

# AN OVERVIEW OF THE VULNERABLE ADULTS ACT: MEDICO-LEGAL AND SOCIAL PERSPECTIVES

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## I. Introduction

1 The Vulnerable Adults Act 2018<sup>2</sup> (“VAA”) renders provisions to safeguard vulnerable adults aged 18 years and older from suspected abuse, self-neglect, and neglect. It applies to adults who, by reason of mental or physical infirmity, disability or incapacity, are unable to protect themselves from abuse, self-neglect and neglect.

2 The VAA complements the Women’s Charter 1961<sup>3</sup> (“WC”) in strengthening Singapore’s existing adult protection framework. Under Part 7 of the WC (Protection of the Family), s 65 allows family members above 21 to file applications for protection orders or expedited orders to restrain a family member from using family violence. There are also provisions under s 139J for the court to direct parties to receive mediation, counselling or family support programmes.

3 The VAA, on the other hand, extends a broader definition of abuse to include self-neglect and neglect, which are not present in the definition of family violence under the WC. In addition, VAA has stated powers for the Director-General or protector to assess, enter premises, obtain information, examine records, and remove a vulnerable adult who has experienced, or is experiencing or at risk of, abuse, neglect or self-neglect.<sup>4</sup> Under s 19 of the VAA, there are also powers to remove vulnerable adults to a place of safety or temporary care and protection. The legislative provisions under the VAA allow state intervention for situations where the vulnerable adult has experienced abuse or where the vulnerable adult’s risk of abuse or neglect needs urgent attention. Under such situations, the powers accorded to the Director-General or protector under the VAA are critical to ensuring the safety and well-being of the vulnerable individuals who are unable to protect themselves. Thus, the VAA works alongside the WC to fill the service gap where family and community interventions have

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2 2020 Rev Ed.

3 2020 Rev Ed.

4 Vulnerable Adults Act 2018 (2020 Rev Ed) ss 6 and 8–10.

been exhausted and when an individual faces severe neglect but refuses help despite good counsel and protracted engagement.<sup>5</sup>

4 Furthermore, Art 16 of the UN Convention on the Rights of Persons with Disabilities,<sup>6</sup> which Singapore ratified on 18 July 2013, specifies the need to protect persons with disabilities from abuse and ensure that abuse victims are given help and support.

5 Under the backdrop of existing legal frameworks and legislation, the VAA is intended to protect vulnerable adults. This article (a) attempts to provide an overview of the VAA, its interface with mental capacity assessment; (b) outlines general principles in multi-disciplinary management; and (c) sets out the legal framework. The article also addresses the types of abuse and neglect within the framework of the VAA and draws on the best interests principles outlined in the Mental Capacity Act 2008<sup>7</sup> (“MCA”). Case examples in this article will address the roles of the State, and healthcare professionals for and families of persons who may be subject to abuse and/or neglect.

## **II. Who is a “Vulnerable Adult” in need of protection under the Vulnerable Adults Act 2018?**

6 Under s 2(1) of the VAA, a “Vulnerable Adult” (“VA”) is defined as “an individual who (a) is 18 years of age or older; and (b) is, by reason of mental or physical infirmity, disability or incapacity, incapable of protecting himself or herself from abuse, neglect, or self-neglect”.

7 The definition of “disability” is set out below.

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5 Ang Bee Lian, “Vulnerable Adults Act”, *Social Insights* (23 May 2018).

6 National Council of Social Service, “Understanding the United Nations Convention on the Rights of Persons With Disabilities” (2013) <<https://www.ncss.gov.sg/press-room/publications/UnderstandingtheUnitedNationsConventiononTheRightsofPersonswithDisabilities>> (accessed 28 July 2023).

7 2020 Rev Ed.

### III. What is “disability”?

8 Singapore currently considers “persons with disability” as:<sup>8</sup>

... those with substantially reduced prospects of securing, retaining places and advancing in education and training institutions, employment and recreation, due to physical, sensory, intellectual disabilities and autism.

