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**Government
of South Australia**

**SOUTH AUSTRALIAN GOVERNMENT RESPONSE TO
RECOMMENDATIONS OF THE SOUTH AUSTRALIAN LAW REFORM
INSTITUTE REVIEW OF THE *AGEING AND ADULT SAFEGUARDING
ACT 1995***

Introduction

The South Australian Government welcomes the independent statutory review of the *Ageing and Adult Safeguarding Act 1995*.

The review, entitled '*Report 17 Safeguarding Adults*', was conducted by the South Australian Law Reform Institute (SALRI) pursuant to section 53 of the *Ageing and Adult Safeguarding Act 1995* (AAS Act).

Under its terms of reference, SALRI inquired into and made recommendations on the extent to which the *Ageing and Adult Safeguarding Act 1995* is achieving its purpose and improvements that could be made to its operation.

The Minister for Health and Wellbeing tabled the review report in Parliament on 1 November 2022.

Government response

The review makes 46 recommendations and is a comprehensive examination of the operation of the AAS Act, including the establishment of the Adult Safeguarding Unit, which commenced operations on 1 October 2019 and was the first of its kind in Australia.

The Government has accepted 42 recommendations (in full or in principle), with a further four recommendations subject to further consideration.

The review is an important contribution to the essential work occurring across South Australia, led by the Office for Ageing Well, to support all South Australians to age well and remain active and engaged in their communities, and to ensure all adults are safeguarded against abuse and mistreatment.

The report identifies opportunities for South Australia to:

- modernise the legislative provisions that establish the Office for Ageing Well;
- strengthen safeguards for all South Australian adults who may experience or be at risk of abuse and mistreatment;
- enable more targeted and appropriate responses for adults experiencing abuse; and
- realise South Australia's vision that 'South Australia is a healthy, connected, equitable, and sustainable community, which takes a whole of life approach that fosters many years of living well, and supports us to die with dignity in line with our wishes.' (South Australia's Plan for Ageing Well 2020 – 2025).

Many review recommendations will require amending the AAS Act. A draft amendment bill will be developed and is expected to be introduced to Parliament later this year.

Fifteen recommendations can be implemented through strengthening policy and practice of the Adult Safeguarding Unit.

Three additional recommendations do not relate to the operation of the AAS Act (recommendations 36, 38 and 46) and are being considered separately by the Attorney-General, as these recommendations relate to his portfolio of responsibilities.

Response to recommendations of the review of the *Ageing and Adult Safeguarding Act 1995*

Response	Meaning
Supported	The recommendation is supported in full.
Supported in principle	The intent of the recommendation is supported, but all or part of the recommendation can be achieved via another more appropriate mechanism or approach.
Noted	The recommendation requires further consideration before a final response can be determined.

Recommendation (or precis)		Primary theme	Response
1	SALRI recommends that there should be a further review of the operation of the <i>Ageing and Adult Safeguarding Act 1995 (SA)</i> (AAS Act) after five years and that this review should include consideration of the roles and operation of both the Adult Safeguarding Unit and the Office for Ageing Well and the wider South Australian adult safeguarding context and landscape	Legislative reform	Supported The Government will introduce a bill to give effect to the recommendations of the review report that require amendments to the <i>Ageing and Adult Safeguarding Act 1995 (AAS Act)</i> . The bill will provide for a further review of the operation of the AAS Act after five years.
2	SALRI recommends that the role and operation of Office for Ageing Well under the AAS Act should be retained.	No action	Supported The role and operation of Office for Ageing Well under the AAS Act will be retained.
3	SALRI recommends that the AAS Act should be amended in respect to Office for Ageing Well by <ol style="list-style-type: none"> 1. Replacing now outdated language and terminology in sections 8 and 9 with more inclusive and appropriate, respectful language in line with community standards. 2. Reviewing and updating its objectives outlined in s 8 to better reflect the Office’s current work and community expectations 	Legislative reform	Supported The Government will introduce a bill to give effect to the recommendations of the review report that require amendments to the AAS Act. The bill will include the recommended updates to the Office for Ageing Well objectives and functions.

