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Enquiries: Diana MacTiernan

**Confidential**

Hon Nick Goiran MLC  
Chair  
Select Committee into Elder Abuse  
Parliament House Western Australia  
18-32 Parliament Place  
WEST PERTH WA 6005

Dear Mr Goiran

As Acting Commissioner for Equal Opportunity, I commend your initiative in investigating the significant issue of elder abuse in our community and thank you for the invitation to provide a submission.

Given the current structure and coverage of the *Equal Opportunity Act 1984* (the Act), persons being subjected to elder abuse would have limited scope to file a complaint under the Act. This is primarily due to the "less favourable treatment" test of discrimination which requires an actual or hypothetical comparator in same or similar circumstances. In various aged care facilities, the only possible comparators would also be older persons or persons with impairment. If the discrimination test was amended to unfavourable treatment, the potential for success in complaints of elder abuse in the delivery of services being filed by individuals and acted upon by the Commission may increase.

The other observation I make is that a more systemic approach to addressing adverse behaviour to older persons would be more beneficial than relying on individual complaints which may only provide redress for one person. Western Australia has a Commissioner for Children and Young People whose role is essentially to advocate for the rights and wellbeing of that cohort. As a group, older persons similarly may need a statutory entity to oversee the promotion and monitoring of their rights and wellbeing.

Your committee is welcome to contact my office for clarification on any of the above points.

Yours sincerely

John Byrne  
Acting Commissioner for Equal Opportunity

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