Physical disability refers to either a total or partial loss of bodily functions such as the ability to walk, or a total or partial loss of a part of the body, arising as a result of genetic conditions, serious illnesses or injury. It may be present from birth as a congenital condition or acquired later in life.

Visual impairment and deafness/hard of hearing are the two main types of sensory disabilities. The other types of disabilities are Intellectual disability and autism which is a developmental disability.

9 The extent of a person’s disability is measured by the number of Activities of Daily Living (“ADLs”) or basic self-care tasks an individual can perform. The ADLs involve washing, dressing, feeding, toileting, walking and transferring. The Ministry of Health’s (“MOH’s”)<sup>9</sup> definition of severe disability is when a person cannot independently perform three or more ADLs.

10 Statistics have shown that while the average life expectancy of Singapore residents is 83 years,<sup>10</sup> the average health-adjusted life expectancy is aged 74.5 years.<sup>11</sup> This suggests that older adults are more vulnerable as they age, needing some form of assistance and support.

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8 Singapore Parl Debates; Vol 94, Sitting No 106; Col 51; [8 July 2019]. See also Ministry of Health Singapore, “CareShield Life Claims” <<https://www.careshieldlife.gov.sg/careshield-life/careshield-life-claims.html>> (accessed 11 January 2024) and SG Enable, “Disability in Singapore” <<https://www.sgenable.sg/about-us/our-impact/disability-in-singapore>> (accessed 11 January 2024).

9 Ministry of Health, “About CareShield Life” <<https://www.careshieldlife.gov.sg/careshield-life/about-careshield-life.html>> (accessed 28 July 2023).

10 Department of Statistics, “Death and Life Expectancy” (22 May 2023) <<https://www.singstat.gov.sg/find-data/search-by-theme/population/death-and-life-expectancy/latest-data>> (accessed 28 July 2023).

11 Ministry of Health, “Living Life to the Fullest – 2023 Action Plan for Successful Ageing” (2023).

#### **IV. Types of abuse covered under the Vulnerable Adults Act 2018**

11 There are several types of abuse covered in this article, one exception being financial abuse which does not fall within the remit of VAA.<sup>12</sup>

12 Under ss 2(1)(a) to 2(1)(d) of the VAA, “abuse” refers to:

- (a) physical abuse;
- (b) emotional or psychological abuse;
- (c) conduct or behaviour by an individual that in any other way controls or dominates another individual and causes the other individual to fear for his or her safety or wellbeing; or
- (d) conduct or behaviour by an individual that unreasonably deprives, or threatens to unreasonably deprive, another individual of that other individual’s liberty of movement or wellbeing[.]

13 “Physical abuse” could be further described as conduct or behaviour:<sup>13</sup>

- (a) that causes, or threatens to cause, personal injury or physical pain to an individual;
- (b) that coerces, or attempts to coerce, an individual to engage in sexual activity; or
- (c) that threatens an individual with the death or injury of the individual[.]

14 Physical abuse may present with physical, behavioural or health indicators. If untreated, severe injury from physical abuse could result in death, significant disfigurement, internal injuries, or loss<sup>14</sup>/significant impairment of normal functioning, warranting immediate response through attention from emergency medical services and the police.

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12 *Goh Yng Yng Karen v Goh Yong Chiang Kelvin* [2021] 3 SLR 896 at [159] and [160].

13 Vulnerable Adults Act 2018 (2020 Rev Ed) s 2(1).

14 Loss is defined as a significant impairment of normal functioning under the Vulnerable Adult Triage User Guide.

15 Sexual abuse may present with physical, behavioural, and emotional indicators. Rape, molestation, sexual exploitation, or injuries to genitalia are critical indicators warranting immediate medical and/or police attention.

16 “Emotional or psychological abuse” is defined as:<sup>15</sup>  
... conduct or behaviour by an individual towards another individual —  
(a) that torments, intimidates, harasses or is offensive to the other individual; or  
(b) that causes or may reasonably be expected to cause mental harm to the other individual, including thoughts of suicide or inflicting self-harm[.]

There can be behavioural indicators (observed in both victims and perpetrators) and physical indicators of emotional abuse.