OFFICIAL

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3. Reviewing and updating its functions outlined in s 9 to better reflect the Office’s current work and community expectations.		
4 SALRI recommends that the entitlement of both older persons and persons with disability to live and make decisions without coercion, undue influence or psychological abuse is an important consideration and should be added to the <i>South Australian Charter of the Rights and Freedoms of Vulnerable Adults</i> (potentially under heading ‘Liberty and Security’).	Policy	Supported The South Australian Charter of the Rights and Freedoms of Vulnerable Adults will be amended as recommended.
5 SALRI recommends that the role and operation of the Adult Safeguarding Unit under the AAS Act should be retained. SALRI considers that a standalone Act to govern the role and operation of the Adult Safeguarding Unit is unnecessary.	No action	Supported The existing legal framework for the Adult Safeguarding Unit will be retained.
6 SALRI recommends that, at this stage, the Adult Safeguarding Unit should remain under Office for Ageing Well.	No action	Supported The Adult Safeguarding Unit will remain under Office for Ageing Well.
7 SALRI recommends that, at this stage, it is unnecessary for the AAS Act to include an explicit statement of the independence of the Adult Safeguarding Unit.	No action	Supported
8 SALRI recommends that, at this stage, the Adult Safeguarding Unit should retain the responsibility under the AAS Act for responding to reports of the suspected abuse of all adults who may be vulnerable to abuse.	No action	Supported The responsibility of the Adult Safeguarding Unit for responding to reports of the suspected abuse of all adults who may be vulnerable to abuse will be retained.
9 SALRI recommends that ‘safeguarding’ should be included in the AAS Act as the primary purpose of the Adult Safeguarding Unit. This will reflect that the key focus of the Adult Safeguarding Unit is to safeguard adults who may be vulnerable to abuse to safeguard their rights. The definition should draw upon the phraseology in the <i>Care Act 2014</i> (UK) and be taken to mean protecting people’s health, wellbeing and human rights, and enabling them to live free from abuse	Legislative reform	Supported The Government will introduce a bill to give effect to the review recommendations that require amendment to the AAS Act. The bill will include amendments to: <ul style="list-style-type: none"> • make clear that safeguarding is the primary purpose of the Adult Safeguarding Unit, and • provide a high-level definition of ‘safeguarding’.

OFFICIAL

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		Additional guidance that incorporates the phraseology and statutory guidance that supports the <i>Care Act 2014</i> (UK) will also be included in the Adult Safeguarding Unit Code of Practice.
10 SALRI recommends that the functions of the Adult Safeguarding Unit should be amended in the AAS Act to reflect that the Unit's primary focus is to respond to reports of abuse. For other functions such as advocacy or community education, the Adult Safeguarding Unit should not be leading the response, but rather should support other organisations and agencies in performing these functions.	Legislative reform	Supported The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act. The bill will include the recommended updates to the functions of the Adult Safeguarding Unit.
11 SALRI recommends that the concept of safeguarding should be supplemented by appropriate guidance in the Code of Practice about the aims of safeguarding. SALRI further recommends that a formulation (slightly adapted from the Statutory Guidance to the <i>Care Act 2014</i> (UK)) should be added to the Code of Practice (refer to pages 100 and 101 of report for full formulation)	Policy	Supported The Adult Safeguarding Unit Code of Practice will be updated to provide guidance on the aims of safeguarding, including the formulation suggested in this recommendation. Safeguarding information will also be made available in an easy read format to ensure that it is widely accessible across the community.
12 SALRI notes the suggestion of mandatory reporting under the AAS Act of the suspected abuse of an older person or a person with disability is beyond the scope of this reference as it raises complex practice, privacy and policy implications and requires further consideration and consultation. SALRI therefore recommends, at this stage, against the imposition of mandatory reporting of the suspected abuse (including the abuse of an older person or a person with disability).	No action	Supported The existing arrangements for voluntary reporting of suspected abuse to the Adult Safeguarding Unit will be retained. Voluntary reporting is consistent with the key principle underpinning the work of the Unit that all adults have a right to autonomy and self-determination, including that reporting should not be compelled when it is against the relevant adult's wishes.
13 SALRI recommends that s 23 of the AAS Act should be amended to increase flexibility and better reflect the work of the Adult Safeguarding Unit. This should include a statement that following an assessment under this section, the Adult Safeguarding Unit must take any safeguarding action(s) that the Director (or their delegate) considers appropriate in the circumstances or, if no safeguarding	Legislative reform	Supported The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act. This bill will amend section 23 of the AAS Act to make clear that the Adult Safeguarding Unit must take any safeguarding action(s) that the Director (or

