



Government of **Western Australia**
Department of **Justice**

**THE AUSTRALIAN GUARDIANSHIP AND ADMINISTRATION COUNCIL
CONFERENCE 2019**

ELDER ABUSE

TWELVE REASONS AN ADMINISTRATOR MAY NOT GET THE MONEY BACK

**Presented by Michael Bowyer, Principal Legal Officer,
Public Trustee, WA**



Public Trustee



INTRODUCTION





THE “BEST INTERESTS” TEST





Government of **Western Australia**
Department of **Justice**

SUPPORTED DECISION-MAKING



Public Trustee



SO WHY MIGHT AN ADMINISTRATOR NOT GET THE MONEY BACK?





1. THE BEST WITNESS NORMALLY CAN'T GIVE EVIDENCE





2. THERE'S NOT ENOUGH OTHER EVIDENCE IN SUPPORT OF THE CLAIM





3. THE EVIDENCE AGAINST THE CLAIM IS TOO STRONG





4. THE PROCEEDINGS ARE STATUTE BARRED





5. THE HORSE HAS BOLTED





6. THERE'S NO MONEY TO TAKE PROCEEDINGS





7. THE COSTS OF TAKING PROCEEDINGS ARE HIGHER THAN THE COMMERCIAL VALUE OF WHAT COULD BE RECOVERED





8. THE ELDERLY PERSON'S FINANCIAL NEEDS ARE BEING MET, BUT TAKING PROCEEDINGS COULD JEOPARDISE THAT





9. THE POTENTIAL DEFENDANT IS PROVIDING CARE TO THE ELDERLY PERSON





10. THE ELDERLY PERSON ISN'T GOING TO LIVE LONG





11. THE ELDERLY PERSON DOESN'T WANT IT TO HAPPEN





12. THE ELDERLY PERSON COULD HAVE PUT THINGS RIGHT AND DIDN'T





THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)





CONCLUSIONS