**A. *Is recourse available for abused victims under the Vulnerable Adults Act 2018?***

17 Currently, there are various avenues of recourse for abused persons to report and seek help. The National Anti-Violence and Sexual Harassment Helpline (“NAVH”),<sup>16</sup> administered by the Ministry of Social and Family Development (“MSF”), provides easy access for abused persons or members of the public to report abuse. Individuals experiencing abuse or neglect can also approach the 48 Family Service Centres (“FSCs”) (frontline social work agencies) island-wide for assistance. There are also three Protection Specialist Centres (“PSCs”), namely TRANS SAFE Centre, Care Corner Project StART, and PAVE Integrated Services for Individual and Family Protection Specialist Centre, that provide specialist support for individuals and families experiencing abuse and neglect. In situations where there is imminent danger to a person’s life, the abused person or members of the public should notify the police. It bears remembering that

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15 Vulnerable Adults Act 2018 (2020 Rev Ed) s 2(1).

16 Ministry of Social and Family Development, “Vulnerable Adult Abuse” <<https://www.msf.gov.sg/what-we-do/break-the-silence/domestic-violence/vulnerable-adult-abuse>> (accessed 28 July 2023).

s 424 of the Criminal Procedure Code 2010<sup>17</sup> (“CPC”) requires all parties to report certain crimes such as rape, outrage of modesty, and sexual exploitation promptly unless there is a “reasonable excuse”. However, the gatekeepers against the perpetuation of abuse are the legal and medical professionals whose clients/patients are abused VAs.

## **V. Types of neglect covered under the Vulnerable Adults Act 2018**

18 Under s 2(1) of the VAA, “neglect” concerning an individual means:

... the lack of provision to the individual of essential care ... to the extent of causing or being reasonably likely to cause personal injury or physical pain or injury to the mental or physical health of the individual[.]

There can be physical and environmental indicators of neglect.

19 “Self-neglect” is:<sup>18</sup>

... the failure of the individual to perform essential tasks of daily living ... to care for himself or herself, resulting in the individual —

- (a) living in grossly unsanitary or hazardous conditions;
- (b) suffering from malnutrition; or
- (c) suffering from an untreated physical or mental illness or injury.

Physical and environmental indicators of self-neglect include critical conditions such as unconsciousness, delirium, malnourishment, and inability to access services.

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17 2020 Rev Ed.

18 Vulnerable Adults Act 2018 (2020 Rev Ed) s 2(1).

## VI. The role of the Mental Capacity Act 2008 in the Vulnerable Adults Act 2018

20 The MCA and its guiding principles are useful for consideration in the context of an adult who is unable to protect himself or herself by reason of *mental* infirmity, disability, or incapacity. The core guiding principles of exercising the powers of the VAA involve protecting a vulnerable and incapacitated adult from harm, *ie*, abuse, neglect, or self-neglect.

21 The State recognises that individuals with mental capacity can generally decide how he or she wishes to live and seek assistance. Capacity assessments are decision- and time-specific, as enshrined in the MCA. Under the MCA, there are two factors that determine whether a person lacks capacity – (a) “at the material time, the person is unable to decide for himself or herself”; and (b) the inability to make that decision is “because of an impairment of, or a disturbance in the functioning of, the mind or brain”.<sup>19</sup>

### A. “Best interests” principle

22 Under s 4(1)(e) of the VAA, in performing any duty or exercising any power under the Act concerning a VA, regard must be such that “in all matters relating to the administration or application of [the VAA], the welfare and *best interests* of the vulnerable adult must be the first and paramount consideration” [emphasis added].