OFFICIAL

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<p>action is required, take no further action (for the reasons currently detailed in ss 23(3)(c)(i)–(iii)).</p> <p>SALRI considers that list of possible safeguarding actions should be included in the Code of Practice or Regulations (refer to pages 151 - 152 of report for full list).</p>		<p>their delegate) considers appropriate in the circumstances, if no safeguarding action is required, take no further action.</p> <p>A non-exhaustive list of safeguarding actions will be set out in the Adult Safeguarding Unit Code of Practice.</p>
<p>14 SALRI recommends that a provision be inserted into s 23 of the AAS Act mandating that, where safe, practicable and appropriate, the reporter or the body or person who made a referral to the Adult Safeguarding Unit be notified about the outcome of an assessment.</p>	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include an amendment to require that that where safe, practicable and appropriate, the reporter or the body or person who made a referral to the Adult Safeguarding Unit should be notified about the outcome of an assessment.</p>
<p>15 SALRI recommends that ‘safeguarding’ should be explicitly included in the AAS Act as an action that the Adult Safeguarding Unit can take following an investigation commenced under s 26. Section 26 should also include an explicit power to refer a matter to SAPOL during the process of, or at the conclusion of, an investigation.</p>	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to:</p> <ul style="list-style-type: none"> • explicitly include ‘safeguarding’ as an action that the Adult Safeguarding Unit can take following an investigation, and • include an explicit power to refer a matter to SAPOL during the process of or at the conclusion of an investigation.
<p>16 SALRI recommends that the practitioners in the Adult Safeguarding Unit should have the knowledge, expertise (including cultural awareness training and disability inclusion training) and capability to respond effectively to both elder abuse and the abuse and exploitation of persons with disability.</p> <p>SALRI further recommends that the Adult Safeguarding Unit practitioners have the necessary qualifications and expertise to understand the nuances of barriers and issues relating to Aboriginal</p>	<p>Implementation</p>	<p>Supported</p> <p>The Adult Safeguarding Unit already ensures that its staff have the knowledge, expertise and capability to respond effectively to the suspected abuse of older people and people with disability. The Unit provides professional development and training to ensure staff skills, knowledge and capacity remains up to date.</p> <p>The Adult Safeguarding Unit will continue to recruit skilled and experienced staff and ensure they have ongoing opportunities to undertake professional</p>

OFFICIAL

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<p>communities, CALD backgrounds, elder abuse, disability issues and complex communication needs.</p>		<p>development and training, with a particular focus on the nuances of barriers and issues identified in this recommendation.</p>
<p>17 SALRI recommends that further guidance should be provided for the use of an investigation and investigation powers under sections 18, 19 and 26 of the AAS Act, namely that:</p> <ol style="list-style-type: none"> 1. The Code of Practice or Regulations should detail circumstances in which an investigation would be appropriate. 2. The Code of Practice or Regulations should include a definition of 'serious abuse'. 3. The AAS Act should specify the actions that the Adult Safeguarding Unit can take once an investigation is complete. These should include safeguarding actions, referrals to police, and any other actions approved by the Director (or their delegate) 4. Section 23(4) should be replicated in s 26 to ensure that actions taken by the Adult Safeguarding Unit during an investigation are adequately recorded. 	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to:</p> <ul style="list-style-type: none"> • specify the actions that the Adult Safeguarding Unit can take once an investigation is complete, and • replicate section 23(4) in section 26 to ensure that actions taken by the Adult Safeguarding Unit during an investigation are adequately recorded. <p>The Adult Safeguarding Unit Code of Practice will be updated to detail circumstances in which an investigation would be appropriate and to provide a definition of 'serious abuse'.</p>
<p>18 SALRI recommends the internal and external review provisions in the AAS Act should be amended as follows:</p> <ol style="list-style-type: none"> 1. Adding a time frame into s 38 of the AAS Act within which the Chief Executive must conduct an internal review of a decision. 2. Amending s 38 and s 40 of the AAS Act to ensure that reasons for a decision at review are provided by the decision-maker. 3. Amending s 40(1) of the AAS Act to enable the Ombudsman to conduct or continue an external review process if in the public interest. 	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to update the internal and external review provisions set out in sections 38 and 40 of the AAS Act as recommended by the review.</p> <p>This will give greater clarity about the review process for people who are aggrieved by a decision made by the Adult Safeguarding Unit.</p>
<p>19 SALRI recommends that the AAS Act should be amended to allow the Director of the Adult Safeguarding Unit to delegate their</p>	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p>

