HELP THE AGED WE WILL

The Financial Abuse of Older People

A review from the literature

HELP THE AGED

FINANCIAL EXCLUSION PROGRAMME

The Financial Abuse of Older People

A review from the literature carried out by the Centre for Policy on Ageing on behalf of Help the Aged

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with an introduction and recommendations by Help the Aged

Help the Aged

The research for this report was completed in March 2007 with additional material from the Comic Relief Study added during the summer.

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1 Introduction

Financial abuse is one of the most prevalent forms of elder abuse. According to 2007 statistics from the Prevalence Survey Report by King's College, London and the National Centre for Social Research on behalf of Comic Relief and the Department of Health, approximately 57,000 people aged 66 and over had experienced financial abuse in the past year, making it the second most prevalent type of mistreatment (after neglect) in the UK. This echoes previous research carried out by Action on Elder Abuse, which revealed that 20 per cent of calls to its helpline were about financial abuse, making it the second most widespread type to be brought to the helpline's attention.

Financial exclusion, low levels of financial capability, and cognitive impairment can mean that older people become dependent upon others to manage their finances or to access their income or savings. While in the majority of cases family, friends and professionals are trustworthy, calls to Action on Elder Abuse's helpline show that the vulnerability of some older people, or their reliance on others for assistance, can easily be abused.

Recent research carried out for Help the Aged (*Financial Exclusion among Older People, 2006*) identified both the potential for financial abuse and various indicators of abuse that are of major concern. Help the Aged is extremely concerned that the changes in the way we use money (e.g. greater use of internet and telephone banking, PIN numbers, and the withdrawal of cheques as a means of payment) as a society could facilitate increased financial abuse of older people. The Charity is considering ways of combating this. Older people might become at risk of abuse as a result of having to depend on others to help them manage their money. The underlying issue is the fact that older people are not getting the financial services or advice they need.

The lack of a clear understanding of financial abuse, among groups including government, the financial services industry and other agencies, became evident from the presentations at a seminar for the key organisations with an interest in financial abuse hosted by Help the Aged on 26 October 2006. Definitions and studies of the abuse of older people often include financial abuse, but focused studies on this issue are less common and there is no agreed definition of financial abuse. The seminar discussed the problems associated with financial mismanagement or inappropriate arrangements for managing the financial affairs of an older person, particularly in relation to mental capacity, and the increased need for improved financial literacy.

This review was carried out over eight weeks in the spring of 2007. Within such a tight timescale, and with the breadth and diversity of material uncovered (some 1,000 references in total, in research studies, academic journals, websites, etc.), it would have been impossible to investigate everything in great depth. The review aims to highlight the most important issues and sources of information and to complement previous studies.

Help the Aged recommendations

Help the Aged believes that:

- There is a need for much better multi-agency working at a national level. This should include a financial abuse taskforce, which would pull together the key organisations, including the Financial Services Authority, the police, the legal professions, the British Banking Association, the Equality and Human Rights Commission, the Criminal Records Bureau, Trading Standards, the Commission for Social Care Inspection, the Public Guardianship Office, the Department for Work and Pensions, the Department of Health and key voluntary sector organisations. Help the Aged proposes to create this taskforce.

- The Financial Abuse Taskforce should consider:
  - how to deliver, promote and sustain preventive interventions;
  - how practitioners should and can be encouraged to share experiences and learning to promote good practice;
  - how the UK can learn from the successes of US initiatives to prevent financial abuse, such as the Daily Money Management programmes (DMM) and training programmes for bank officials;

    - how local practical services and solutions already in place to prevent financial abuse of older people can be encouraged, promoted and sustained;
    - how the prevention of financial abuse should be 'incorporated into an overall strategic approach to the ageing population' based on the principle of older people as citizens, not just users of care services;
    - how to raise awareness of financial abuse in all professional sectors, among older people themselves and the public generally;
    - how training could be provided for professionals who have contact with older people – including nurses, doctors, bankers and lawyers – to help them identify and respond to financial abuse;
    - what systems currently exist within the financial services industry which would help frontline staff identify, monitor and report potential elder abuse and whether there is a case for improved practice;
    - how advice is and will be provided to older people in relation to issues relating to the lasting power of attorney;
    - how adult protection committees can work better to prevent financial abuse;
    - how older people can be made aware that they have suffered financial abuse and how to tackle their reluctance to report.

- In 2007 Ivan Lewis MP announced his intention to revise the legal framework for combating the abuse of vulnerable adults. Any new framework should be enforceable across the relevant public sector agencies, the police, financial services sector and health bodies as well as social services, and should include a mandatory requirement for inter-agency co-operation. It should also provide for a protocol and referral path, making clear what should be done when abuse has been identified.

- Specific training in the investigation of all types of suspected abuse should be mandatory for all those who would bear the responsibility for following up allegations of abuse. This would ensure that any evidence that the abuse took place could be identified and preserved for a possible prosecution.

- Advice, information and education are central to developing preventative strategies for financial abuse. Education is required to improve the financial capability of older people and people of all ages who may be managing the assets of older people. The FSA, the government and the banks must ensure there is adequate education and advice to reduce the risk of abuse.

- Under the FSA's overarching objective of fairness and its objectives for tackling financial crime, the FSA should actively engage in issues relating to financial abuse and publish its own plans for prevention.

- Social exclusion can increase the potential for financial abuse. Strong local communities and the effective delivery of services are crucial to the well-being and quality of life of all older people. Engagement of older people in local decision-making is important, in particular for those at risk of social exclusion.

- Individuals of all ages should seek to register a lasting power of attorney.

- Wide-ranging research is needed on all aspects of financial abuse of older people. There is little information in the UK on preventive strategies involving the financial services sector and older people. Research is also needed on patterns of informal management of resources and assets in old age; the views of older people rather than of professionals; and issues relating to banking and to ethnic minorities' experiences of financial abuse.

Literature review

Financial exploitation has a devastating effect on older people. Not only can a comfortable lifestyle disappear, but also older people do not have the time or opportunity to recover financially. In addition, such a profoundly disturbing experience can be a life-threatening event 'characterised by fear, lack of trust and the onset, often, of acute and chronic anxiety' (Graycar and James, 2000).

The subject of financial abuse is not well understood, although there is a perception that older people, especially those with cognitive impairment, are often victims of this form of abuse. Empirical evidence of financial abuse is scarce. There is a dearth of up-to-date research in the UK that focuses specifically on the financial abuse of older people, and so evidence is gleaned from other studies that come across it, or wider studies of elder abuse. Through case studies and news reports many scenarios have been identified in which vulnerable older people can find themselves at risk of financial abuse. There is therefore a need for better evidence to underpin policy development and practice initiatives in all sectors – health, social care, financial, legal – to protect older people from financial exploitation.

Men and women are living longer into older age. In 2003 those aged 50–59 represented 37.8 per cent, and those aged 85 and over represented 5.5 per cent of the 50+ population. Projections indicate that these proportions will be respectively 28.6 and 7.9 per cent by 2031. Projections for 2031 indicate a more rapid ageing of the population over the next 30 years. People aged 85 and over will then comprise 3.8 per cent of the entire UK population. Older women outnumber older men, as death rates are higher among men than among women, although the improvement in death rates among older men has led to a narrowing of the gap. As male life expectancy improves, the ratio of males to females is expected to become more even. The greater number of women than men is most pronounced among the very old, with life expectancy at birth in the UK being 75.9 years for men and 80.5 years for women in 2002. However, women are also more likely to have more years in poor health (www.statistics.gov.uk).

The heterogeneous nature of the older population relating to age, income, acquired assets, health, living arrangements, marital status, family relationships, social networks and ethnic origin gives rise to a potentially wide array of methods/types of financial abuse that can be perpetrated. Many older people have valuable assets in the form of property (which may include second homes), and complex financial resources – including benefits – that can be challenging for them to manage on their own. Their affairs may be additionally complicated by divorce, new partners and step-children, etc. The Social Policy Research Unit at the University of York produced a scoping study in May 2006, *Minding the Money: carers and the management of financial assets in later life* (Arksey et al.) which examines the role of informal carers in managing older people's financial affairs: 'The provision of assistance with managing finance and assets by relatives and friends raises questions of probity and propriety. Conflicts of interest and risks of financial abuse may arise.'

The House of Commons Health Committee Inquiry into Elder Abuse (2004) raised important questions and made a series of recommendations to the government requiring action in terms of research, training, inspection, guidance, registration of workers and increased availability of advocacy services. In particular, the Committee noted that no standards for adult protection appear within the National Service Framework: 'In order to ensure consistent good practice, we recommend that this omission is rectified.' In addition, the Committee expressed concern about the incidence of financial abuse of older people and recommended 'that the prevention, detection and remedying of financial abuse should be included as specific areas of policy development by adult protection committees'.

Following recommendations by the Health Committee Inquiry on Elder Abuse, the first national prevalence study of the mistreatment and abuse of older people, including financial abuse, presented its findings in summer 2007, and this provides an evidence base and impetus for government action.

The Department of Health also commissioned a systematic literature review to highlight the key research on the subject of elder abuse to aid in the development of further policy and research (Manthorpe et al., 2004), which includes a section on financial abuse. It draws attention to the lack of research on financial abuse in its own right and recommends exploring collaborative work: 'Any research should involve the financial sector as well as the Pensions Agency, the proposed

LinkAge initiative and other agencies with adult protection interests.'

New legislation is coming into force. The Mental Capacity Act, the Fraud Act and the Safeguarding Vulnerable Groups Act aim to improve the protection of older people from financial and material abuse, but some limitations have been noted.

There are indications that *No Secrets*, the guidance for multi-agency working to protect vulnerable adults (2000), has not been rigorously implemented and is poorly enforced, so it is not providing adequate protection for vulnerable older people. One in six councils in England is failing to protect vulnerable adults according to a Commission for Social Care Inspection (CSCI) survey. In a recent BBC *File on 4* report, Kathryn Stone, the chief executive of Voice UK, said: 'It might be argued it is not effective because there is no law to support it – we have campaigned for adult protection legislation to raise it to the same status as child protection.' Action on Elder Abuse, in its March/April 2007 Action Points, points out that, if introduced, an Adult Protection Act would give professionals powers similar to those for child protection and would also send a message to abusers 'that their behaviour is unacceptable to society and will incur legal penalties'.