23 It is worth noting at this juncture that the word “welfare” is absent from the definition of “best interests” under s 6 of the MCA. Instead, the definition of “best interests” under the MCA is a statutorily defined factorial test which provides a framework of factors to consider when deciding for a person without mental capacity. To the authors’ knowledge, Parliament has not made

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19 Mental Capacity Act 2008 (2020 Rev Ed) s 4(1). The impairment or disturbance can be either permanent or temporary: Mental Capacity Act 2008 (2020 Rev Ed) s 4(2).



known its intention for “best interests”<sup>20</sup> under s 4(1)(3) of the VAA to a have structured definition as it has under the MCA or an “umbrella” definition which will be developed by case law over time, for example, “best interests” in child custody cases. While the WC provides that “the welfare of the child is of paramount consideration”,<sup>21</sup> the child’s “best interests” has to be considered when determining the custody, care and control of the child. It is also interesting that the term “paramount consideration”, which is used in child custody law, is also used in the VAA. This could suggest that Parliament’s intention is for “best interests” to adopt an “umbrella” definition, which will leave greater discretion for interventions to protect VAs.

24 Be that as it may, as the VAA has not provided a structured definition of “best interests” or the relevant considerations when determining the best interests of a VA, it may be useful to look at how “best interests” is defined under the MCA.

25 The authors propose that it would be better for the “best interests” principle, as it is under the MCA, to be adopted in the practical application of the VAA for assessments under the MCA. Under this principle, the previously expressed wishes, feelings, values, and beliefs held by the VA, where reasonably ascertainable, are considerations, among other things, when making decisions under the best interests framework. For all practical support to the VA addressing any physical or language impediments such as hearing aids, visual aids, and sign language, an interpreter should be employed to facilitate the VA to make his or her own decisions. It should be noted that the overarching framework in the application of VAA is to act in the best interests of a VA whom a mental capacity assessor has assessed to lack the mental capacity to consent. In line with the spirit of the MCA,

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20 The term “welfare” was used by Member of Parliament Seah Kian Peng when discussing the need to improve oversight of the welfare of VAs by penalising those who are wilfully blind to the abuse suffered by the VAs. It is noted that “welfare” in that context was used in a general manner. Singapore Parl Debates; Vol 94, Sitting No 77; [18 May 2018] (Seah Kian Peng, Member of Parliament).

21 Women’s Charter 1961 (2020 Rev Ed) s 125(1).

any intervention by the State purported to assist a VA should be least restrictive of the individual's rights and freedom of action.<sup>22</sup>

26 Where a donee or deputy is appointed for a VA who lacks the mental capacity to consent, the Director-General or a protector may assess VA without the consent of the VA's donee or deputy.<sup>23</sup>

**B. Powers to remove Vulnerable Adults as in the Vulnerable Adults Act 2018 if not lacking mental capacity**

27 Under the VAA, the Director-General or protector may remove a VA from the place where he/she is staying or residing in if the Director-General or protector is satisfied on reasonable grounds that the VA has experienced, or is experiencing or at risk of, abuse, neglect or self-neglect and the VA consents to the removal. In the event a VA does not lack mental capacity and/or does not consent to the removal, the court may, on an application made by the Director-General or protector, make an order to authorise the Director-General or protector to remove the VA if the court (a) is satisfied on the balance of probabilities that the VA has experienced, or is experiencing or at risk of, abuse, neglect or self-neglect; and (b) is of the view that the order is necessary for the protection and safety of the VA.<sup>24</sup>

**C. Other powers of the Director-General**

28 It is further useful to note that the powers available to the Director-General or protector include the power, under s 6, to assess an individual or a VA, power to enter premises under s 8, power to obtain information and examine records under s 9, and power to commit the VA to a place of temporary care and protection or the care of a fit person under s 11.

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22 A similar principle is applied under s 3(6) of the MCA where “regard must be had to whether the purpose for which [a decision] is needed can be as effectively achieved in a way that is *less restrictive of the person's rights and freedom of action*” [emphasis added].

23 Vulnerable Adults Act 2018 (2020 Rev Ed) s 6(2).

24 Vulnerable Adults Act 2018 (2020 Rev Ed) s 10(4).

## **VII. Role of family, community, and the State**

29 Supporting the family to seek help should be a primary consideration in managing a VA's abuse, neglect, and self-neglect. Protecting a VA from harm requires social service agencies and health sectors to collaborate closely with the VA's family. In this regard, the family of the VA will need support in protecting and caring for the VA in various ways.