OFFICIAL

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functions to the Chief Adult Safeguarding Practitioner or other practitioner(s) where appropriate.		The bill will include amendments to allow the Director of the Adult Safeguarding Unit to delegate their functions to the Chief Adult Safeguarding Practitioner and other staff where appropriate.
20 SALRI recommends that s 49 of the AAS Act should be amended to clarify that the identity of a person who makes a report of abuse is confidential, unless the person making the report has given consent for their identity to be revealed for a particular purpose, or identifying them is otherwise necessary such as where a report has been referred to police.	Legislative reform	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to make clear that the identity of a person who makes a report of abuse is confidential, unless the person making the report has given consent for their identity to be revealed for a particular purpose, or identifying them is otherwise necessary such as where a report has been referred to police.</p>
21 SALRI recommends that the current definition of ‘impaired decision-making capacity’ in s 5 of the AAS Act should be retained and no changes are necessary.	No action	<p>Supported</p> <p>The definition of ‘impaired decision-making capacity’ will be retained. This definition is consistent with other South Australian legislation relating to decision-making capacity and provides clear guidance about the relevant considerations and principles for guiding assessment of decision-making capacity.</p>
22 <ol style="list-style-type: none"> SALRI recommends that the most suitable department or agency should draft capacity assessment guidelines in South Australia to be utilised as an educative tool for any interested member of the community or medical or other health practitioner. Such guidelines should be concise, written in plain English and easily accessible formats (such as Easy read and videos) to all members of the community and should be made available in various translated languages. SALRI further recommends that such guidelines should specifically address the matters referred to on pages 175 - 176 of its report. 	Policy	<p>Supported</p> <p>SA Health has developed and published clear and plain English factsheets relating to impaired decision-making capacity and how it is assessed and supporting a person to make a decision. These factsheets relate to assessing capacity under the <i>Advance Care Directives Act 2013</i> and the <i>Consent to Medical Treatment and Palliative Care Act 1995</i> and are also applicable to assessing decision making capacity under the AAS Act.</p> <p>These factsheets are available to all SA Health staff as well as interested members of the community and medical and other health practitioners.</p> <p>To support the use of these factsheets in the specific context of adult safeguarding, Office for Ageing Well will include accessible information about how and when it assesses decision-making capacity in its Code of</p>

OFFICIAL

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			Practice. Office for Ageing Well will also develop supplemental information to guide adult safeguarding practitioners on the additional matters identified in this report, noting that whether the decision-making of a person with capacity to decide is affected by an external influence, such as coercion, is a separate issue to whether a person has cognitive capacity to make a decision.
23	SALRI recommends that any determination under the AAS Act of whether the Adult Safeguarding Unit should override the consent of an adult who may be vulnerable to abuse with decision-making capacity must be made on a case-by-case basis	Policy	<p>Supported</p> <p>The Adult Safeguarding Unit already makes decisions about whether it is necessary and appropriate to override the consent of an adult on a case-by-case basis.</p> <p>The Adult Safeguarding Unit Code of Practice and standard operating procedures provide guidance for practitioners on the circumstances in which the Unit may act without first seeking the relevant adult's consent or may override a person's consent.</p> <p>To ensure that there is no doubt that this decision must be made on a case-by-case basis, the Code of Practice and standard operating procedures will be updated to expressly state that these decisions must be made on a case-by-case basis and contemporaneously documented by the decision-maker.</p>
24	<ol style="list-style-type: none"> 1. SALRI recommends that further training and education should be provided to relevant staff of the Adult Safeguarding Unit regarding the assessment of capacity. 2. Further, SALRI recommends that a clinical capacity assessment may be sought in complex cases where it is reasonably suspected the adult's decision-making capacity to reach a voluntary choice is partially or completely subordinated due to the presence of coercive behaviour, psychological abuse or undue influence. This assessment may be undertaken by a psychiatrist, geriatrician, general practitioner, clinical psychologist or neuropsychologist. 	Policy	<p>Supported in principle</p> <p>The Government agrees it is essential for adult safeguarding practitioners to be skilled in assessing a person's decision-making capacity in relation to particular decisions in circumstances where there is evidence to suggest that the person is not able to freely and voluntarily make a decision about Adult Safeguarding Unit involvement.</p> <p>All adult safeguarding practitioners are allied health professionals who are educated and experienced in assessing people's understanding of their situation and ability to give valid consent. When there is evidence that a person may not be able to make a particular decision, practitioners utilise the SA Health fact sheets and their professional training and expertise.</p>

