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Meeting older people's needs

Dispute resolution in aged care

Sharon Wall

For as the daylight fades away
The sky is filled with stars invisible by day

Edith is an 80 year old resident of a private retirement village. Still largely independent, she lives in a self-contained unit in the hostel wing of the village, with access to the village medical and professional staff if required. She has called on the professional staff for assistance increasingly of late, due to ill health. Last week, cleaners found her collapsed on the floor of her unit. When staff arrived, they estimated that she had been there for some time and pronounced her dead. Edith's family were called and arrived soon after, distraught and grief stricken, to be informed by an external doctor that Edith was, in fact, still alive. Grief turned to anger and, finding no satisfactory avenue for acknowledgment of their ordeal or for discussion and resolution of the matter internally, Edith's family sought recourse through the media. As expected, the media provided a willing forum.

I watched a journalist 'expose' the sensational case on a prime time television show and I wondered how such a personal matter had escalated to become so polarised and so public. Two camps were presented. On the one side, were grieving relatives of a 'lost' loved one for whom perceived injustices translated into anger and revenge; on the other, staff feeling hurt by unfair accusations made by those working outside this 'far less than perfect system'. Awash in a sea of anger and betrayal, each was incapable of appreciating the other's views. However, all tried to co-exist in an environment and culture not understood by those outside its boundaries.

This scenario, while extreme, provides an opportunity to briefly examine the place of dispute resolution in the 'growing old'

process, particularly as it applies to the residential care/living environment. Dispute resolution processes have, to date, not had a high profile in these settings. The reality is that complex legal processes often provide the only forum for the settlement of disputes — with significant and often overwhelming consequences for those involved.

'The greater the inequities faced by a subgroup of the population, the greater the likelihood of abuse. The greater the likelihood of abuse, the greater the need for dispute resolution.'

A conflict of any kind provides fertile ground for resolution. A misunderstanding, a strong word, a mismatch of objectives provides an opportunity not only for dispute but therefore for reconciliation, understanding, and facilitated communication. But why are there so many of these situations in the aged care environment?

Essentially, I believe this occurs because we have an aged care environment loaded with inequities. Inequities are created by ageism — by societal perceptions of the elderly as powerless, useless and asexual, — and by the ageing process itself. Further, it would seem that whenever there are inequities, there is an environment of potential dispute: the greater the inequities faced by a subgroup of the population, the greater the likelihood of abuse. The greater the likelihood of abuse, the greater the need for dispute resolution. For these reasons, it is hardly surprising that the elderly population

are at risk and that the aged care service environment is in need of dispute resolution strategies.

These inequities are often exacerbated by the physical, social and psychological changes which occur as a part of the 'normal' ageing process. This multifactorial and predictable process, coupled with the 'ageist' views of society, contributes to the widening of the gap of understanding between generations. Ageism itself has a particularly negative and pervasive impact on the role of older people within our society. It has the questionable notoriety of being the only form of discrimination whereby people are guaranteed to become the very thing that they are discriminating against.

Ageist assumptions about elderly people contrast markedly with the consumer driven thoughts and rights consciousness of elderly people themselves. False stories abound, influenced by ageist assumptions, stereotypes and biases about older people's potential, most of which are particularly offensive to those being discriminated against as well as to those that love and care about them. Additionally, entry into any aged care service system is associated with some decline, impairment or loss for the client and their family. This loss needs to be understood, accepted and acknowledged in an empathetic way by those providing care. Without this acknowledgement, the client's sense of loss may become transferred into complaints about unrelated issues. Healthy, respectful communication needs to start right at the beginning of the aged care process; with the first visit, the first dialogue, the first vision.

This understanding is crucial for practitioners and professionals working in the aged care environment. The philosophy which needs to underpin this practice is that clients and their friends and families have a 'right to be angry' about any losses they may be experiencing. Then — from that 'beginning' place — practitioners need to attempt to assist people with their anger, grief and unresolved losses. To do this, practitioners in the area require high level skills, which not everyone working in the aged care system has. Importantly, these skills could ➤



➤ become a focus of core education and training in aged care services. This proactive approach is what is required to promote a cultural shift towards using dispute resolution principles and practices in the aged care workplace, thus minimising the potential for further dispute.

Directions for the future

The Federal Government has recently put in place a two tiered system, the Aged Care Complaints Resolution Scheme (see Gary Gray's article on p 97). It requires each aged care facility to have an internal complaints resolution mechanism in place. The Government also provides a complaints resolution facility on a freecall number. The scheme is supervised by the National Commissioner of Complaints who oversees the operations of the Scheme and provides it with a public voice.

This process appears to have been introduced as a defensive reaction to the pervasive negativity of stories similar to that highlighted in this article. This has led many people in the industry to question the effectiveness of such a system and to question the balance of many of its components. Some within the industry question the lack of equity of rights for staff in aged care facilities within this process, while others would support a more transparent complaints system whereby the Complaints Commissioner is independent and able to report to Parliament.

The Aged Care and Community Mediation Service is a further response to both the increasing need for resolution processes and to the Commonwealth

Scheme. Developed by the Aged Services Association and Carers' NSW and facilitated by LEADR, the Service comprises volunteer mediators trained in aged care residential issues (see Scott Pettersson's article on p 98).

While the two services above represent attempts to improve the current processes for dealing with conflict in the aged care sector, the fundamental failure still lies in not addressing the culture of complaint and therefore complaint/dispute resolution within the aged care system. If responses are to advance beyond rhetoric, a culture of understanding and mutual respect at the interface of client and staff in aged care settings must be built. The work continues ... ●

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Sharon has been a registered nurse for 25 years, most of which have been spent in the aged care area. She has a long history in the care of aged clients and carers, particularly focusing on education, research and clinical practice. She has a particular interest in the care of residents with dementia in residential care settings and the care of clients with dementia who come from a non-English speaking background. For the last eight years Sharon was an Aged Care Education Consultant with the Centre for Education and Research on Ageing (CERA) and currently consults with Brian Elton and Associates. Sharon is President of the Australian Association of Gerontology (NSW Division).

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Contributions

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