30 Where the risk of harm persists despite the agencies having exhausted all options to keep the VA safe, the case would be escalated for State intervention.

31 The State can exercise its powers to enter suspected VAs' homes to assess their well-being and procure information for assessment and intervention.<sup>25</sup> In some cases, the intervention may involve relocating a VA to a place of safety.<sup>26</sup> Court orders can be applied for alternative placement and protection.<sup>27</sup> The State can exercise its powers to investigate the breach of court orders, non-compliance with the State's direction and unlawful removal of a VA from care facilities.<sup>28</sup> The integrated role is illustrated in the following flow chart.

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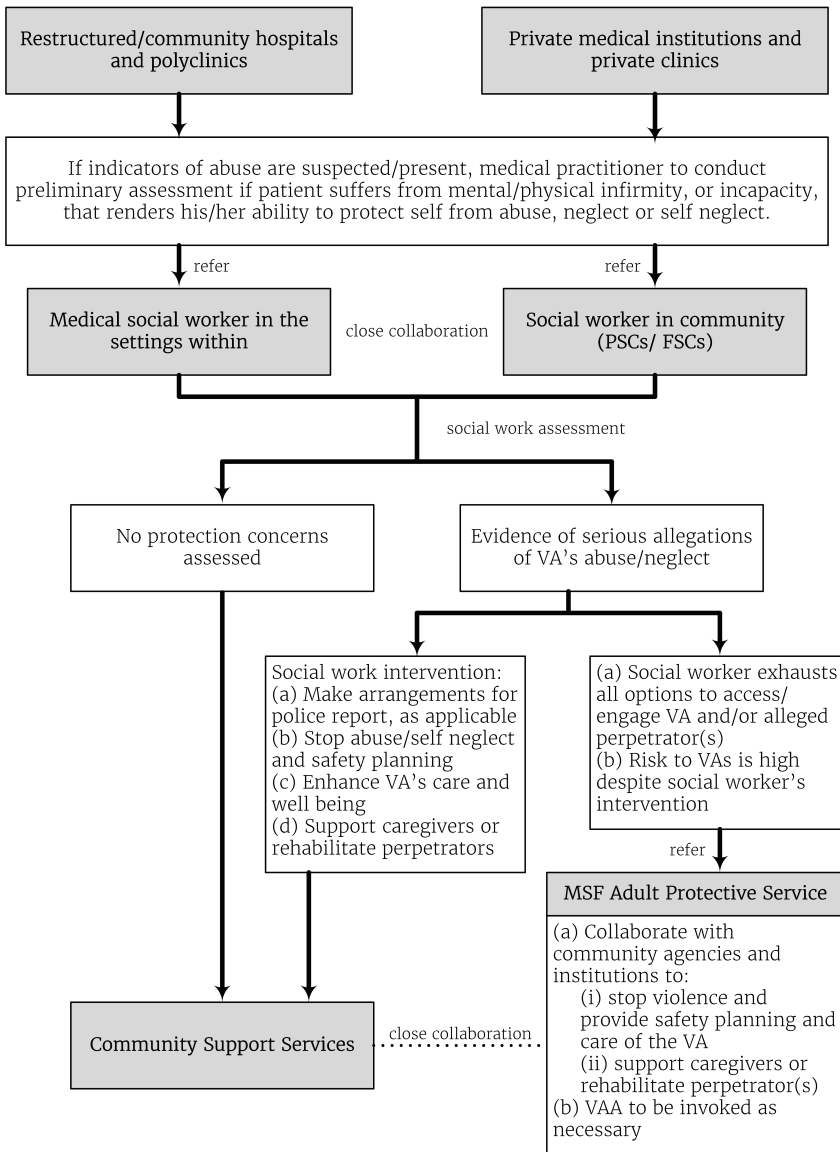
25 Vulnerable Adults Act 2018 (2020 Rev Ed) s 8.