OFFICIAL

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		<p>Additionally, practitioners receive regular clinical supervision from their senior practitioners.</p> <p>In most cases, where a person does not consent to the Adult Safeguarding Unit acting and there is evidence that the person may not be able to freely and voluntarily make that decision, the adult safeguarding practitioner have the skills, experience and expertise to consider whether the person’s decision is impacted by external influences such as coercive behaviour, psychological abuse or undue influence. The practitioner is also best placed to consider whether there are grounds to act without consent under section 24(4)(a)(iii) or regulation 8 using their clinical skills, professional judgement and understanding of the situation at hand.</p> <p>Where the circumstances of the case require, the Adult Safeguarding Unit may engage an appropriate specialist (such as a geriatrician or general practitioner) to undertake a clinical assessment of a person’s capacity, as suggested by this recommendation.</p>
<p>25 SALRI recommends that a statutory definition of ‘consent’ should be included in the AAS Act which defines consent as ‘a free and voluntary decision’. SALRI further recommends that this definition should include the vital premise drawing on s 8(1)(k) of the <i>Voluntary Assisted Dying Act 2021 (SA)</i> that every person vulnerable to abuse has the right to make decisions requiring their consent under the AAS Act freely, and not as a consequence of the suggestion, pressure or coercion of others.</p>	<p>Legislative reform</p>	<p>Supported</p> <p>Free and voluntary consent is already the standard applied by the Adult Safeguarding Unit.</p> <p>The amendment bill will include an amendment to define consent as ‘a free and voluntary decision’. The definition will make clear that every relevant adult has the right to make decisions requiring their consent under the AAS Act freely, and not as a consequence of the suggestion, pressure or coercion of others.</p> <p>This response will be complemented by the response to recommendation 4, which suggests that the Charter of the Rights and Freedoms of Vulnerable Adults be amended to refer to a person’s entitlement to live and make decisions without coercion, undue influence or psychological abuse.</p>
<p>26 SALRI recommends that, in deciding whether to take action under s 24 of the AAS Act, the Adult Safeguarding Unit should be</p>	<p>Policy</p>	<p>Supported</p> <p>Following a report, and where a safeguarding response or investigation is warranted and the relevant adult consents, it is already the practice of the</p>

OFFICIAL

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<p>encouraged to intervene at an early stage before the abuse escalates, where it is appropriate in all of the circumstances.</p>		<p>Adult Safeguarding Unit to intervene as early as possible once a matter has been allocated for assessment.</p> <p>The Adult Safeguarding Unit Code of Practice and standard operating procedures will be updated to expressly state that intervention at an early stage is encouraged before the abuse escalates, where it is appropriate in all of the circumstances.</p>
<p>27 SALRI recommends that the term ‘serious criminal offence’ in s 24(4)(a)(ii) of the AAS Act should be defined. This definition should provide that what constitutes a serious criminal offence is to be determined by the outcome of such an offence (current or potential) in that such an offence has resulted, or will result, in a substantial adverse impact on the individual who may be vulnerable to abuse and/or their ordinary quality and standard of living. The impact on the individual must be determined on a case-by-case basis and cannot be determined by the classification of the offence or the penalty of the offence under the criminal law.</p>	<p>Policy</p>	<p>Supported</p> <p>The Adult Safeguarding Unit Code of Practice will be amended to define the term ‘serious criminal offence’.</p> <p>This will provide clear guidance for Adult Safeguarding Unit staff and assist professionals, people involved with the Adult Safeguarding Unit, reporters and community members to understand the considerations that inform the actions of the Adult Safeguarding Unit.</p>
<p>28 SALRI recommends that s 24(4)(a) of the AAS Act should be amended to widen the circumstances in which the Adult Safeguarding Unit may be entitled to intervene without the consent of the relevant individual to include ‘serious financial abuse’.</p>	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to widen the circumstances in which the Adult Safeguarding Unit may be entitled to intervene without the consent of the relevant individual to include ‘serious financial abuse’.</p> <p>In practice, the AAS Act and regulations already permit the Adult Safeguarding Unit to act where the risk of abuse to which the report relates consists of an allegation that a serious criminal offence has been, or is likely to be, committed against the vulnerable person and in circumstances where in which it is, in the opinion of Adult Safeguarding Unit, necessary or appropriate that action of the relevant kind be taken without first obtaining the consent of the vulnerable adult (which can include where serious financial abuse is alleged). However, this amendment will ensure that there</p>

