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## Nationally consistent power of attorney laws key to mitigating elder abuse

Enhancing protections relating to the use of enduring power of attorney instruments (EPOAs) is a welcome priority for the Council of Attorneys-General and significant focus should be given to creating nationally consistent laws, according to the Law Council of Australia.

EPOAs are set to feature when the Council of Attorneys-General meet next Monday (27 July 2020). Law Council of Australia President, Pauline Wright, said the renewed focus on EPOAs is welcome, and reform was both possible and necessary.

“We understand the establishment of a national online register of EPOAs will be considered by CAG and this has the potential to be an important safeguard against abuse,” Ms Wright said.

“However, it is important to note that the Australian Law Reform Commission’s 2017 report on elder abuse emphasised that developing nationally consistent laws regarding EPOAs and a national model enduring document were necessary precursors to a national register.

“As things stand Australia’s regulatory frameworks governing EPOAs vary substantially across jurisdictions. This variation may impede the effectiveness and utility of a national register.

“For example, in some jurisdictions, if one jointly appointed attorney ceases to act the remaining joint attorneys cannot act. But in other jurisdictions the remaining joint attorneys can continue to act.

“In some jurisdictions the witness needs to certify that the principal appeared to understand the power of attorney, in others that is not the case.”

“It’s essential that the impetus on achieving consistency in law reform in this area is not lost. These issues are of fundamental importance to many older Australians and their relatives who are grappling with these existing complexities. Family relationships don’t stop at state and territory borders. The Law Council welcomes the efforts of the Age Discrimination Commissioner, Australian Banking Association and organisations representing older persons to highlight the need for reform in this area.”

“The Law Council, in close consultation with its National Elder Law and Succession Law Committee and constituent bodies, stands ready to work with government and these broader stakeholders towards a more nationally consistent model. This starts with identifying the core essential features which should apply across legislation and be reflected in the national form for EPOAs.”

ENDS

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