Recognition of and action to prevent financial or material abuse of older people is coming not just from health and social care practitioners and organisations, but also from professional bodies in the legal and financial professions such as the organisation Solicitors for the Elderly, the British Bankers' Association, the Institute of Chartered Accountants and the Institute of Legacy Management.

The discrimination law review is investigating whether age criteria should be permitted in areas including financial services, where age is used as a proxy for risk. At present older people are often denied access to financial products, regardless of their individual risk profile, and products targeted towards older people can be more costly than for people in other age groups.

In view of the level of interest in financial and material abuse, and the rate of change within the wider environment, there is now a unique opportunity to exert influence on policy-makers in a way that will benefit older people.

A detailed methodology of this study is provided in an appendix. The literature reviewed is international in scope and includes English language studies covering the broad areas of older people, social care, criminology, psychology, legal cases, parliament and news and current affairs. The US literature on financial abuse is more extensive than UK literature and essentially has been included where it can illuminate key issues relating to financial abuse, in particular preventive strategies.

2 Summary

Financial abuse is one of the most prevalent forms of elder abuse. According to statistics from the Prevalence Survey Report by King's College, London and the National Centre for Social Research, funded by Comic Relief and the Department of Health, over 100,000 older people have experienced financial abuse since the age of 65, making it the second most prevalent type of abuse (after neglect) in the United Kingdom. Help the Aged commissioned the Centre for Policy on Ageing to carry out a review of the literature on financial abuse of older people as part of the Charity's work on financial services and older people under its financial exclusion programme.

The lack of a clear understanding of financial abuse became evident from the presentations in a seminar hosted by Help the Aged on 26 October 2006. Definitions and studies of the abuse of older people often include financial abuse but focused studies on this issue are less common and there is no agreed definition of financial abuse.

A changing environment

- Demographic change will have an impact on the prevalence of financial abuse. Both men and women are living longer, and many have valuable assets in the form of property and complex financial resources – including benefits – that can be challenging to manage on their own.
- Financial exploitation has a devastating effect on older people and financial recovery is difficult.
- New legislation is coming into force: the Mental Capacity Act, the Fraud Act and the Safeguarding Vulnerable Groups Act aim to improve the protection of older people from financial and material abuse.
- There are indications that the *No Secrets* guidance (2000) has not been rigorously implemented and is poorly enforced, so it is not providing adequate protection for vulnerable older people. One in six councils are failing to protect vulnerable adults according to a survey by the CSCI.
- The first national prevalence study of the mistreatment and abuse of older people in the UK, including financial abuse, presented its findings in summer 2007
- Recognition of and action to prevent financial or material abuse of older people is coming not just from health and social care practitioners and organisations, but also from professional bodies in the legal and financial professions.
- Heightened interest in issues of financial and material abuse, within a changing environment, presents opportunities to influence policy outcomes to the benefit of older people.

Definitions of financial abuse

- The complex and diverse nature of financial abuse of older people makes it difficult to define. The term describes a disparate range of acts arising out of different dynamics and in different contexts.
- Financial abuse can range from failure to access benefits, through inadvertent mismanagement and opportunistic exploitation to deliberate and targeted abuse, often accompanied by threats and intimidation.
- New opportunities for financial exploitation arise from government policy such as direct payments/individual budgets where people are expected to manage large sums of money; financial assessments for long-term care involving property.
- New avenues for crime arise from new technology, e.g. phishing, internet scams.
- Distraction burglary, consumer fraud, financial scams such as telephone contests and get-rich-quick investment schemes are targeted at vulnerable older people.
- Without a universally accepted definition, there is uncertainty over recognising financial abuse, reporting it, compiling evidence and prosecuting abusers.
- Action on Elder Abuse, *No Secrets,* the Council of Europe and the Equality and Human Rights Commission have different definitions of financial abuse within the general context of elder abuse.
- A working definition of financial abuse that includes the interaction between financial abuse and neglect in the context of adults who lack capacity has been developed by Hilary Brown(2003). Given the complex

dynamics, assessment of financial abuse must take into account a range of factors.

Pervasiveness of financial abuse

- In the UK between 0.5 per cent and 2.5 per cent of all older people living at home admit to experiencing some form of financial abuse or exploitation.
- The NatCen/King's College study published in June 2007 found that financial abuse was the second most common form of mistreatment for those living at home, nearly twice as common as psychological or physical abuse. The study estimated that 57,000 people aged 66 and over in the UK (0.7 per cent) had experienced financial abuse by a friend, relative or care worker in the past year and 105,000 (1.2 per cent) had experienced financial abuse since reaching the age of 65.
- Any prevalence estimates of financial abuse are likely to be underestimates as a result of under-reporting.
- In the UK, studies generally show that about 20 per cent of abuse is financial, but some studies have found financial abuse in over 80 per cent of cases.
- Indications are that 60–80 per cent of financial abuse takes place in the home and 15–20 per cent in residential care.
- Over 50 per cent of financial abuse is by a grown-up son or daughter and nearly 70 per cent by a family member. However, since the proportion of financial abuse carried out by family members is comparable to the proportion of financial help *given* by family members, family members should not be viewed as less trustworthy than other helpers.
- Overall, men, as they age, may be slightly more vulnerable to financial abuse than women. Although the majority of victims of financial abuse are older women living alone this is to some extent because a large proportion of older people are women in these circumstances. Divorced and separated older women, however, have a particularly high risk of financial abuse.
- Perpetrators of financial abuse tend to be in middle age and often have financial, psychological or other problems. Perpetrators are slightly more likely to be men than women.
- Financial abuse, both at home and in residential care, is tied up with societal attitudes to inheritance.
- Older private tenants and owner-occupiers each experience particular financial problems arising from their housing circumstances.
- Very little is currently known about the financial abuse of older people in black and minority ethnic communities in the UK. Further research is required.

Interventions: recognising and preventing abuse

- There are known indicators to raise an alert that financial abuse may be occurring.
- Indicators of abuse include the victim's change in living conditions; possessions sold; inability to pay bills/unexplained shortage of money; unexplained withdrawals from a savings account; unexplained disappearance of financial documents; cut off from family/friends/social network; carer's enhanced lifestyle; sudden changes in bank account or banking practice; the recent addition of authorised signers on an older person's signature card; unauthorised withdrawal of funds using the older adult's ATM card; abrupt changes in a will or other financial documents.
- Evaluating whether or not financial abuse has occurred often involves complex and subjective determinations.
- It is important to balance an older person's autonomy with intervention to protect them from perceived financial abuse.
- The most effective way of protecting older people from financial abuse is through preventive interventions. There are significant difficulties in investigating, proving and rectifying financial abuse once it has occurred.
- Activities to prevent social isolation and promote inclusion in a community support network should be encouraged.
- Training is required for all professionals – health, social care, police, legal and financial – to enable them to recognise financial abuse.
- Methods should be established for handling routine financial transactions such as direct debit, electronic auto payments or bill-paying services.

- Daily money management managers can reduce abuse by eliminating opportunities to abuse, blocking access to assets, or removing the motive to abuse.
- Care home employees should be screened and vetted; there should be 'zero tolerance' of abuse.

Advice, education and information for older people

- Information, advice and advocacy services need to be devised that focus on the needs of older people, not on descriptions of the provision of services.
- Information systems should be maintained in a way that older people will find useful and should include face-to-face communication and a variety of products (e.g. books and audiotapes, internet) in different languages.
- The provision of financial advice and money management should combine one-to-one advice and workshops on money management and financial advice.
- People prefer dealing with locally based organisations, with products and services delivered by well-trained staff working for established providers.
- Guidance for dealing with money matters should be brought together in one accessible source.
- The financial literacy of older people needs to be improved through education.

The legal framework

- There is no legal definition of elder abuse or financial abuse.
- The law should be based on capacity rather than age. There is however a premise that older people require statutory protection because of the association of age with physical and/or cognitive impairments that increase vulnerability to abuse.
- Previous relevant legislation on abuse has been patchy (aspects are dealt with under both criminal and civil law), making it difficult to understand and/or enforce.
- The Mental Capacity Act 2005, Fraud Act 2006 and Safeguarding Vulnerable Groups Act 2006 provide increased protection but have limitations.
- Legal interventions need to be more proactive.

The regulatory framework

- Financial abuse clearly comes within the remit of *No Secrets* and the incidence of financial abuse and subsequent action should be included in local data collections by local authorities.
- Regulatory and inspection systems of health and social care need to provide older people with improved protection from financial abuse.
- Local authorities could do better. A survey by CSCI in 2007 inspecting implementation of *No Secrets* recommendations found that a sixth of all 150 councils in England were 'failing to safeguard adults well'.
- *No Secrets* has been poorly implemented in some areas. CSCI reported that council systems are not as tight as they should be and therefore cannot be guaranteed to respond adequately to adult protection referrals.
- Strengthened national minimum standards for care homes are needed to guard against financial abuse.
- Strengthened performance indicators are required in all sectors.

3 A review from the literature

3.1 Aims of the study

This review aims to examine all aspects of financial abuse but, in particular, will seek to answer the following questions:

- What research exists on financial abuse and what policy and practice recommendations have come from that research?
- What is the prevalence and nature of financial abuse among older people?
- What is the prevalence and nature of financial abuse among specific sub-populations of older people, e.g. in residential care, living alone at home?
- What are the characteristics of those carrying out the abuse?
- How can evidence of financial abuse be identified and what are the difficulties in collecting such evidence?
- What are the measures and promising approaches that help prevent financial abuse?
- What should the advice be to practitioners and to older people on preventing financial abuse?
- What policy and practice recommendations should be made?
- Is any link between financial education and financial abuse evident within the literature?
- Is there any evidence that making use of financial services can reduce the risk of abuse?

In addition, the review presents a critical assessment of current policies and practices for dealing with financial abuse.

3.2 Methods used

A general lack of awareness of financial abuse of people in later life, which takes a wide range of forms, has created a need for the review to be as broad and as comprehensive as possible in its coverage. In order to do this, two separate search strategies were adopted. One was to locate items on financial abuse of older people, and the other was to find items on financial management of older people's affairs and strategies to avoid abuse. In addition to peer-reviewed journals and literature it was important that semi-published 'grey' literature and user testimony should be adequately covered and the resources used therefore reflect that need.