OFFICIAL

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		is no doubt that the Adult Safeguarding Unit can act without consent where 'serious financial abuse' is alleged.
<p>29 SALRI recommends that 'serious financial abuse' should be defined in the AAS Act by reference to the outcome or potential outcome of such abuse on the apparent victim in that such abuse will result in a substantial adverse impact on the individual who may be vulnerable to abuse and/or their ordinary quality and standard of living. SALRI further recommends that 'serious financial abuse' should be determined on a case-by-case basis.</p> <p>When deciding whether the abuse meets this threshold, the Adult Safeguarding Unit may draw upon the non-exhaustive examples of serious financial abuse set out on pages 226 and 227 of the review report.</p>	Legislative reform	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to define 'serious financial abuse' by reference to the outcome or potential outcome of such abuse on the apparent victim in that such abuse will result in a substantial adverse impact on the individual who may be vulnerable to abuse and/or their ordinary quality and standard of living.</p> <p>The non-exhaustive list of indicators of serious financial abuse will be included in the Adult Safeguarding Unit Code of Practice.</p>
<p>30 SALRI recommends that when determining whether to override the decision of an adult with decision-making capacity under s 24(4) of the AAS Act, the Adult Safeguarding Unit should take into account the non-exhaustive, list of factors referred to on page 227 of the review report.</p> <p>SALRI further recommends that where consent is overridden in the case of an adult with decision-making capacity, that intervention should be necessary, reasonable and proportionate.</p>	Policy	<p>Supported</p> <p>The non-exhaustive list of factors to be considered when determining whether to override the decision of an adult with decision-making capacity under section 24(4) of the AAS Act will be included in the Adult Safeguarding Unit Code of Practice.</p> <p>The Code must be adhered to by the Adult Safeguarding Unit. The Code is also accessible to the general community and will assist professionals and community members to understand the considerations that inform the actions of the Adult Safeguarding Unit.</p>
<p>31 1. SALRI recommends replacing the term 'vulnerable adult' used in the AAS Act with 'relevant adult'.</p> <p>Specifically, SALRI recommends s 3 of the AAS Act define:</p> <ol style="list-style-type: none"> a. 'Relevant adult' as 'an adult who may be vulnerable to abuse' b. 'Adult' as a person 18 years and older. 	Legislative reform	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to replace the term 'vulnerable adult' with 'relevant adult'. 'Relevant adult' will be defined in section 3 of the Act.</p>

OFFICIAL

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<p>2. When determining whether an adult may be vulnerable to abuse, the Adult Safeguarding Unit should take into account the non-exhaustive, list of factors set out on pages 248 and 249 of the review report.</p>		<p>The non-exhaustive list of factors for determining whether an adult may be vulnerable to abuse will be included in the Adult Safeguarding Unit Code of Practice.</p>
<p>32 SALRI recommends that the AAS Act should be amended to include the following definition of abuse: ‘Abuse is defined as — an act or series of acts, including lack of appropriate action, occurring within a relationship of trust, dependency or imbalance of power, which causes harm or distress to a vulnerable adult. For the purposes of this definition, this may include, but is not limited to:</p> <ul style="list-style-type: none"> a) Financial abuse; or b) Physical abuse; or c) Psychological or emotional abuse; or d) Sexual abuse; or e) Neglect; or f) Social abuse. 	<p>Legislative reform</p>	<p>Supported</p> <p>The Government will introduce a bill to give effect to the review recommendations that require amendments to the AAS Act.</p> <p>The bill will include amendments to reflect the suggested definition of ‘abuse’.</p>
<p>33 SALRI recommends that the roles and powers presently found in sections 31 to 37 of the AAS Act (or equivalent powers) should be conferred upon the South Australian Civil and Administrative Tribunal (SACAT) in preference to the Magistrates Court.</p>	<p>Legislative reform</p>	<p>Supported in principle</p> <p>This recommendation requires further exploration in consultation with SACAT and the Magistrates Court. Should the suggested amendments be pursued, these amendments may be incorporated into the bill to give effect to the review recommendations that require amendments to the AAS Act.</p>
<p>34 SALRI recommends that incidental changes should be made to sections 31 to 37 of the AAS Act, in particular s 33, to support and strengthen the powers available to the SACAT, including adding to the existing orders listed in s 33, a new power to allow the SACAT to order compensation or restitution for loss, damage or harm resulting from abuse in an appropriate case.</p>	<p>Legislative reform</p>	<p>Noted</p> <p>The Government supports the establishment of appropriate mechanisms for compensation or restitution to be ordered for loss, damage or harm resulting from abuse in appropriate cases. Noting that certain cases involving monetary amounts (such as transfer of property) must continue to</p>