26 Vulnerable Adults Act 2018 (2020 Rev Ed) ss 10 and 11.

27 Vulnerable Adults Act 2018 (2020 Rev Ed) s 14.

28 Vulnerable Adults Act 2018 (2020 Rev Ed) s 21.

Flow Chart: Referral and Management of Cases with Adult Protection Concerns



**A. Mental capacity assessment under the Vulnerable Adults Act 2018**

32 Approved mental capacity assessors appointed by the MSF can undertake mental capacity assessment under s 14 of the VAA.

33 Comprehensive cognitive assessments may be needed. The mental capacity assessment is anticipated to be undertaken in one session lasting about one to two hours. The assessment and the outcome are to be recorded in Form 64A of the Family Justice Courts Practice Directions. Form 64A is currently not used to complete the mental capacity assessment for ss 10(1)(b) (removal) and 11(1)(a) (temporary placement) of the VAA.

34 The key difference between the mental capacity assessment under the VAA and the MCA assessment is that under the VAA, the mental capacity assessor assesses specific orders. Under the MCA, the assessor assesses the client's ability to make personal welfare, property, and financial affairs decisions. It is useful to note that the report prepared by the assessors is admissible as evidence to the court. Under s 25 of the VAA, the assessor may be called into court as part of the proceedings for the assessment that was conducted. Therefore, due diligence needs to be exercised in all mental capacity assessments.

### **B. *Vulnerable Adult triage user form*<sup>29</sup>**

35 Caseworkers managing VAs are encouraged to use the VA triage user form for persons with substantiated or suspected concerns of abuse or neglect. The guide enables caseworkers to conduct a risk assessment and decide on intervention. Professional judgement underpins all assessments undertaken by involved caseworkers acting under the VAA. The VA's safety is paramount, and all caseworkers will need to undertake all necessary actions to uphold safety. The VA triage user guide is not a replacement for professional judgement exercised by the caseworkers. Moreover, the dynamic nature of the resource guide is subject to revisions based on user evaluation and feedback.

### **C. *Case example 1***

36 Mr A is a 69-year-old retired widower, who moved into his only child's (son's) house one year ago. He has dementia,

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29 See "Vulnerable Adult Triage User Guide" (20 December 2018).

diabetes and is at risk of falling. He had cared for his wife, who died of cancer two years ago. In a recent polyclinic visit to see the doctor, he was accompanied by his son. Mr A complained that he had lost his medications and presented a large bruise on his right eye. He looked fearful and tense when asked about the reasons for his bruise. He looked down and said he had a fall. His son raised his voice and left the clinic abruptly. Mr A looked fearful, said he did not want trouble for his son and refused to talk. How would this case be managed?

(1) *Discussions on case example 1*

37 If Mr A is seen in a hospital or polyclinic, the attending doctor should conduct a preliminary assessment to determine if Mr A can make decisions or if a further mental capacity assessment is required. This will enable an assessment of the home and family situation, Mr A's relationship with his son, and the adequacy of caregiving arrangements. The information should be relayed further to a medical social worker ("MSW") to assess safety and welfare concerns.

38 If Mr A is seen in the community in a general practitioner (GP) clinic or private hospital, in that case, the attending doctor should similarly conduct a preliminary mental capacity assessment and contact the NAVH<sup>30</sup> in the event the attending doctor is of the view that Mr A could have been abused. The case will be triaged and referred to the nearest FSC or PSC for social workers to conduct the risk assessment.

39 Where VA abuse is evident, social work intervention would be provided to ensure the safety of the VA by putting in place protective factors such as community oversight by community social agencies, ensuring the presence of a safe adult, and the rehabilitation of the VA and his or her caregivers. Psychoeducation on caregiving, family counselling, and mediation would be provided as appropriate.

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30 The National Anti-Violence and Sexual Harassment Helpline ("NAVH") can be contacted at the number 1800-777-0000 which operates on a 24-hour basis.

40 When social workers engage caregivers for assessment and intervention, it is prudent that they do not present themselves as “protectors” of the VA but position themselves as providing support to the VA, the caregivers, and the family.

41 Generally, cases are only referred to the MSF Adult Protective Service when the MSWs or community social workers are unable to enter the premise of the VA to assess abuse, and there are concerns over the VA’s safety or when the VA or alleged perpetrator does not cooperate with intervention, or when the risk of abuse and neglect remains high despite intervention.