Relevant literature was located through searching of online databases, hand scanning of key journals, scanning citations in key references and search engine searches of the internet. Key websites were browsed and searched for relevant materials and resources; researchers involved in other recent and ongoing reviews were also contacted.

In total over 1,000 items were scanned and rated for impact and usefulness for the review. The majority of these items are held in the Centre for Policy on Ageing's library on ageing and age-related issues.

Full information about the methodology is contained in Appendix A.

3.3 Definitions of financial abuse

The complex and diverse nature of financial abuse of older people makes it difficult to define: 'Financial abuse can range from failure to access benefits, through inadvertent mismanagement and opportunistic exploitation to deliberate and targeted abuse, often accompanied by threats and intimidation' (Wilson and Brown, 2003). The term describes a disparate range of acts arising out of different dynamics and in different contexts (Brown, 2003). However, without a universally accepted definition there is uncertainty over recognising financial abuse, reporting it, compiling evidence and prosecuting abusers (Wilber et al., 1996; Rabiner et al., 2004).

Financial abuse can take the following forms:

- theft;
- misappropriation of money or property;
- misuse of assets;
- exerting undue influence to give away assets or gifts;
- putting undue pressure on the older person to accept lower-cost/lower-quality services in order to preserve more financial resources to be passed to beneficiaries on death;
- carrying out unnecessary work and/or overcharging;

- misuse of older persons' assets by professionals;
- misuse of powers of attorney.

There may be new opportunities for financial exploitation arising from government policy for self-directed support in the use of direct payments/individual budgets where people are expected to manage large sums of money (Heng, 2006; Madden, 2006). Bridget Penhale (2003), exploring the views of care managers and legal practitioners towards their work in relation to older people, finances and charging for long-term care, found the issue of financial abuse was of evident concern to practitioners.

Research concerning inheritance and intergenerational financial transfer suggests that many individuals want to leave their assets, including property, to family members; relatives often expect this, which leads to concern over undue influence to preserve assets rather than acting in the best interests of the older person (this might even include arranging a cheaper funeral than the older person would have wanted).

New technology provides additional avenues for identity theft and financial crime such as phishing and other internet scams to which older people may be particularly vulnerable. Sweeney (2003) notes that the ability to identify illicit schemes, scams or fraud email received by vulnerable adults starts with the simple recognition that criminals play on people's emotions, sending emails with subject lines such as 'Urgent assistance needed'. Sweeney proceeds to the realisation that many victims are enticed by promises of monetary rewards. There continue to be postal and telephone scams of a similar kind that can catch people out: for example, where people are offered 'free' holidays that the older person may want to try to win for their children or grandchildren.

An increasing number of financial scams, consumer frauds and distraction burglaries are targeted at vulnerable older people (Anders, 1999; Tueth, 2000; Reiboldt and Vogel, 2001; Alt and Wells, 2004; Rosato and Gallardo, 2005; Cohen, 2006).

Financial abuse is acknowledged as a category within the wider context of elder abuse. As early as 1984, Mervyn Eastman identified financial abuse as situations 'when a relative either fraudulently exploits the elderly dependent's finances for personal gain or . . . where a family member actually steals from the purse of the elderly dependent.'

Action on Elder Abuse, a UK voluntary organisation that works to protect, and prevent the abuse of, vulnerable older adults, defines financial abuse as 'stealing from, defrauding someone of, or coercing someone to part with, goods and/or property'. Its definition of elder abuse focuses on 'any relationship where there is an expectation of trust'; as such it excludes abuse perpetrated by strangers (Fitzgerald, 2004).

No Secrets, the guidance for multi-agency working to protect vulnerable adults, states: 'Abuse is a violation of an individual's human and civil rights by any other person or persons.' Within that broad definition of abuse, the guidance states that consideration should be given to various factors: 'Abuse may consist of a single act or repeated acts. It may be physical, verbal or psychological, it may be an act of neglect or an omission to act, or it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.'

The *No Secrets* guidance goes on to identify 'financial or material abuse, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits' (Department of Health, 2000). Local authorities generally are using this definition as guidance for implementing local protection policies and procedures.

The House of Commons Health Committee Report on Elder Abuse (2004) criticised the definition of vulnerable adults given in *No Secrets* as being too restrictive, i.e. including only those requiring community care services. However, the government response (2004) states that the definition is wide and includes individuals receiving care services, those receiving other services such as health care, and those who may not be receiving care services: 'a person who is or may be in need of community care services . . . and who is unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.'

The Council of Europe defines financial abuse broadly as 'any act, or failure to act, which results in a significant breach of a vulnerable person's rights, civil liberties, bodily integrity, dignity or well-being, whether intended or inadvertent, including sexual relationships or financial transactions to which the person has not or cannot validly consent or which are deliberately exploitative' (2002).

The Equality and Human Rights Commission monitors elder abuse as a violation of individual and human rights, using the definition in the *No Secrets* guidance. To identify financial abuse, evidence will be found to demonstrate the illegal or unauthorised use of a person's property, money, pensions or other valuables.

Hilary Brown (2003) suggests new ways of looking at the phenomenon of financial abuse that includes the interaction between financial abuse and neglect in the context of adults who lack capacity. Given the complex dynamics, assessment of financial abuse has to take into account factors such as the intentions of the (potential) abuser and their relationship with the vulnerable person; the nature of the transaction(s) whereby the mechanisms were put in place to access the money; the extent to which the money is being used properly to meet the vulnerable individual's needs; the degree of harm of loss to the vulnerable person; any conflicting interest the attorney/receiver has in terms of eventual inheritance; any competing claims from other relatives/associates that are being overlooked or sidelined. Professor Brown presents a working definition of financial abuse as 'the intentional or opportunistic appropriation of the income, capital or property of a vulnerable person through theft, fraud, deception, undue influence or exploitation; including the hoarding of a vulnerable person's resources for future gain which is also a form of exploitation and may be associated with culpable neglect.

3.4 Pervasiveness of financial abuse

3.4.1 How extensive is financial abuse?

Researchers are agreed that the true extent of the financial and material abuse of older people is difficult to determine, at least in part through under-reporting (National Center for Elder Abuse, 1998; Choi and Mayer, 2000; Hafemeister, 2003). A financially abused older person may not be aware of the abuse and, if aware, may not wish to report the abuse in case this would further damage the relationship with a person, possibly a close family member, on whom they may be dependent. In addition, an older person who is the subject of a confidence trick by a stranger may be too embarrassed to report the crime.

There has been a lack of data on a national scale to determine the prevalence of financial abuse in the UK. To rectify this, the Department of Health commissioned a study, partly funded by Comic Relief, and carried out by the National Centre for Social Research and King's College Institute of Gerontology. The UK National Prevalence Study of the Mistreatment and Abuse of Older People, which began in August 2005, presented its findings in summer 2007. The study had three key aims:

(1) to estimate the overall prevalence of abuse – physical, emotional, financial, sexual – and neglect;
(2) to examine the characteristics of abuse – who is abusing, frequency, severity, impact and whether respondent sought help; and
(3) to examine risk factors and protective factors.

A national survey of prevalence examined the experience of people aged 66 and over living in private accommodation in all four countries of the UK. The study included a nationally representative sample survey covering 1,100 adults aged 66 and over in England and 300 each in Scotland, Wales and Northern Ireland (McCreadie, 2006).

The King's College/National Centre for Social Research study (O'Keeffe et al, 2007)

It is important to note that the King's College/ National Centre for Social Research study excluded older people with severe dementia and those living in residential care and also excluded abuse by a stranger. Estimates from the study of the prevalence of financial abuse are therefore minimum estimates. The study looked at abuse that had taken place in the previous year and also abuse since age 65.

The headline findings of the study in relation to financial abuse were that 0.66 per cent of people aged 66 and over, living at home or in sheltered housing, have experienced financial abuse by friends, relatives or care workers in the past year. This equates to approximately 56,600 people in the UK.

How reliable is this estimate? The King's/NCSR researchers were 95 per cent certain that the true proportion of UK people aged 66 and over who have experienced financial abuse in the past year lies somewhere between 0.32 and 1.35 per cent. Between 27,600 and 115,800 UK older people have been victims of financial abuse by close friends, relatives or care workers in the past year.

When abuse by neighbours and acquaintances is included, 1.0 per cent of UK residents aged 66 and over report experiencing financial abuse in the past year (86,500 people).

Overall, 1.2 per cent of older UK residents (an estimated 105,000 people) have experienced financial abuse by a friend, relative or care worker since reaching the age of 65.

This study found very little difference between men and women overall. Women (0.7 per cent) were slightly more prone to financial abuse than men (0.6 per cent), but there were significant regional differences and also variations with age.

Financial abuse appears to be most prevalent among women in Wales (1.9 per cent) and men in both Scotland (1.9 per cent) and Northern Ireland (1.2 per cent).

Older men become more vulnerable to financial abuse as they age. Men aged 85 or over are much more likely to report experiencing financial abuse (2.5 per cent) than men aged 66–74 (0.2 per cent) or those aged 75–84 (0.8 per cent).

The risk of financial abuse is greater for those living alone, in receipt of services, in bad or very bad health, and those who are divorced, separated or lonely.

Divorced or separated older women are at particularly high risk, with 5.3 per cent reporting financial abuse in the past year.

Other studies

Community-based, random sample studies, such as the study cited above, can give a true picture of the prevalence of financial abuse among older people. Studies based on cases from either professional agencies or helplines, while able to give a picture of the balance between different types of abuse and the nature of victims and perpetrators, are likely to overestimate the prevalence of financial abuse in the community since the subjects of cases are likely to be the most vulnerable older people.

Until the Comic Relief study reported there had been no national community-based prevalence measure of financial abuse in the UK since Ogg and Bennett's 1992 Omnibus survey found that financial abuse had been experienced by 1.5 per cent of respondents aged 60+.

In Canada, a 1990 telephone survey of 2,008 older people living in private homes (Podnieks, 1992) reported that 2.5 per cent had suffered material abuse. This survey also clearly showed the secondary effects of financial abuse and the depression and despair that it can cause. Ten per cent of those financially abused reported themselves as 'not happy at all' compared with only 1 per cent for the rest of the sample, and 29 per cent of the recipients of financial abuse had 'wished their life would end' compared with only 8 per cent for the rest of the sample.

