

By Tina Cockburn

Given Australia's ageing demographic, elder law is a growing area of legal practice. The Select Committee's recent *Older People and the Law Report 2007* considered fraud and financial abuse, substitute decision-making, family agreements, barriers to justice, discrimination, and retirement villages. It urged the need for uniform national laws and a greater awareness of the legal issues affecting older people. Specifically, recommendation 37 encouraged elder law as a practice speciality – and the Alliance has recently, in fact, set up an elder law interest group, chaired by Catherine Cheek.

In 'Managing Death and the Law', Cameron Stewart examines the various Australian laws that govern end-of-life decision-making; both the rights of patients themselves and the role of substitute decision-makers. Given the inevitability of disputes, the lack of nationally consistent laws is particularly damaging. Keith Bradley turns his attention to another form of substitute decision-making – powers of attorney – and examines elder financial abuse arising from the misuse of enduring powers of attorney. Sue Field's practical advice in 'Assessing Mental Capacity' emphasises the importance of adhering to professional guidelines and keeping detailed file notes, as well as how to brief medical practitioners in making a capacity assessment. But capacity is just one of the issues that practitioners must address when advising older clients on transferring their assets to subsequent generations, as Andrew Simpson points out in his article on estate planning.

The right of everyone to participate fully in society, specifically in employment, has become a key policy issue with the 'greying' of our community. Elizabeth Broderick, HREOC Commissioner responsible for age discrimination, provides a helpful overview of the *Age Discrimination Act*, while Robert Guthrie's contribution discusses how current age-based limitations on workers' compensation payments contradict government objectives to retain older people in the workforce.

Another basic human right is access to housing. Many older people are vulnerable when it comes to finding secure and appropriate accommodation. Kim Forrester and Karen Williams focus on abuse perpetrated by healthcare professionals in the aged-care sector, identifying the limitations of the *Aged Care Act* with respect to unregulated aged-care workers, and making recommendations for change. Ben Hardwick and Rachel Fletcher consider the recovery of accommodation bonds, especially in the event of insolvency, and share their insights into the Lifecare case, the first successful group claim made under the *Bond Security Act*. Finally, for those who reside with family members, my own article explores the remedies potentially available when family agreements break down following family disagreements. ■

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