

# NEW LAWS TO PROTECT VULNERABLE ADULTS



## INFORMATION FOR FAMILIES AND CARERS

On 20 April 2021, new laws will come into effect to protect vulnerable adults (18 years and over). These are: abuse of vulnerable person, failure to protect vulnerable person from criminal offence, and neglect of vulnerable person. As a caregiver, you will need to know how these new laws could affect you and the person you are caring for.

### What are the new laws?

#### Abuse of vulnerable person

This law makes it illegal for anyone to abuse a vulnerable person for whose care they are responsible.

This means:

- > If a caregiver abuses a vulnerable person who they are caring for, and causes physical, psychological or financial harm, the caregiver can be charged with this offence.
- > If a caregiver abuses a vulnerable person who they are caring for, and they, or a person associated with them, obtains a financial benefit resulting from the abuse, the caregiver can be charged with this offence.

The penalty for this crime depends on the harm that the vulnerable person in care experiences. If the abuse results in serious harm, the maximum penalty is five years imprisonment. If the abuse results in harm (but not serious harm), or a financial benefit, the maximum penalty is three years imprisonment. Serious harm is harm that puts the vulnerable person's life in danger or is significant and longstanding.

#### Examples of abuse

The list below are examples of abuse:

- > Physical violence
- > Threats
- > Intimidation
- > Sexually inappropriate behaviour
- > Making the person in care dependent on or subordinate to the person caring for them
- > Isolating the person in care from friends or family

- > Limiting access to services that the person in care needs, including access to resources and peer connections that support their ethnicity, religion or spiritual beliefs, sexual orientation and gender identity
- > Depriving or restricting the person's freedom
- > Frightening the person in care
- > Humiliating or degrading the person in care
- > Punishing the person in care

#### Failure to protect vulnerable person from criminal offence

This offence makes it illegal for a person in authority in an institution to fail to protect a vulnerable person in their care.

For this offence to apply, a person in authority must be aware of a substantial risk of a serious offence being committed against a vulnerable person, by a person associated with the institution or another person in authority in the institution, and the person in authority must negligently or recklessly fail to act to protect the vulnerable person.

An institution is an organisation that operates facilities for or provides services and activities for vulnerable people in their care. Examples are nursing and group homes, hospitals and some religious organisations.

The maximum penalty for this crime is five years imprisonment.

#### Neglect of vulnerable person

This offence makes it illegal for a person who is caring for a vulnerable person to neglect the vulnerable person.

This means, a caregiver is legally responsible for giving the person they are caring for the *necessities of life*. *Necessities of life* include, at a minimum, food, clothing, shelter, hygiene and health care, but can include other things.

If a caregiver does not provide the necessities of life and it results in such serious harm to the person in care that

it puts their life in danger or leads to significant and longstanding harm, the caregiver can be charged with this offence.

The maximum penalties for this offence are a fine of up to \$80,000 for an individual and/or five years imprisonment.

### Which people do the new offences apply to?

The offences of abuse and/or neglect of a vulnerable person apply to a person who is responsible for providing care to a vulnerable person. This can include care for a vulnerable person in a private setting, for example family members providing care at home.

A person is responsible for providing care to a vulnerable person if they exercise control over any aspect of the care needed by the vulnerable person, regardless of whether the care is short or long-term. People responsible for care to whom the new offences could apply include those providing care services for payment as well as those providing care under less formal arrangements.

In this document people responsible for providing care to a vulnerable person are referred to as caregivers.

### Are there any defences for caregivers?

The new laws make clear that certain forms of conduct do not constitute abuse if they are reasonably necessary for the safe and effective care of the vulnerable person or the safety of another person.

It is also a defence to the new offences of abuse and neglect if what the caregiver did was reasonable in all the circumstances. This will depend on the evidence about the circumstances of each individual case.

### If a complaint is made

This factsheet provides general information only and should not be considered legal advice.

If a complaint is made to police against you as a caregiver, you can seek legal advice. A good place to start is by contacting the **Legal Aid ACT** Helpline on 1300 654 314.

Complaints of abuse, neglect or exploitation of a vulnerable person can also be made to the **ACT Human Rights Commission**. In some cases, complaints are made so the Commission can assist caregivers to address the concerns of abuse, neglect or exploitation without involving police. You can contact the Commission on (02) 6205 2222 for information about that process.

### Interpreter assistance

To speak to someone in a language other than English please telephone the Telephone Interpreter Service

(TIS) 131 450. This service operates 24 hours a day, seven days a week.

إذا كنت بحاجة إلى مترجم إتصل بالرقم: 13 14 50

如果您需要翻譯，請致電：13 14 50

Ako trebate tumača, nazovite: 13 14 50

Αν χρειάζεστε διερμηνέα, τηλεφωνήστε: 13 14 50

Se hai bisogno di un interprete, chiamate: 13 14 50

Jekk għandek bżonn ta 'interpretu, sejha: 13 14 50

اگر شما لازم است، فراهوان 131 450

Jeśli potrzebujesz tłumacza, zadzwoń: 13 14 50

Se você precisar de um intérprete, ligue para: 13 14 50

Если Вам нужен переводчик, пожалуйста звоните по номеру 13 14 50

Ако треба тумача, назовите: 13 14 50

Si usted necesita un intérprete, llame al: 13 14 50

Eğer bir tercümana ihtiyacınız Arama: 13 14 50

Nếu bạn cần một thông dịch viên, xin gọi: 13 14 50

### For more information

More details on the new offences are at <https://justice.act.gov.au/vulnerablepeople>. The website includes information and resources to assist vulnerable people, their family and carers.

**ACT Disability, Aged and Carer Advocacy Service (ADACAS)** is a human rights based organisation that provides free individual advocacy, information and advice to people with disability, people experiencing mental ill health, older people and carers. Their advocates can assist you to understand the new laws. ADACAS is located at Unit 14/6 Gritten Street, Weston ACT 2611 and you can contact them on (02) 6242 5060 or by email at [adacas@adacas.org.au](mailto:adacas@adacas.org.au). More information can be found at <http://www.adacas.org.au/>.

**Carers ACT** provides a wide range of support specifically for unpaid carers, including advocacy information and advice. Carers ACT can be contacted on (02) 6296 9900 or <https://www.carersact.org.au/advocacy-and-representing-your-views/>.

**Consumer Law Centre and Care Inc Financial Counselling Service** can offer assistance in relation to financial abuse. You can contact the Consumer Law Centre on (02) 6143 0044 or online at <https://www.carefcs.org/contact>.

The **National Disability Abuse and Neglect Hotline** is a free, independent and confidential service for reporting abuse and neglect of people with disability. To make a report, contact the Hotline on 1800 880 052 or send an email to [hotline@workfocus.com](mailto:hotline@workfocus.com). More information can be found at

<https://www.jobaccess.gov.au/complaints/hotline>.