In the USA, Pillemer and Finkelhor's 1988 random sample survey of 2,020 community-dwelling older people in Boston, Massachusetts found an overall prevalence rate of 3.2 per cent for all types of abuse but specifically excluded financial abuse from the survey (Pillemer and Finkelhor, 1988), so abuse overall is likely to be much higher than this figure.

A 'nationally representative' 1998 US study, the National Elder Abuse Incidence Study, which looked at adult-protective service reports and polled 1,100 'sentinels', specially trained individuals in agencies having contact with 'the elderly', found that financial abuse was the second most frequently occurring type of abuse, accounting for 30 per cent of reported incidents; however, it was also the second most difficult type of abuse to substantiate (National Center for Elder Abuse, 1998).

In Australia, a study of medical records for a 12-month period from July 1990 to June 1991 (Kurrle et al., 1992) found a rate of occurrence of elder abuse of 4.6 per cent, of which 16 per cent was material/financial abuse (0.72 per cent overall).

In Holland, a 1993 survey of 1800 older people living alone in Amsterdam (Comijs et al., 1998) found 1.4 per cent had suffered financial abuse or exploitation.

There have been several small-scale studies investigating financial abuse, sometimes as an element of a wider study on elder abuse, both in the UK and internationally (Arksey et al., 2006). All of these studies indicate that financial exploitation in some form is all too common. Catriona Marchant, writing in *Community Care*, cited a survey by Homer of patients in a long-stay hospital in which 23 per cent were being financially abused, and research by Rowe which found that 88 per cent of community-based confused elderly people were having their affairs illegally or inappropriately managed (Marchant, 1993).

Smaller local community-based UK studies of cases are, however, characterised by the variation in results. In evidence submitted to the 2003 House of Commons Health Select Committee on Elder Abuse, in Oxfordshire 34 per cent of abuse cases were financial, in Nottingham 9 per cent, while in Middlesborough they formed the majority of cases.

The Tizard Centre at the University of Kent conducted a study exploring the incidence, risk factors, nature and monitoring of adult protection alerts. All the adult protection alerts (over 6,100) recorded on two local authority databases – Kent and the Medway – were examined and analysed between the years 1998 and 2005; most were recorded from 2000 since the introduction of *No Secrets* guidance. Almost 60 per cent of all alerts related to older people (65+), including older people with mental health problems. Older people were more likely to experience financial abuse than other groups of vulnerable adults. For older people, financial abuse accounted for nearly a fifth (19.5 per cent), multiple abuse for over a quarter and physical abuse for a fifth (19.7 per cent) of cases. Older people with mental health problems were most likely to experience multiple and physical abuse, with financial abuse in 11 per cent of alerts (Cambridge et al., 2006).

Individual local authorities are required by the *No Secrets* guidance to collect data on adult protection referrals. Ninety-nine local authorities have produced a multi-agency annual report or statement (Action on Elder Abuse, 2006). An example of such a report, the Cambridgeshire *Protection of Vulnerable Adults from Abuse Annual Report 2004–2005*, notes that the majority of cases of abuse were against older people, and financial and material abuse was the commonest form of single abuse. The research by Action on Elder Abuse on adult protection data collection and reporting requirements draws attention to the inconsistencies in collecting and reporting data: 'The introduction of the proposed National Reporting requirements for collection of data on Protection of Vulnerable Adult referrals along with the formulation of a performance measure will help to lift the status of this work. It will help to ensure that it remains a priority for all agencies participating in Protection of Vulnerable Adult policies, procedures and systems' (Action on Elder Abuse, 2006).

Calls to the Action on Elder Abuse telephone helpline provide further evidence that older people are experiencing financial abuse. In its report *Hidden Voices* (Fitzgerald, 2004), analysis of calls made indicates that financial abuse is the second most common form reported (20 per cent), after psychological (34 per cent). During 2006, 471 calls to the helpline revealed that older people had been deprived in various ways of an estimated £7.8 million (Action on Elder Abuse, 2007).

These figures are confirmed by an analysis of calls to the Age Concern Scotland abuse helpline from September 2004 to September 2005 which found that 20 per cent of abuse was financial; the rest were 36 per cent psychological, 25 per cent physical, 12 per cent institutional, 2 per cent sexual and 5 per cent neglect (Age Concern Scotland website http://www.ageconcernscotland.org.uk/section/info.asp?p=197 2007).

A similar analysis by Age Concern New Zealand of referrals to its Elder Abuse and Neglect Prevention Services between July 2002 and June 2004 found material/financial abuse to be the second most common form of abuse (42 per cent) after psychological abuse (59 per cent). Eighty per cent of cases involved more than a single incident. Forty-two out of the 1,288 cases examined involved misuse of enduring power of attorney (Age Concern New Zealand, 2005).

The risk of financial abuse is a major concern for the Public Guardianship Office (PGO) in England and Wales and the Court of Protection. The Master of the Court of Protection, Denzil Lush, has suggested that some 10–15 per cent of cases brought to the Court involve some element of abuse or impropriety (Brown et al., 2003). In 2004 Lush suggested that in the region of 100,000 unregistered enduring powers of attorney may have been used to perpetrate financial abuse. Difficulty in identifying this abuse arises because there is no direct supervision or accountability of attorneys. A review of 51 cases identified the risks and explored the safeguards needed to prevent misappropriation of clients' funds, and suggested that, in at least 4 per cent of those cases examined, abuse may have occurred (Burns and Bowman, 2003). If these findings are generalised into an overall incidence rate for the PGO's current client caseload of approximately 60,000, it would suggest that approximately 2,350 cases may need to be flagged up or held under a higher level of scrutiny.

The pervasiveness of the financial abuse of older people has been the subject of a number of recent studies in Australia. A study in Queensland found that financial abuse had been observed by a broad range of ageing-services personnel. The results of a mail survey completed by 159 Aged Care Assessment Team (ACAT) members, allied health professionals and other persons working with older adults reported that 86 per cent of ACAT respondents and 70 per cent of other respondents indicated that they had concerns about the misuse of an older person's assets at least once, and 80 per cent of ACAT respondents and 57 per cent of other respondents indicated they had such concerns more than once (Tilse et al., 2003).

A Canadian study of case files opened between April 1995 and March 1996 at the Office of the Public Trustee of Manitoba found 21.5 per cent of cases were suspected of financial abuse (Bond et al., 1999).

Financial abuse often occurs in combination with other forms of abuse. Undue influence, psychological abuse, including deception, intimidation and threats, often accompany financial exploitation (McCreadie and Quigley, 1999; Tueth, 2000; Cambridge et al., 2006).

3.4.2 Settings, victims and perpetrators

Financial abuse of older people is a subtle, insidious crime that is much more likely to consist of a pattern of behaviour than a single incident (Wilber and Reynolds, 1996).

A 2005 study, by psychiatrists, of 'undue influence' as a form of elder abuse listed the following factors as predisposing an older person to financial exploitation:

- advanced age (75+);
- female;
- unmarried/widowed/divorced;
- organic brain damage;
- cognitive impairment;
- physical, mental or emotional dysfunction (especially depression);
- recent loss of spouse or divorce;
- living alone;
- social isolation;
- estranged from children;
- financially independent with no designated financial caretakers;
- middle or upper income bracket;
- taking multiple medications;
- frailty.

Male perpetrators were characterised as:

- having a sociopathic or antisocial character disorder;
- developing a caregiver role;
- living with the victim;
- being economically dependent on the victim;
- having a history of mental illness or substance abuse;
- often related to the victim; and
- having health problems (Hall et al., 2005).

From the published analysis of calls to the Action on Elder Abuse helpline up to 2004 we can infer that 77 per cent of financial abuse takes place in the home, 16 per cent in care homes, 5 per cent in sheltered housing, 2 per cent in hospital and 1 per cent elsewhere. As a proportion of all abuse in each setting, financial abuse is greater in sheltered housing (23 per cent) and at home (24 per cent) than it is in care homes (14 per cent) or hospitals (8 per cent). It is predominantly relatives who perpetrate abuse in the home setting, although 37 per cent of abuse by paid workers is financial (Fitzgerald, 2004).

A more recent analysis of the calls made during 2006 to the same helpline, focusing on financial abuse, revealed that 53 per cent of financial abuse of older people is by a grown-up son or daughter and as much as 69 per cent overall by a family member (Action on Elder Abuse, 2007).

These figures need to be viewed in the context of figures from an Australian study (Tilse et al., 2005) that 54 per cent of informal asset management carried out on behalf of older people is on behalf of a parent or parent-in-law and 74 per cent is for a family member of some kind. Family members should therefore be seen as no less safe than others in handling the financial affairs of older people.

The analysis of the Action on Elder Abuse helpline calls relating to financial abuse for 2006 further revealed that, while victims were often the oldest old, abusers were often middle-aged. While 49 per cent of victims were aged over 80, 81 per cent of abusers were aged 60 or under with more than half (52 per cent) aged 41–60 (Action on Elder Abuse, 2007).

The 2007 King's College/National Centre for Social Research study in the UK found that perpetrators of financial abuse were mainly men (56 per cent men, 44 per cent women) and they tended to be younger than the perpetrators of other forms of abuse with 59 per cent aged 44 or under and almost all (95 per cent) aged under 65.

Although the numbers in the study were small, perpetrators of financial abuse seemed to be characterised by having financial, relationship, alcohol or gambling problems (O'Keeffe et al, 2007).

An analysis by Age Concern New Zealand of referrals to its Elder Abuse and Neglect Prevention Services between July 2002 and June 2004 found that 37 per cent of financial abuse was by a son or daughter, 16 per cent by a husband, wife or partner and 67 per cent by a family member. Seventy-two per cent of financial abuse took place in the victim's own home and 14 per cent in residential care. Ten per cent of material/financial abuse cases were institutional and 41 per cent of cases of institutional abuse were financial. 'Rest homes' were the institutions most commonly identified as sources of institutional abuse (Age Concern New Zealand, 2005).

The Tizard Centre study (Cambridge et al., 2006) supports the finding that abuse type is related to location and abuse is more likely to be financial at home. In residential care only 7 per cent of abuse is financial whereas at home financial abuse and exploitation make up 25 per cent of cases. From the published figures we can infer that, in Kent and Medway, 63 per cent of reported financial abuse occurs in the home and 26 per cent in residential care. In addition, financial abuse is more likely to be carried out by males at home and females in residential care settings. Financial abuse at home is more likely to be by family whereas in a residential care setting it is more likely to be by paid staff. Fifty per cent of financial abuse is carried out by family/partner/carer, 36 per cent by domiciliary or residential care staff and 5 per cent by home managers.