OFFICIAL

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		be dealt with in the higher courts, the Government will consider this recommendation in consultation with SACAT and the courts.
35 SALRI recommends that Division 6 of the AAS Act should be amended to allow any interested party to seek an order of the kind listed in ss 33(1)(a), (b) and (e). SALRI notes that this will enable ‘any party with a legitimate interest in the matter’ to bring an action. In these cases, the Director should not automatically be a party to that proceeding, but may choose to be added as an interested party	Legislative reform	Supported in principle This recommendation requires further exploration in consultation with SACAT and the Magistrates Court. Should the suggested amendments be pursued, these amendments may be incorporated into the bill to give effect to the review recommendations that require amendments to the AAS Act.
36 SALRI reiterates its view from its Report into the role and operation of Powers of Attorney that the SACAT should be conferred with the jurisdiction to deal with disputes and claims of misuse as to Powers of Attorney, including interim and incidental orders. SALRI recommends that the relevant recommendations (81–92) from its Report into the role and operation of Powers of Attorney should be implemented in South Australia.	Legislative reform	Noted This recommendation does not relate to the operation of the AAS Act and is being considered by the Attorney-General.
37 SALRI considers that a new crime of elder abuse (or such similar crime in relation to persons who may be vulnerable to abuse such as persons with disability) is unnecessary in South Australia.	No action	Supported A new crime of elder abuse will not be introduced into the AAS Act.
38 SALRI recommends that further consultation and research should be undertaken to consider whether any new offence of coercive control should be extended beyond domestic partners to other family members or other relationships where the victim is vulnerable, including older persons and persons with disability.	Policy	Noted This recommendation does not relate to the operation of the AAS Act and is being considered by the Attorney-General.
39 SALRI recommends that the Adult Safeguarding Unit should develop clear criteria and processes to assess the utility of an intervention order under the <i>Intervention Orders (Prevention of Abuse) Act 2007 (SA)</i> in response to reports of the suspected abuse of an adult vulnerable to abuse. This should include, in appropriate cases, possible referral of a case to SAPOL for their consideration	Policy	Supported The Adult Safeguarding Unit will develop clear criteria and processes for consideration of the utility of an intervention order in response to reports of the suspected abuse of an adult vulnerable to abuse.

OFFICIAL

Recommendation (or precis)	Primary theme	Response
<p>whether to apply for an intervention order. This should include cases where action is taken without the victim's consent under s 24 of the AAS Act. It is also recommended that the Adult Safeguarding Unit should consider how it may assist persons vulnerable to abuse and/or their representatives to make a private application to the Court for an intervention order in appropriate cases.</p>		<p>In many cases, where an intervention order is assessed to be an appropriate safeguarding action, Adult Safeguarding Unit staff will refer the matter to South Australia Police for action.</p> <p>In rare cases, it may be appropriate for staff to support the relevant adult of their representative to make a private application to the Court.</p>
<p>40 SALRI recommends that educational resources relating to abuse, and the functions/role of Office for Ageing Well and the Adult Safeguarding Unit should be translated into community languages present within South Australia and widely published across Government, legal and medical service providers, and community organisations (including groups representing older persons, Aboriginal advocacy and community organisations, disability advocacy and community organisations and multicultural organisations). SALRI further recommends that this translated material could contain information on various topics as described on page 345 of the review report.</p>	<p>Implementation</p>	<p>Supported</p> <p>Office for Ageing Well and the Adult Safeguarding Unit already publish education material for the general community relating to the role and functions of the Adult Safeguarding Unit as well as information about when and how to make a report.</p> <p>As suggested by this recommendation, Office for Ageing Well and the Adult Safeguarding Unit will review and update its educational resources relating to abuse, its role and functions and the specific topic areas identified by the review report and ensure information is translated into community languages present within South Australia.</p> <p>Government, legal and medical service providers and community organisations will be advised of these resources and encouraged to distribute them to their clients.</p>
<p>41 SALRI recommends that the Adult Safeguarding Unit should undertake further measures to promote greater awareness of its role in rural, regional and remote communities, including how to make reports to the Adult Safeguarding Unit relating to the suspected abuse of vulnerable adults. As part of this increased promotion, the Adult Safeguarding Unit should make increased provision and avenues for residents in rural, regional and remote communities to make reports of the suspected abuse of an adult who may be vulnerable to abuse.</p>	<p>Implementation</p>	<p>Supported</p> <p>The Adult Safeguarding Unit will undertake additional efforts to promote greater awareness of its role in rural, regional and remote communities. This will include considering whether the existing avenues for making reports to the Adult Safeguarding Unit relating to the suspected abuse of relevant adults are sufficient and appropriate for these communities.</p>
<p>42 SALRI recommends that the Adult Safeguarding Unit should take further measures to promote greater awareness of its role in</p>	<p>Implementation</p>	<p>Supported</p>

