#) (COBCOP) is the code of practice for Australia's mutual banks, credit unions and building societies. It is a public expression of the level of support that subscribers will provide to their customers, and the standards by which they will be held accountable. COBCOP sets out in clause 26 that signatories will adapt customer service standards where reasonably practicable and take extra care where they are aware that a customer is experiencing vulnerable circumstances. Circumstances include age-related impairment, elder abuse, domestic violence or financial abuse. COBCOP signatories commit in clause 27 to train staff on how to identify customers experiencing vulnerability, and to adapt customer service standards for them in a sensitive and helpful way. Training will include awareness of vulnerable circumstances as a result of domestic violence and elder abuse.

Some steps that our members take in preventing and detecting financial abuse include:

- monitoring for suspicious transactions
- identifying customers experiencing vulnerability
- looking for triggers that may indicate financial abuse, and
- referring customers to specialist teams within the bank, who can offer assistance and refer to appropriate external services.

However, it is important to acknowledge banks' challenges when suspecting financial abuse. These challenges include privacy constraints, deficiencies in state-based legal frameworks relating to authority documents (such as Powers of Attorney, administration orders and financial management orders) and lack of consumer awareness.

To this end, while we are generally supportive of the plan outlined, we highly support prioritising:

1. Improving greater national consistency in enduring power of attorney laws (priority area 2.1).
2. Strengthening safeguarding frameworks and clarifying pathways for abuse and mistreatment to be reported and addressed (priority 2.4).
3. Increasing whole community awareness, education and engagement (focus area 1).

### **National consistency in enduring power of attorney laws**

COBA strongly supports overhauling the state based legal framework relating to authorities for documents such as Power of Attorney, administration orders and financial management orders. The National Plan should prioritise this work.

In particular, we support a national searchable register and nationally prescribed documents with standard uniform clauses across all Australian jurisdictions.

A national register would allow organisations to have access to the most up-to-date enduring power of attorney status, reducing reliance on customers to provide updates.

The complexity of differing legislation presents many practical challenges with monitoring the validity of an enduring powers of attorney and preventing elder abuse in bank branches. Challenges include the complexity of the document and the lack of appropriateness, training and systems to assess the validity of each transaction. Some members have expressed concerns over bank staff being required to assess the appropriateness of some attorneys, for example, those criminally charged or the capacity of the principal.

COBA also supports increased education and resources for all parties to the documents on their rights and obligations under the document. Education will assist limiting cases of abuse within the framework of authority documents.

We refer to COBA's submission to the Attorney General's Department on 13 December 2023 on *Achieving greater consistency in laws for financial enduring powers of attorney* for further details on the importance of a national approach.

### **Strengthen safeguarding frameworks and clarify pathways for abuse and mistreatment to be reported and addressed**

COBA members welcome clear and consistent pathways to refer abuse cases or abuse suspicions and better guidance as to what can be disclosed and when. While our members have various mechanisms to identify and minimise financial abuse, clearer reporting and advice pathways will help reduce the prevalence of abuse and mistreatment of older people. Our member would welcome a national uniform approach to referral and advice.

COBA members face challenges when suspecting abuse as they need to consider how and what they can disclose to third-parties such as law enforcement, other banks and support services. Banks may also need to investigate complex family relationships to understand whether there is potential abuse. Removing regulatory barriers in some instances may assist financial institutions in these cases.

### **Increase whole-of-community awareness, education and engagement**

We welcome increased whole of community awareness, education and engagement. This may involve national advertising campaigns similar to scam awareness or coercive control campaigns. Many Australians have a limited understanding of financial abuse so can be unaware that they are being financially abused. They may not be able to identify transactions that would be considered to be financial abuse. In other cases, abuse can occur within the auspices of a power of attorney or other authority document where the attorney believes they have unlimited control over the principal's funds.

A wide education campaign can:

- bring abuse to light and create greater societal responsibility to respond to and prevent abuse,
- prompt a perpetrator to think twice before taking advantage of someone else's resources, knowing that they are potentially being monitored, and
- ensure older Australians are informed enough to have appropriate documented power of attorney wishes and understand the rights and responsibilities under these documents.

### **Strengthen the capacity and capability of services, including through targeted education and training for professionals**

COBA supports additional funding for advisory and advocacy bodies that respond to and prevent abuse, including financial abuse effectively. This includes services providing legal assistance, advocacy, investigative bodies and specialist financial counsellors. The measures in Focus Area 3 of the National Plan will ensure that those who are vulnerable or marginalised will have the best possible access to the necessary support and protections.

### **Strengthening institutional collaboration to prevent financial abuse**

We support collaboration within financial services providers and throughout the broader ecosystem of businesses, government and community service providers. Collaboration may include workshops and training held by government agencies or specialist community services providers to include lived experience. A shared resource hub could support impactful staff training across the sector, equipping frontline teams with the skills to identify and respond effectively to financial abuse.

COBA facilitates a financial-abuse working group within our sector that shares learnings and insights about responding to and preventing financial abuse and more broadly, supporting vulnerable consumers. We also use this group to share information from other stakeholders such as the Australian Banking Association to support our members to respond to financial abuse. To date, 14 COBA members have [changed their terms and conditions](#) to make it clear that their products and services are not to be weaponised or used for financial abuse.

### Other regulatory challenges

In addition to the above challenges, our members make the following observations about the regulatory framework:

- Privacy laws can make it harder for a bank who has identified financial abuse to contact the receiving bank and recover the funds. Banks have a positive obligation not to breach privacy laws but do not have any clear protection from liability for disclosing this information. A targeted exemption could allow banks to notify the receiving institution, locate funds, and attempt recovery to minimise harm.
- Financial institutions are legally required to consider AUSTRAC guidance when monitoring transactions. Given the important role of transaction monitoring in identifying financial abuse, AUSTRAC's input may be crucial when considering the National Plan to assure there is a consistency in approaches.
- Our members operate in a heavily regulated environment and devote significant resourcing to train staff to meet compliance requirements. While transaction monitoring can assist in identifying financial abuse, we encourage mechanisms that can be taken by Government to simplify operations and compliance costs (such as a national approach to enduring powers of attorney).

Thank you for taking the time to consider our submission. If you have any queries, please contact Ilana Madjar at [imadjar@coba.asn.au](mailto:imadjar@coba.asn.au).

Yours sincerely



**MICHAEL LAWRENCE**  
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