In a pilot study of abuse among older adults in Beer-Sheva in Israel (Iecovich et al., 2004) data from questionnaires completed by social workers were collected over a one-year period, during which 120 new cases of abuse and neglect were identified, an incidence rate of approximately 0.5 per cent in a population of 24,800 older adults. This incidence rate is significantly lower than that found in other countries and is likely to be an underestimate, recording, as it does, only cases reported to social workers. While mental abuse was the most prevalent form of abuse, 38 per cent were economically abused. The majority (81 per cent) of economic abuse victims were women. Nearly half (49 per cent) were aged 60–74, 40 per cent were aged 77–84 and the remaining 11 per cent were aged 85 or over. Less than one-quarter (23 per cent) were married but 79 per cent lived with others. Unmarried women who were frail, had disabilities and lived with others were at the greatest risk of financial abuse. More than three-quarters (76 per cent) of perpetrators of economic abuse were men and just under half (47 per cent) were married. The average age of abusers, for all types of abuse, in the study was 54 years, confirming other studies that abusers tend to be middle-aged males.

These findings are similar to other studies. In a 2002 survey of 1,017 organisations and 129 GPs in Western Australia, Boldy et al. found that 81 per cent of known abuse cases and 21 per cent of suspected abuse were financial. Overall, 77 per cent of known victims of abuse were females and 28 per cent were aged 75 or over. While only 25 per cent of known female victims were aged 75 or over this rose to 39 per cent for known male victims. Looking at the abuser's relationship to the victim, it was found that 43 per cent of abusers were a son or daughter (Boldy et al., 2002; Boldy et al., 2005).

A 1999 study of 128 older adults identified as potential mistreatment cases in Quebec found financial exploitation in 41 per cent of cases. For abuse by a spouse, only 13 per cent of cases involved financial abuse, compared with 87 per cent of cases which involved psychological abuse. However, for abuse by an adult child, 59 per cent of cases included financial abuse with the same percentage including some form of psychological abuse. For all types of abuse, three-quarters of the victims were women and the majority of the perpetrators (65 per cent) were men (Lithwick et al., 1999).

A study of 370 case files from Protective Services for Older Adults in Erie County, New York between 1992 and 1997 found financial exploitation in 38 per cent of cases but financial mismanagement problems in 62 per cent of cases. Financial exploitation was more common among older individuals, those who owned their own home, had financial mis-management problems and had 'cognitive deficits' (Choi and Mayer, 2000). Those exploited were, on average, in their late 70s. Sixty per cent of exploiters were relatives, mostly adult children, but 40 per cent were not related (Choi et al., 1999).

Jacki Pritchard (2001) examined the experiences and needs of male victims of elder abuse. During a three-year period, 258 vulnerable older adults in England were identified as being victims of elder abuse; 23 per cent were men. Twelve older male elder abuse victims completed in-depth interviews, while other men participated in focus group interviews. It was found that the most frequent form of abuse involved financial deprivation, theft, or fraud of various kinds; gross physical neglect was also common. Male victims experienced the same types of abuse as female victims, and similarly experienced recurring patterns of abuse within their lifetimes.

Hidden Voices (Fitzgerald, 2004) also reports that men are more likely to experience financial abuse than women (23 per cent men; 20.7 per cent women).

The fact that more women than men are identified as suffering abuse is likely to reflect the fact that women live longer than men and are consequently more likely to be living alone. It is their circumstances that make women vulnerable to abuse, not their gender (Fitzgerald, 2004).

The risks of financial abuse in the home setting are dependent on living arrangements. Claudine McCreadie in a review of research outcomes in elder abuse reports that while older people living with others are at greater risk of physical abuse, those living alone are at greater risk of financial abuse (McCreadie, 2002). This finding contrasts with those from the Israeli study, mentioned earlier, which found that unmarried women who were frail, had disabilities and lived with others were at the greatest risk of financial abuse (Iecovich et al., 2004).

3.4.3 Financial abuse in residential care

Most financial abuse takes place in the victim's own home but up to 25 per cent may occur in the residential care setting (Cambridge, 2006) Some studies have addressed the problem of financial abuse of older people in residential care.

In a survey of managers of residential care facilities in Wellington, New Zealand, 54 per cent of managers had identified financial abuse in the previous six months and financial abuse was identified in 46 per cent of instances of abuse. When asked to identify the person responsible for a particular instance of abuse, a spouse, child or another relative was nominated in 63 per cent of instances (Weatherall, 2001).

In a residential care setting, one possible form of financial abuse of vulnerable older people is thefts by staff. In a recent postal survey of 1,116 employees in 47 nursing homes in the USA, 1.53 per cent of staff reported that they had stolen (mainly food, sweets and flowers) from residents but over 50 per cent saw or suspected work colleagues of stealing money, credit cards and cheques. In a parallel survey of relatives, using a pickup questionnaire, over 50 per cent of relatives said they had noticed items, mainly clothes, missing and 20 per cent suspected that staff were responsible (Harris et al., 2006).

A 2005 study in Scotland found that when older people move into residential care they may have their adult status and autonomy eroded. This is illustrated in areas where adults usually act autonomously – the control of money and financial affairs. A high proportion of older people surrender their financial autonomy by handing their pension to the local authority or a home owner and receiving a 'personal allowance' in return. In many cases this personal allowance is so small (less than £20 per week) as to preclude previously enjoyed leisure activities. In others the personal allowance itself is held by the home-owner. Residents feel unable to challenge this loss of financial control and had often been unaware, at the time of moving in, of the financial implications of moving into residential care (Bland, 2005).

In contrast, in the Langan and Means 1994 survey of residential care staff in Kirklees, care staff complained of relatives keeping back some of the personal allowance although some respondents expressed reservations about the wisdom of home-owners acting as appointees. The Kirklees study addressed many of the issues concerning the management of the financial affairs of someone with dementia and charging a patient for care. Many care staff handling the finances for a resident with dementia were afraid that they might be accused of financial abuse. There were seen to be inadequate personal safeguards, lack of guidelines and lack of knowledge (Langan and Means, 1994).

Issues concerning the management, in care homes, of financial assets of residents who lack capacity and the conficting tensions between relatives and care staff arise, in part, from the fact, reported by Langan and Means, that 'there is strong research evidence that many elderly people feel a strong desire to leave their money to their children rather than to have it consumed by the costs of services received in the last few years of life. . . . Some might feel more abused at the withdrawal by government of free continuous care services for people like them rather than angered at the manipulative behaviour of their children as they try to undermine the full effects of these policy changes' (Langan and Means, 1995).

3.4.4 Black and minority ethnic groups

Very little has been written about patterns of financial abuse within black and minority ethnic communities in the UK, who do not, in any case, form a single homogeneous group. Writing in 1999, Patel recognised that, among some groups, where there was greater owner occupancy, in many cases households were multi-generational and it was unlikely that the elder commanded a share of the house, having already distributed it among family members. This made assessments difficult and, when required to pay for care, family conflict sometimes ensued and in some cases led to elder abuse (Patel, 1999). In parallel studies of older people from the South Asian and majority communities in Scotland, it was noted that 60 per cent of South Asians lived with family members other than a spouse, and only 20 per cent lived alone compared with 54 per cent for the majority community. The South Asians living with family maintained a full role within the family unit even if they had relinquished financial responsibility (Bowes, 2006).

A 1998 conference organised by Action on Elder Abuse looked at abuse in the Chinese, Jewish and Polish communities and heard about cases of financial abuse in the Asian community, including the attempted expropriation, by family members, of property held in the country of origin (Scott, 1998).

A number of studies have looked at patterns of abuse in individual black and minority communities in the USA. An Illinois study of 865 cases in an Elder Abuse Provider Agency between 1989 and 1999 found no significant differences between black and non-black communities in many respects. Although 52 per cent of black victims were married compared with 61 per cent for non-blacks and average monthly income for non-blacks was over 90 per cent higher than for blacks, 54 per cent of both groups had a monthly income of less than $100. For both communities, 73–75 per cent of victims were female. For the non-black group 57 per cent or abusers were male but for the black group the majority (53 per cent) were female. Fifty-one per cent of the financial abuse was experienced by black victims although they made up only 45 per cent of cases overall. According to the author, unlike an earlier study by Griffin in 1994, this study did not show that blacks are more susceptible to financial exploitation than non-blacks. This study also challenged the assertion that perpetrators of financial abuse are more likely to have drug-related problems (Dimah, 2001).

3.4.5 Housing and financial abuse

The majority of older people living in private rented accommodation are older women living alone. Older private tenants experience financial problems concerning levels of and changes in rent, the collection or non-collection of rent and the fear of major rent rises following minor improvements or repairs. For the most part, however, problems centre on harassment rather than abuse (Fear et al., 2004).

In 2001, 64 per cent of people aged 65–74 and 56 per cent of those aged 75+ owned their homes outright. Issues of financial abuse for owner-occupiers centre, firstly, on being 'asset-rich, income-poor' and being persuaded to buy equity release products that offer very poor value for money (Coulter, 2006a; Coulter, 2006b). Secondly, owner-occupiers may themselves have, and also experience from their children, ambivalent attitudes and pressures concerning inheritance of their major asset, the family home (Rowlingson, 2006).

The Home Information Pack launched in 2007 under the Housing Act 2004 may have implications for older home-owners wishing to sell. A home inspector-prepared energy performance certificate is required by all sellers, and there is potential for exploitation by uncertified home inspectors, as well as bogus traders attempting to capitalise on the certificate and the report as a reason for gaining access to the house, and an excuse for undertaking unnecessary work. Even the legitimate acquisition of a certificate could be quite a burden for someone on a low income, who is only selling, and therefore does not benefit from having a certificate containing information about a new property.

3.4.6 Financial abuse by professionals

The Protection of Vulnerable Adults (POVA) list was introduced in 2004 to ensure that people deemed unsuitable were prevented from working with vulnerable adults. Twenty-five of the first 100 referrals to the list were for financial abuse (Stevens and Manthorpe, 2005). The Tizard study of adult protection alerts in Kent and Medway found that 41 per cent of cases of financial abuse were by professional staff of some kind. The study found that 8.5 per cent were by residential/ nursing home staff, 4.7 per cent by a manager or home owner and 15.3 per cent by staff whose role was not known (Cambridge et al., 2006).