**D. Case example 2**

42 A home visit by a family physician to Mdm B, a retired teacher, reveals signs of weight loss, confusion, poor personal care and hygiene (evidenced in unwashed clothes and a urine smell). Since the death of Mdm B’s husband eight months ago, she has been staying on her own. Her garden was overgrown and the house looked cluttered. Her only sibling (sister) lives in London and will visit her in a week. How would the case be managed?

**(1) Discussions on case example 2**

43 The physician could make a referral via the helpline at NAVH, where social workers at an FSC or a PSC will be activated to undertake the following interventions:

- (a) Make immediate arrangements to ensure that Mdm B receives the necessary medical/psychiatric assessment and treatment and a temporary place of safety.
- (b) Explore different care options with Mdm B (as far as possible) and her significant others to ensure her longer-term safety and care, with the client’s consent as far as applicable. A preliminary mental capacity assessment for the specific decision is to be undertaken by the registered medical practitioner (doctor) undertaking the assessment.

(c) Improve the home situation to ensure adequate support if returning home is an option. The decluttering process must be conducted with the client in close collaboration.

(d) Grief counselling/therapy (as applicable).

(e) If Mdm B is uncooperative and has a high risk of ongoing self-neglect and well-being, social workers may refer her to the MSF Adult Protective Service. Should Mdm B be assessed to meet the definition of a VA in the VAA, Adult Protection Service could invoke the VAA to place her in a place of safety.

### **E. Case example 3**

44 Mr C is admitted to the hospital after being found by a befriender to be unconscious after a fall in his four-room Housing and Development Board flat. In the hospital, he is assessed to be malnourished, have poor self-care and require a high level of supervision in many activities of daily living. He is diagnosed with dementia.

45 The current level of community support put in place a year ago can no longer support his care needs. Mr C insists on returning to his flat and refuses to move into a nursing home despite all efforts to help him appreciate the risk of his current care arrangement. He has no family members willing to provide him care in his home. He has neither appointed a donee under the LPA nor a deputy.

46 The issue is whether he needs the legal framework of the VAA or whether his move to a nursing home is in his best interests under the MCA legal framework. He actively resists moving into a nursing home.

#### **(1) Discussions on case example 3**

47 Acting in the best interests of this individual, the hospital medical social worker could refer Mr C to the MSF Adult Protection Service, where the VAA may be invoked to place him



in a residential care setting where his safety and basic needs could be met. This may include providing, as much as possible, an environment where some level of connections with his previous lifestyle could be maintained. Subsequently, long-term care planning can be pursued with the possibility of engaging a professional deputy to act on his behalf under the MCA since Mr C has no family members or close friends to rely on and be proxy decision makers.<sup>31</sup>

48 Looking at how Singapore courts have dealt with VAA cases is always useful. *GCG v GCH* is a 2020 Family Justice Court case involving an applicant applying for orders sought against the respondent, his elder brother, to protect their elderly mother. The orders sought were under ss 14(1)(e) to 14(1)(h) of the VAA, viz, restraining order, exclusion order, non-access order, and non-visitation/non-communication order, respectively.

49 In *GCG v GCH*,<sup>32</sup> the court had to first consider whether the person to be protected, in this case, the parties' elderly mother, was a VA under the VAA. As the parties' mother was suffering from "severe mixed vascular and Alzheimer's dementia" and was certified by medical professionals to "have *no* mental capacity to give consent to court interventions sought by the Applicant" [emphasis in original] and "[lack] mental capacity in relation to personal welfare and self care",<sup>33</sup> the court held that the parties' mother was unable to protect herself from any abuse or neglect and was thereby considered a VA under the VAA.

50 Next, for the court to grant the orders sought, the applicant had to establish that (a) the VA has experienced, or is experiencing or at risk of, abuse, neglect, or self-neglect; and (b) the orders are necessary for the protection and safety of the VA.<sup>34</sup>

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31 Ministry of Social and Family Development, "About the Professional Deputies and Donees Scheme" <<https://www.msf.gov.sg/what-we-do/opg/about-pdd-scheme>> (accessed 28 July 2023).