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Recommendation (or precis)	Primary theme	Response
<p>Aboriginal communities and how to make reports to the Adult Safeguarding Unit of the suspected abuse of adults vulnerable to abuse. The Adult Safeguarding Unit should also make improved provision and avenues for members of Aboriginal communities to provide reports in an effective and culturally sensitive manner.</p>		<p>The Adult Safeguarding Unit will take further measures to promote greater awareness of its role in Aboriginal communities including providing information about how to make reports to the Adult Safeguarding Unit relating to the suspected abuse of adults.</p> <p>The Adult Safeguarding Unit will also consider effective and culturally appropriate methods of reporting suspected abuse.</p>
<p>43 SALRI recommends that consideration be given to:</p> <ol style="list-style-type: none"> 1. The establishment of appropriate position(s) for an ASU practitioner(s) in each regional area or Local Health Network; and 2. The establishment of appropriate position(s) within the ASU for an Aboriginal Advocate(s) or Aboriginal Liaison Officer(s) in metropolitan and regional areas; and 3. The availability of accredited and independent interpreters and the use of suitable and culturally and linguistically appropriate capacity assessment tools for people from Aboriginal communities and CALD individuals 	<p>Implementation</p>	<p>Supported</p> <p>The Department for Health and Wellbeing will consider the establishment of position(s):</p> <ul style="list-style-type: none"> • for adult safeguarding practitioners in regional areas or local health networks and • Aboriginal advocates or liaison officers as well as the availability of accredited and independent interpreters. <p>The use of suitable and culturally and linguistically appropriate capacity assessment tools for people from Aboriginal communities and people from culturally and linguistically diverse backgrounds will be considered as part of the response to recommendation 22.</p>
<p>44 SALRI recommends that quality assurance measures are adopted to ensure translated materials are accurate and that educational materials be distributed by various platforms and in a number of formats.</p>	<p>Implementation</p>	<p>Supported</p> <p>Appropriate quality assurance measures will be undertaken to ensure the accuracy of translated materials.</p> <p>The Adult Safeguarding Unit will also ensure that the information is disseminated by various platforms and in various formats, including through printed materials, webpages and social media. Information will also be disseminated during Office for Ageing Well’s annual promotional campaigns.</p>
<p>45 SALRI recommends that any consequential or incidental amendments should be made to the <i>Ageing and Adult Safeguarding Regulations 2019 (SA)</i>, Charter of the Rights and Freedoms of Vulnerable Adults, and Standard Operating</p>	<p>Legislative reform</p>	<p>Supported</p> <p>Any necessary consequential or incidental amendments will be made to the Ageing and Adult Safeguarding Regulations, Charter of the Rights and Freedoms of Vulnerable Adults, and Ault Safeguarding Unit standard operating procedures.</p>

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Recommendation (or precis)	Primary theme	Response
<p>Procedures required as a result of any adopted recommendations from this Report to amend the AAS Act.</p>		
<p>46 SALRI notes the suggestion of microboards to provide for the long-term care of older persons and/or persons with disability has apparent merit, but it is beyond the scope of this reference. SALRI recommends that it should undertake a future reference in close consultation with interested parties to examine the role and operation and implications of microboards.</p>	<p>Policy</p>	<p>Noted This recommendation does not relate to the operation of the AAS Act and is being considered by the Attorney-General.</p>