The 2006 study by Harris et al., mentioned earlier, looked at thefts by nursing home staff in the USA, but there has been no systematic study of financial abuse by professionals in the UK. There is no reason to suspect that financial abuse by professionals is common but occasionally high-profile cases hit the headlines. Harold Shipman, the Greater Manchester GP who was convicted of murdering 15 elderly patients and may have murdered over 250, was probably motivated by financial gain only in the case of his final victim. In January 2007 Gervase O'Donovan, an accountant and former Mayor of Bath, was struck off by the Institute of Chartered Accountants for using, for his own purposes, large sums of money taken, using a power of attorney, from the account of an elderly client with dementia (Institute of Legacy Management, 2007).

3.4.7 Financial crime

Conventional wisdom holds that older people are more vulnerable to financial 'scams' and frauds than younger people. There is, however, conflicting evidence on this issue. The American Association of Retired Persons (AARP) conducted interviews with 745 victims of telemarketing fraud in 1995 and found that fraud victims are 'besieged by telemarketers' (AARP, 1996). Ninety-nine per cent of the fraud victims interviewed reported that they had been contacted by a telemarketer notifying them that they had won a prize or sweepstakes, or had been selected as one of a few people who were eligible for a prize.

Forty-two per cent of the victims interviewed reported that they had received 20 or more such calls during the previous six months by telemarketers who either asked for a charity contribution, tried to sell the victim something, or were notifying them about a contest or sweepstake. This research found that older people (aged 50+) were more likely to be the victims of telemarketing fraud. Fifty-six per cent of victims were aged 50+ compared with 36 per cent for the general population.

Further surveys by AARP in 1996 and 1997 found that 14 per cent and 12 per cent respectively of the sample had responded by providing a credit card number or sending in money to make a purchase, investment or donation, or to enter a contest. In its 1996 survey, AARP found that victims tended to be well educated, well informed, relatively affluent and not socially isolated. In 1995, in the USA, Titus et al. carried out a telephone survey to a representative probability sample of 1,246 respondents aged 18+ which found that, while 15 per cent of the sample had been successfully victimised by fraud in the previous year, those aged 65+ were less likely to report being fraud victims and the probability that a fraud attempt would be successful was unrelated to age or any other demographic variable. Victims are repeatedly targeted.

'One of the surest ways to become a personal fraud victim is to have been a victim' (Titus, 1999).

In the UK, 'bogus calling' or 'distraction burglary', targeting older people, is an issue causing great concern. In 2002–3 an NOP telephone survey commissioned by Help the Aged found that 3 per cent of respondents aged 60 or over had been approached or become a victim of someone trying to gain entry to their home through a trick. This survey found no significant difference in the targeting of younger and older age groups, which contrasts with national crime statistics where 'older people are significantly over-represented in the distraction burglary figures' (Thornton and Hatton, 2003). Home Office statistics for 2005–6 show distraction burglaries per 10,000 household to be particularly high in London, the East Midlands and South Yorkshire (Home Office, 2007).

3.5 Interventions: recognising and preventing abuse

3.5.1 Indicators of financial abuse

Financial abuse is a complex area and by its nature much abuse remains hidden (Pritchard, 1995). Victims of abuse may be ashamed or fearful and therefore unwilling to report it or refuse to recognise the abuse. They may also be socially isolated with no one to share their concerns with, and therefore not able to discuss and confirm their suspicions that they are being exploited. Alternatively, they may be fully aware that they are being taken advantage of but for other reasons choose not to do anything about it (Penhale, 2003). For instance, the victim may depend on the abuser for social and emotional support (Wilson et al., 2003). It is difficult for professionals, relatives and informal carers to recognise that abuse is taking place. Trying to prove financial abuse is taking place is particularly difficult (Pritchard, 1995).

Practitioners, professional bodies and researchers have developed a series of indicators to recognise financial abuse that are of potential use for devising prevention programmes (see, for example, Ogg, 1993; Pritchard, 1995; Comijs et al., 1998; Bond et al., 1999; Hanover Housing Association, 2000; Walsh and Bennett, 2000; Kurrle, 2001; Wilson, 2002; Rabiner et al., 2004; Daly and Jogerst, 2005; Reed, 2005; Furness, 2006).

The organisation Solicitors for the Elderly provides the following indicators of financial abuse:

- signatures on cheques, etc. that do not resemble the older person's signature or are signed when the older people is unable to write;
- any sudden changes in bank accounts, including unexplained withdrawals of large sums of money by a person accompanying the older person;
- the sudden inclusion of additional names on an older person's bank accounts; often these individuals are unrelated to the older person;
- abrupt changes to or creation of wills;
- the sudden appearance of previously uninvolved relatives claiming their rights to an older person's affairs and possessions;
- unexplained sudden transfers of assets to a family member or someone outside the family;
- numerous unpaid bills, overdue rent, care home bills, public utilities bills, etc. when someone is supposed to be paying bills for the older person;
- unusual concern by someone that an excessive amount of money is being expended on the care of the older person;
- lack of amenities such as TV, personal grooming items, appropriate clothing items, that the older person should be able to afford;
- the unexplained disappearance of funds or valuables such as art, silverware, jewellery;
- deliberate isolation of an older person from their friends and family, resulting in the carer alone having total control.
  (Solicitors for the Elderly/Anne Edis, 2005)

Rabiner et al. (2004) provide a detailed list of potential signs of financial exploitation that are broadly similar to those listed above, but include also:

- bank statements . . . no longer coming to the older person's home;

- new 'best friends';
- overcharges for, or non-delivery of, care-giving services;
- use of legal documents such as powers of attorney that the older person did not understand when they signed;
- family members who live with the older person and refuse to pay rent or coerce the older adult to care for grandchildren without payment;
- use of the power of attorney and other legal devices for purposes beyond those for which it was originally intended.

In a study on the financial abuse of mentally incompetent older Canadians (Bond et al., 1999), of 11 most frequently reported indicators of abuse, non-payment of bills for expenses within the personal care home accounted for over 25 per cent of cases where money should have been available to pay them.

While the above lists are commonly quoted in the literature as indicators of financial abuse, as noted previously an older person may experience more than one type of abuse at the same time, and the abuse may occur in more than one setting (Fitzgerald, 2004). Financial abuse could occur in conjunction with other forms of physical or psychological abuse (Choi and Mayer 2000; Boldy et al. 2005). Tueth (2000) found that psychological abuse, including deception, intimidation and threats, often accompanies financial exploitation. It is important, therefore, for professionals to be aware of indicators for all types of abuse, and if one type is recognised other types may also be occurring.

Daly and Jogerst (2005) provide a detailed list of indicators of financial abuse arising from a Delphi survey of adult protection service caseworkers in the US, and include this definition: 'exploitation/financial or property abuse is the illegal taking, misuse, or concealment of funds, property, or assets of an older person.' The authors found types of abuse – emotional abuse, exploitation of finances and/or property, neglect, physical abuse, and sexual abuse – have some similar and some extremely different indicators.

3.5.2 Interventions to prevent abuse

Evaluating whether or not financial abuse has occurred often involves complex and subjective determinations. It is important to balance an individual's autonomy with intervention to protect from perceived abuse. Adults have the right to make choices and take risks. Tilse et al. (2003) note that 'the challenge for policy and practice is to develop a better understanding of the extent and nature of financial abuse and appropriate interventions without developing a new paternalism and ageist stereotypes in relation to older people and their capacity to make their own decisions and manage their own assets'.

In her 1996 paper *Financial Abuse of the Elderly* published by the National Center on Elder Abuse, Lisa Nerenberg states: 'Owing to the difficulties involved in investigating and proving financial abuse, as well as the fact that abusers have often spent or dissipated assets by the time the abuse is discovered, the most effective way of protecting seniors is through preventive interventions.'

This statement establishes an important principle in interventions to deal with the financial abuse of older people, which is that **prevention is better than cure**.

Rabiner and Brown (2004) have developed a conceptual framework to assist policy-makers, practitioners, law enforcement officials and others to develop, implement, and evaluate different strategies to reduce the risk of financial exploitation among older people. They identify characteristics of older adults that suggest vulnerability, characteristics of the perpetrator, status inequality, relationship type, power and exchange dynamics, social networks of the victim and perpetrator, and the act of financial abuse.

Choi and Mayer (2000), in their study of risk factors and prevention strategies for elder abuse, neglect and exploitation, found that financial exploitation alone was more common among older individuals and those who owned their own home, had financial-mismanagement problems, and had cognitive deficits. Risk factors overall included gender, age, living arrangements, poor health, mental heath, cognitive deficits, social support and alcohol abuse.

3.5.3 Training

All professionals in the health, social care, police, legal and financial sectors require training to recognise financial abuse, and the risk factors, alongside other forms of abuse.

The Health Committee Inquiry on Elder Abuse (2004) noted: 'The lack of training in issues relating to elder abuse (for example, identification, prevention and reporting) is encountered in all settings in which abuse occurs. We call for mandatory training in the recognition, reporting and treatment of elder abuse for those professionals working and caring for older people.'

Social services are the lead agency in adult protection teams constituted in response to the *No Secrets* (2000) guidance. Social workers are the most likely to have received some training in elder abuse generally, including indicators for financial abuse. The *No Secrets* guidance section 5.2 states that training for staff and volunteers should include basic induction training with regard to awareness that abuse can take place, but also 'more detailed awareness training, including training on recognition of abuse'.

Neno and Neno (2005) argue that nurses are well placed to identify possible cases of abuse in older people when conducting a full holistic patient assessment and they should be aware of the many signs and symptoms of abuse. However, they point out that awareness of elder abuse is not a mandatory training requirement for qualified or unqualified staff, and is not required to be included in pre- and post-registration nursing curricula.

While there have been several initiatives in the US to train financial personnel to identify financial abuse, in the UK there are concerns that bank staff are not alert to the dangers of financial abuse and are not trained sufficiently in this area (Walsh and Bennett, 2000).