32 [2020] SGFC 19.

33 *GCG v GCH* [2020] SGFC 19 at [6] and [7].

34 Vulnerable Adults Act 2018 (2020 Rev Ed) s 12.

51 On the first requirement, the court held that the respondent's insistence on the domestic helper to apply fish oil, cooking oil and/or sesame oil on the VA instead of the medically prescribed cream to treat the VA's skin rashes and bedsores caused her to suffer physically, was regarded as "abuse" and "neglect" under the VAA.<sup>35</sup>

52 Even though this was sufficient to fulfil the first requirement, the court went on to also find that the respondent's habitual confinement of the VA and the domestic helper by locking them at home whenever he went out and the tying up of the VA's hands to her bed unreasonably deprived the VA of liberty and movement, and were thus considered to be "abuse" under the VAA as well.<sup>36</sup> It is noted that the respondent's action of restraining the VA is also in breach of the fundamental principles of the MCA, where before an act is done or a decision made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.<sup>37</sup> The respondent's actions were further in breach of s 8 of the MCA, where he did not consider the factors on whether he reasonably believes that his actions were necessary to prevent harm to his mother and whether his actions were a proportionate response to the likelihood of his mother's suffering harm and the seriousness of the harm. It is arguable that the domestic helper's employment was precisely to prevent his mother from suffering from harm and that locking her up in the house must be seen as being in breach of s 8 of the MCA.

53 As for the second requirement of proving that the orders are necessary for the protection and safety of the VA, the court held that the restraining order was necessary "[i]n light of the abuse that has occurred and the extent to which the risk remained".<sup>38</sup>

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35 *GCG v GCH* [2020] SGFC 19 at [15]–[19].

36 *GCG v GCH* [2020] SGFC 19 at [20]–[25].

37 Vulnerable Adults Act 2018 (2020 Rev Ed) s 3(6).

38 *GCG v GCH* [2020] SGFC 19 at [28].

54 Concerning the exclusion order, which excludes the respondent from the VA's residing place, the court determined that it was also necessary. The court held that since no other family member was living with the VA and the domestic helper, there was no one to prevent the respondent from continuing to abuse or neglect the VA as she would be unable to "give any instructions to the domestic helper or protect herself from instructions that could harm her".<sup>39</sup> Furthermore, the court found that the respondent was fixed in his views and was "apt to be aggressive in maintaining them" based on the applicant's evidence and the respondent's conduct in court proceedings.<sup>40</sup> As a result, the court granted the exclusion order, given how the respondent's "continued exertion of his will could only further threaten the protection and safety of the VA".<sup>41</sup>

55 However, the court held that the non-access order and non-visitation/non-communication order were unnecessary for the protection and safety of the VA "in light of how the other two orders would be in place to ensure her protection and safety" and that granting them "would be wider than truly necessary".<sup>42</sup>

56 The case of *GCG v GCH* has provided much legal clarity on how the VAA is applied in a real-life case example and would serve to inform potential applicants on how orders would be made in similar situations and the relevant considerations that the court would weigh to decide should they apply for orders under the VAA.

57 However, to further safeguard a VA against abuse, it would have been good if there had been further consideration as to whether the respondent had ill-treated the VA and was guilty of an offence under s 42 of the MCA.

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39 *GCG v GCH* [2020] SGFC 19 at [30].

40 *GCG v GCH* [2020] SGFC 19 at [32].

41 *GCG v GCH* [2020] SGFC 19 at [36].

42 *GCG v GCH* [2020] SGFC 19 at [47].

## VIII. Conclusions

58 We aspire to raise awareness of the VAA through this publication using illustrative examples. This article amplifies the need for integrated working between multi- and inter-disciplinary health care professionals in primary care, hospitals and the community, and legal professionals as needed, with the VA's safety at the heart of all our endeavours. The State also plays an important role in supporting VAs and their families, as highlighted in this article.