Age Concern's response to the Banking Code Review (2007) has highlighted the need for improved access to banking services for older people, many of whom are not benefiting fully from the services on offer, due either to lack of access or because the services are not tailored to their needs. The Code should include a 'key commitment' requiring subscribers dealing with vulnerable consumers to take extra care, and should require subscribers to meet the needs of customers who lack the mental capacity to handle their own finances, and their attorneys and receivers. The charity also calls for the lending sections of the Code to be strengthened and note that lenders should have procedures in place to guide staff when financial abuse is suspected.

Nancy Everson (1996) describes a US initiative where a partnership between the Office of Aging and local bankers in Berks County, Pennsylvania, US is designed to train bank tellers, customer representatives and managers to identify and report suspected cases of financial abuse against older customers. Because many financial abuses involve suspicious withdrawals of money, banks are in a position to identify and report such interactions. With training from professionals in the field of ageing, bank personnel can be on the alert for problems and report them to appropriate adult protection services. Changes in clients' behaviour, habits, health conditions, communication styles and practices (e.g. bringing strangers with them to the bank) may be warning signals.

Kaye and Darling (2000) evaluate several programmes in Oregon's efforts to reduce the financial exploitation of older people. One was to develop a multimedia training kit to help bank tellers recognise suspicious transactions and instruct managers on how and when to call the police when financial abuse is suspected. The kit has been distributed to every bank in Oregon and to each state banking association, adult protective services administrator and attorney general.

In its strategy document on abuse of older and vulnerable people, Solicitors for the Elderly (2005) provides legal advisers with guidance on recognising and responding to financial abuse of their clients. It notes in particular that 'advisers are in a position, particularly in relation to financial abuse, to build in protection for the client, when advising and drafting documents'. It stresses that legal practitioners must have regard to the Professional Conduct Rules and duty of care to the client and therefore act in their best interest: 'That duty of care increases in cases where a professional is the Attorney or Receiver.'

The strategy encourages legal practitioners to take a proactive approach to abuse generally by, among other things, offering awareness training to social workers, paid carers and care homes, or get involved with the development of local vulnerable adults codes of practice. Bridget Penhale (2003) supports the view that although social services departments have the lead role for co-ordinating responses in cases of financial abuse it is likely that legal practitioners will become increasingly involved. This could be progressed by including legal practitioners from private practice as well as local authorities in inter-agency training sessions, and through representation on adult protection committees.

3.5.4 Social networks

Social isolation is commonly cited as a risk factor of abuse. Activities to prevent social isolation and promote inclusion in a community support network can therefore help to reduce the risk of exploitation (Rabiner et al., 2004). The JRF report *Older People Shaping Policy and Practice* (2004) found that many older people do not feel part of any community and are isolated from their family. Future forms of community development and community support may include increased volunteering to visit people in their homes or arrange social events where people can meet and share experiences. The authors suggest that services need to think about supporting the networks of support, i.e. families, friends and neighbours, that make up a community.

The government's interim report on social exclusion (ODPM, 2005) acknowledged that promoting social inclusion involves education, employment, leisure and active social roles, not just health, housing and social care. The views expressed by respondents can be distilled into three key themes for how services for excluded older people should be delivered in the future: the importance of early intervention and low-level services; the need for joined up and co-ordinated services; and the importance of promoting user involvement, choice and control.

A Sure Start to Later Life: ending inequalities for older people, the final report on social exclusion published in 2006, details cross-government policy to address the exclusion, poverty and isolation experienced by older people. Drawing on the Sure Start model created for children and families, the aim is to locate a single, accessible gateway to wide-ranging services in the community, where potential problems can be identified quickly and prevented from becoming worse.

3.5.5 Money management

Good financial advice would help older people to manage better their limited resources and reduce the risk of financial abuse.

Maxwell and Sodha (2006) recommend that the government should establish a generic financial advice service specifically for older people, and reduce the means-testing of benefits that inhibits the withdrawal of housing equity.

The FSA is responsible for the regulation of the sale of lifetime mortgages, which from April 2007 has included home reversion schemes – both are forms of equity release. The FSA in its press release of 19 July 2006 noted that advice on equity release, while improving, remains poor, particularly where firms do not specialise in this area and are not advising about possible impact of equity release on means-tested benefits (FSA, 2006)

Equity release schemes, particularly reversion schemes, often offer poor value for the older person and have been a cause for concern. Vulnerable older people may be particularly at risk (Coulter, 2006a; Coulter, 2006b).

Help the Aged (2006) suggests that financial services industries are making it more difficult for older people to manage their money safely through:

- bank closures;
- enforced use of chip-and-PIN: chip-and-signature can be used by people who cannot use a PIN but the banking sector is not promoting this alternative and the procedure for obtaining these cards is not very accessible;
- equity release: reversion schemes should be regulated to protect vulnerable older people;
- basic bank accounts: informal evidence suggests that not all banks are promoting basic bank accounts.

Rabiner et al. (2004) include as prevention strategies:

- establishing methods for handling routine financial transactions such as direct deposit, electronic auto payments or bill-paying services;
- providing daily money management assistance to older people as experienced in the US with a new type of practitioner – the daily money manager.

In the US daily money management (DMM) programmes assist people who have difficulty managing their personal financial affairs. DMM includes help with simple, routine tasks such as paying bills, preparing cheques for signature, making bank deposits and dispensing cash. It may include more complex tasks such as negotiating with creditors, maintaining home payroll records for employed care staff and calculating taxes. The service is offered by public agencies as well as private, non-profit and for-profit organisations. Individuals who perform the service include accountants, home care workers, bookkeepers, social workers, volunteers, nurses and others (Nerenberg, 2003).

Many professionals view DMM as a promising approach to stopping or preventing elder abuse. An AARP survey (1996) found 74 per cent of the respondents included financial abuse or exploitation among the primary reasons why clients need money management. DMM can prevent abuse and neglect by eliminating opportunities to abuse, blocking access to assets, or removing the motive to abuse. The potential of DMM programmes to prevent elder abuse has prompted several elder abuse programmes in the US to provide the services. Nerenberg describes a range of model programmes, along with some of the problems associated with US versions of DMMs.

3.5.6 Prevention strategies in care homes

Nursing home patients, who are often old, weak and cognitively impaired, can be easy targets for financial mistreatment at the hands of those entrusted with their care, safety and well-being. Harris and Benson (2006) undertook a postal survey of 1,116 employees in 47 nursing homes – the first and only US nationwide study on the theft of patients' belongings – to help develop practical methods of controlling abuse. In the employees' survey over 50 per cent saw or suspected work colleagues of stealing money, credit cards and cheques. Screening and vetting of employees, training, adequate staffing levels, zero tolerance, and having employees work together rather than alone are strategies for creating a safer environment and reducing all forms of abuse.

Care homes and local care home organisations are being directed to the national framework 'Safeguarding Adults' (ADSS, 2005), produced by the Association of Directors of Social Services: adult protection network, in collaboration with organisations such as the Practitioner Alliance against Abuse of Vulnerable Adults (PARVA). The framework consists of 11 headline standards. 'Safeguarding Adults' includes service users in care homes, and 'abuse' includes all care activities and practices which might compromise residents' well-being, e.g. standard 4 includes handling service users' money.

3.5.7 Multi-agency approach and co-ordination

Brown (2003) draws attention to the different contexts of abuse and their related systems for protection in each case:

(1) predatory, targeted or hate crime – prosecute individuals and screen workforce, i.e. police, Criminal Records Bureau (CRB);
(2) service settings and paid-for relationships – regulate settings for both individuals and practices, i.e. Commission for Social Care Inspection (CSCI);
(3) impairment or challenging needs – consult and scrutinise, i.e. legal instruments, Public Guardianship Office (PGO);
(4) failure to access health care, benefits, legal remedies, housing and other resources – advocate and campaign, i.e. Prevention of Professional Abuse Network (POPAN), Citizens Advice Bureau (CAB) and voluntary organisations.

It is clear that a variety of systems and formal and informal mechanisms are brought into play in response to financial abuse, hence the need for a co-ordinated multi-agency approach.

Malks et al. (2002) assess the Financial Abuse Specialist Team (FAST), a US initiative launched in 1999 that investigates and acts on reports of financial abuse. FAST is a multidisciplinary collaboration involving team members from adult protective services (APS), the public administrator/guardian/conservator, the district attorney's office, and the county counsel. The FAST protocol includes rapid response, the ability to freeze assets, and the collaborative ability to address all of the client's needs. Enhancements of the FAST programme include continued training of law enforcement personnel, development of a financial institutions protocol and a training programme. The most critical lesson is that teamwork across disciplines and agencies is the key ingredient in achieving goals of FAST and ensuring the well-being of clients.

3.6 Advice, education and information for older people

There is evidence (Age Concern, 1998) that older people are experiencing difficulty in finding reliable sources of information on financial matters including advice on products and services. Older people have indicated they would like a simpler system for accessing relevant information, such as guidance for dealing with money matters from one source. Age Concern suggests that more effort should be made by financial advisers to be more accessible to older people.

While the Financial Services Authority (FSA) has a legal responsibility to promote financial education and literacy, the financial literacy of older people has not been included within the working groups as part of the strategy. The increasing sophistication of money management and financial services' growing reliance on information and computer technology (ICT) have made financial literacy education particularly important for older people, who are less likely to be engaged in the ICT revolution and more likely to be living on a low income. NIACE (2002) provides a briefing sheet on financial literacy and older people that encourages education providers, community workers, and others to take specific actions to help older adults acquire the financial literacy needed in today's world.

HM Treasury (2007) published its long-term strategy for financial capability, and announced an independent feasibility study for a national 'generic advice' service. This is advice to help individuals manage their own money, supplementing advice that is available from the commercial sector.

A report by the Joseph Rowntree Foundation (2003) assessing financial products for people on the margins of financial services looked specifically at financial information and advice services. Its recommendations include:

- Devise information, advice and advocacy services centred on the needs of people, not on descriptions of the provision of services.
- Maintain information systems in a way that older people will find useful; this should include face-to-face communication, different products (e.g. books and audiotapes, internet) in different languages.
- Provide financial advice and money management, combining one-to-one advice and workshops on money management and financial advice.
- People prefer dealing with locally based

organisations and having products and services delivered by well-trained staff working for established providers; hence, they prefer initiatives offered as a partnership between community organisations and either a financial service provider or government.

Although statutory and voluntary agencies provide a vast array of information and advice, Kerr et al. (2003) note that 'a major problem is the lack of knowledge that such advice and information exists'. Some organisations are open to criticism for making information available only as downloads from their websites, excluding many older people from accessing it.

Advocacy services have the potential to contribute in many ways to the resolution of abusive situations: for instance, the advocate may serve as a witness and counter the secrecy that surrounds abuse; by offering recognition of the abused person, they may disrupt negative expectations; and at a preventive stage the advocate may contribute to empowerment by working with the abused person.

OPAAL (the Older People's Advocacy Alliance) argues that 'adult protection procedures and frameworks need to permit and encourage the deployment of advocacy. Older adults at risk should have the right to draw on the support of advocacy schemes and the skills of advocates to try to resolve their problems on their own terms' (Jackie Robinson, OPAAL, 2006).

3.7 The legal framework

There is no legal definition of elder abuse or financial abuse, and there is no specific legislation for protecting vulnerable older people as there is for children. However, formal protective strategies are more successful than any others for preventing financial abuse (Cripps, 1999). There is a premise that older people require statutory protection because of the association of age with physical and/or cognitive impairments that increase vulnerability to abuse.

In the UK relevant legislation is patchy, which makes it difficult to understand and/or enforce. Civil courts may be involved for claims of fraud, coercion, undue influence, lack of capacity and breach of fiduciary duties for an attorney; the police are called in for criminal offences such as unauthorised access to vulnerable adults' finances and taking assets belonging to another; DWP fraud investigation teams may be called in for abuse involving benefits; banks and other financial institutions have fraud investigation teams (Solicitors for the Elderly, 2005).

The Mental Capacity Act 2005, Fraud Act 2006 and Safeguarding Vulnerable Groups Act 2006 provide increased protection for vulnerable older adults.

The Mental Capacity Act 2005, which came into force in April and October 2007, is based on the premise that every adult has a right to make his or her own decisions and must be assumed to have capacity unless proved otherwise. A lasting power of attorney (LPA) which replaces the enduring power of attorney, has to be registered with the Court of Protection prior to use; contain a certificate of capacity; and show there has been no undue influence or fraud. It covers health as well as financial matters.

Regulations have been agreed for the new independent mental capacity advocate (IMCA) service, introduced in April 2007. Whereas a deputy was formerly appointed by the Court of Protection to make financial decisions, an IMCA should now be appointed to represent and support anyone where an accommodation move or serious medical treatment is involved, if there is no one else able to do so.

Guidance on the Act is provided in the Codes of Practice. The Mental Health Foundation (2005) notes that although professionals and paid carers must follow the guidance, this legal duty does not apply to relatives and other unpaid carers although they are expected to follow the codes. They will not receive any training on the Act or codes. 'Given that in most cases the day-to-day decisions on behalf of individuals who lack capacity will be made by their family carers it will be crucial that the general public are made aware of the Act and information is made widely available so that family carers can obtain clear and concise information on their responsibilities.'

The Fraud Act (2006) introduces new offences that will help protect vulnerable older people from financial abuse in relation to:

- fraud by abuse of position (e.g. abusing LPA, EPA, etc.).

Fraud by abuse of position

(1) A person is in breach of this section if he (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person; (b) dishonestly abuses that position; and (c) intends, by means of the abuse of that position (i) to make a gain for himself or another, or (ii) to cause loss to another or to expose another to a risk of loss.

(2) A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

- possession, making or supplying articles for use in frauds (e.g. phishing kits)

Making or supplying articles for use in frauds

(1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article
(a) knowing that it is designed or adapted for use in the course of or in connection with fraud; or
(b) intending it to be used to commit, or assist in the commission of, fraud.

The Safeguarding Vulnerable Groups Act provides:

- a new vetting/barring scheme to prevent unsuitable people working with children and vulnerable adults, with a central vetting process built on the Criminal Records Bureau (CRB) and a new independent statutory board which will take decisions on including someone on the barred list where evidence suggests that they present a risk of harm to children or vulnerable adults;
- for the Protection of Vulnerable Adults list to be replaced with a list whose scope extends beyond that of regulated social care settings;
- new powers and duties on the police, social services, regulatory bodies and others to share information with, and receive information from, the new vetting/barring scheme.

EPAs and other semi-formal access given to families are not always a safe or protective form of asset management: further investigation and monitoring is needed.

Policy-makers need to be more observant in providing an early intervention process for supporting and/or monitoring the appropriate use of formal and legal mechanisms within the community. Legal interventions need to be more proactive: at present intervention takes place after the financial abuse has occurred (McCawley et al., 2006). Brown (2003) argues that this is a pervasive problem with present systems in the UK.

3.7.1 Public Guardianship Office

The aim of the Public Guardianship Office (PGO) is to promote the financial and social well-being of persons unable to administer their own financial affairs due to mental incapacity. The risk of financial abuse is a major concern. Brown et al. (2005) analyse case files identified by the Public Guardianship Office staff as those in which abuse was a strong possibility. The cases reviewed focus primarily on older people as it is clear that old age and mental impairments, such as dementia, create heightened risk of financial abuse. The cases examined fell into these categories:

(a) fraud: 42 per cent, where persons' needs were not met and their representative gained excessively; 23 per cent target and groom; 4 per cent forgery
(b) hoard: 13 per cent of needs not met because beneficiaries were keeping money back for themselves
(c) reward: 6 per cent of needs met but representative gained excessively; 4 per cent ignored – no gain for representative but vulnerable adult neglected
(d) unclassified: 8 per cent family conflict or abuse unsubstantiated.

Property transactions played a part in 27 per cent of cases.

Adult children were most frequently implicated as abusers. Analysis of the cases suggested that a more proactive system of risk management could be developed. Three interacting risk domains were highlighted: the person's vulnerability; the character/intention of the person's representative; and the financial arrangements in place. The PGO has a major role to play in preventing financial abuse of its clients but also in stepping into situations where abuse has already occurred in order to regularise the situation and provide mechanisms that fill the vacuum which the perpetrator has created or exploited.

Wilson et al. (2003) explore the links between the Public Guardianship Office and social services in relation to abuse and to local authority management of the finances of vulnerable people. They found victims of financial abuse were often very dependent on the person abusing them for physical, social and/or emotional support. They identified a risk that the PGO and social services work in isolation from each other in seeking to protect some very vulnerable individuals. In some cases overlapping responsibilities might provide additional protection but there is also potential for gaps to appear where roles are unclear. They recommend increased collaboration between the PGO and social services and suggest that a better system for referring cases between social services departments and the PGO would allow better sharing of information about the level of risk. Misunderstandings can easily occur when work is jointly undertaken across boundaries. A major role of the PGO is improving public awareness and providing public information on the implementation and working of the Mental Capacity Act 2005.

3.8 The regulatory framework

As previously noted, *No Secrets* is the government policy set out in 2000 to protect vulnerable adults (older people and people with learning difficulties, etc.) from abuse. It provides guidance on developing and implementing multi-agency policies and procedures. 'The aim is to create a framework for action within which all responsible agencies work together to ensure a coherent policy for the protection of vulnerable adults at risk of abuse and a consistent and effective response to any circumstances giving ground for concern or formal complaints or expressions of anxiety.' It offers a structure and content for the development of local inter-agency policies, procedures and joint protocols for the protection of vulnerable adults (POVA), which will draw on good practice nationally and locally. It also discusses the provision of broader guidance for staff, users, carers and members of the public.

The Commission for Social Care Inspection (CSCI) produces *Quality in Social Care* (QISC) bulletins for the social care sector, which seek to improve the quality of services in a range of areas; a bulletin published in summer 2007 focused on how providers can improve the support given to users of social care in accessing and using their money. The bulletin draws on the legislation, regulations and guidance to minimise the risk of criminal activity or financial abuse.

The government, responding to the Health Committee Inquiry into Elder Abuse (2004), noted that financial abuse falls clearly within the remit of *No Secrets* and *In Safe Hands* (National Assembly for Wales, 2000). Financial abuse is listed as one of the categories of abuse that should trigger action within local guidelines: 'Its incidence and subsequent action should be included in local data collections.'

Mathew et al. (2002) report the results of a survey of local authorities between June and September 2001, which asked about progress in responding to the *No Secrets* guidance. The findings of the survey suggest that the majority of local authorities are taking action in response to the guidance. Nearly all authorities are investing in training and monitoring systems but fewer are producing information for the public or investing in systems for monitoring service providers. All but a few authorities plan to set up a multi-agency management committee for adult protection.

In 2004, Keith Sumner in his review of social services' progress in implementing *No Secrets* analysed their codes of practice. He noted there is good evidence of a strong commitment to engaging and working with both statutory partners and local voluntary and private providers. However, there remain too many exceptions to be complacent. The study found that the definition of abuse detailed in *No Secrets* had been adopted by 82 per cent of authorities. A great deal of effort has been put into ensuring that detailed operational procedures and practical guidance for staff are available.

In 2007 a detailed assessment of adult protection from the Commission for Social Care Inspection (CSCI) found that a sixth of all 150 councils in England were failing. CSCI reported that councils do not have systems as tight as they should be and therefore cannot be sure they are responding adequately to adult protection referrals.

It is suggested that *No Secrets* has been poorly implemented because there is no law to enforce it.

No Secrets requires all registered care homes to maintain up-to-date adult protection policies and for staff to have training in recognising and dealing with suspected abuse. These policies are checked by annual CSCI inspection. Furness (2006) found that few residents (26 per cent) would raise concerns with an official inspector from CSCI and recommends that greater attention needs to be paid to seeking 'service user' feedback as part of the revised CSCI inspection methodology. The manager has the legal responsibility to deal with allegations of abuse; he or she needs to be aware of possible indicators of abuse and have a framework for decision-making. Mandatory training on adult protection could become part of the registration process. Residents' views also need to be taken seriously if they are to voice their opinions about life in a care home.

Standard 35 in the National Minimum Standards for Care Homes for Older People (Department of Health, 2003) calls for 'the registered manager to ensure that service users control their own money except where they state that they do not wish to or they lack capacity and that safeguards are in place to protect the interests of the service user'.

The Health Committee Inquiry on Elder Abuse (2004) recommended that 'the regulatory bodies of health and social care increase their surveillance of financial systems including the use of powers of attorney and, in care homes, the use of residents' personal allowances'.

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