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Paper 2

**Financial abuse within families:
Views from family members and professionals**

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Background

Financial abuse of older people, defined as ‘the illegal or improper use of the older person’s property or finances’ (Kurrle and Sadler, 1994:6), is a common, growing and little researched area of elder abuse. Though older people often fear abuse by strangers, abuse of older people largely occurs within families, with adult children being the main perpetrators.

The extensive body of literature on elder abuse does not focus specifically on financial abuse (Wilber and Reynolds, 1996). Different forms of abuse have different dynamics (Langan and Means, 1996; Age Concern Auckland, 1999). Understanding these requires separate analysis in order to develop a theoretical understanding of the underlying dynamics and to develop appropriate legislative, policy and practice responses.

This presentation reports aspects of data from a research program (in progress) in which financial elder abuse is conceptualised as behaviours at one end of a continuum of practices related to management of the assets of older people by family members or friends who are considered to be ‘like family’. The findings relate to the perspectives of 127 older people and family members/friends regarding management of the older person’s finances, sharing of assets within families, and accountability procedures. Data drawn from an earlier stage in the research program related to the experiences of 21 allied health professionals regarding their decision making and interventions in financial abuse situations is used to highlight the constraints on professional intervention in suspected family financial abuse. The analysis explores the factors, which coalesce to create the conditions in which financial abuse can emerge and persist undetected and/or unreported.

Findings regarding management of finances and asset sharing

Older people whose assets are being managed (asset managed) and family members/friends (asset managers) involved in management of the older person’s finances and assets spoke readily about their practices and experiences. A number of the taken for granted practices described, operate in a continuum and at best place the older person at risk of financial abuse and at worst constitute financial abuse. Such practices also place asset managers at risk of accusations of abuse, for example, by other family members. These risky/abusive practices include:

- inadequate or no accountability procedures particularly for cash payments;
- appointing attorneys who may lack the required personal or financial skills to take on the responsibility, or who may be subject to influence by a spouse or other significant person whom the donor feels hesitant about;
- asset managers taking over full control – supposedly to make it easier for the older person - but effectively denying the level of control over money sought by the older person;
- asset managers being overly generous with an older person’s money – for example, by using a gifting option excessively;
- fraudulent use of authority such as falsifying a signature or continuing to use an Enduring Power of Attorney after the donor has died or revoked the document in order to get important paperwork done while in a transition period.

Clearly abusive asset management practices were identified in 16 of the 127 interviews. The types of abuse resemble those mentioned in the literature on financial abuse (Wilber and Reynolds, 1996) for example, coercion to change wills, Enduring Powers of Attorney (EPA) or other financial arrangements (7), theft (7), misuse of an EPA or other authority to act on behalf of the elder person (6), breach of contractual arrangements (1) and misuse of hospitality (1).

Inter- and intra- generational practices surrounding sharing of assets within families were explored. Abusive practices surrounding the way families share assets was identified in 47 of the 127 interviews and include being pressured to grant loans or gifts (7), problems with repayment of loans (37), acceptance of non-repayment of loans, taking over the use of an asset without a compensatory contribution (7), and problems reclaiming contributions made to a granny flat if/when needed (2). Other worrying trends included the frequency of conflict over the distribution of an estate (15). These types of abusive asset sharing practices are just as likely to occur among people who have full intellectual and physical capacity, who are younger, and who are still handling all their own finances as they are among the more typical frail, dependent and vulnerable abuse victim.

Asset stripping to lower an older person's asset level below the threshold to qualify for the age pension and avoid high accommodation fees in residential care is one strategy used to maintain assets within the family. This practice leaves the older person very vulnerable with few assets to pay for any future care needs. This vulnerability is compounded in a situation where the family home has been signed over to younger generations or proceeds from its sale have been invested in a granny flat, with the older person having little or no ability to retrieve the money if needed. Legally binding arrangements regarding reimbursement of money invested in granny flats are not a common practice.

Underpinning rationales and attitudes towards the management of older people's assets expressed by both older people and family members tend to support risky practices. Typical attitudes include complete trust in family members to 'do the right thing', a preference for informal arrangements when dealing with family and a lack of future consideration of changes in care needs, changes in one's financial situation and the quality of relationships between those involved in asset management.

From the perspective of allied health professionals interviewed, rationales that facilitate financial abuse include a false sense of entitlement to the assets of older people by the alleged abuser, devaluing the rights of the older person and putting their own needs before those of the older person. A small number suggested the abuse was the result of a lack of awareness by family carers of the older person's needs. Most practitioners' stories showed their orientation to intervention was on protecting the older person, rather than pursuing social justice remedies such as bringing the alleged perpetrator to the attention of relevant authorities. Here ethical issues relating to tensions between a duty of care to protect the older person and the older person's right to be self-determination were evident (Gazard 1996; Anetzberger, Dayton and McMonagle 1997).

Discussion: the conditions which facilitate financial abuse

There are a number of reasons to explain why financial abuse against an older person by a family member or close friend may be executed with relative ease and success. Social Cognitive Theory (SCT) as developed by Bandura (1986 and 2001) and applied by Feldman (1993) in the field of criminology provide a framework for understanding the links between macro and micro circumstances that lead to the emergence of abusive behaviours.

Central to SCT is the concept of human agency, namely, the capacity to exercise control over the nature of one's life and actions to exercise intentionality and forethought, to regulate own behaviour and to reflect about own capabilities. All behaviour (apart from accidental occurrences) is viewed as intentional and reasoned, no matter how rudimentary and poorly formed the reasoning may be. Human agency operates within an environment, which consists of a broad network of socio-structural influences.

As an explanation of criminal behaviour, SCT directs attention to particular aspects of the personal and environmental dimensions that create the conditions for abuse to occur. Not all factors operate in all crimes and the prominence of different factors varies according to the type of crime (Feldman, 1993). The ones found most useful in explaining financial abuse within family settings are listed below and briefly discussed.

COGNITION		ENVIRONMENT
The older person	The abuser	
<ul style="list-style-type: none"> • Physical and cognitive abilities • Beliefs about self capacity • Beliefs about reciprocity obligations and expectations within families 	<ul style="list-style-type: none"> • Personal factors • Rationales • Perceptions of gain versus risk • Opportunity for learning the skills and behaviours required 	<ul style="list-style-type: none"> • Family structure and relationships • Societal norms • Situational factors • Broader cultural influences • Legal and administrative tools available to assist • Government policy

Financial elder abuse by family members often is not recognised as abuse by those involved or in the wider societal context. Abuse within families contradicts societal values of families as places of mutual support, loyalty and honesty, making it more acceptable to suspect strangers rather than those close to the victim. Even where family abuse is apparent, victims are likely to excuse and explain the behaviour as a result of personal or financial circumstances rather than as a criminal offence. Beliefs about reciprocity, obligations to help ones' children when in difficulty and expectations regarding future inheritance all combine to perpetuate an acceptance of financial abuse by future beneficiaries, as disappointing but not as criminal behaviour.

The same factors apply to family members who typically rationalise their behaviour with a sense of entitlement (*I deserve it*) or a need (*I need it more than they do*) or by convincing themselves that their actions will not harm the older person (*they can afford it*).

These rationalisations are reinforced by societal norms where the accepted threshold for tolerating financial abuse committed by future beneficiaries of an estate is much higher than for offences committed by an outsider, so long as the activities do not impact significantly on the quality of life of the elder person. The risk of any legal consequences is minimal due to a combination of a low risk of detection as well as a low risk of reporting. Professionals revealed how they are much more likely to chose interventions focussing on protection of the older person (monitoring and/or containing the situation) rather than on prosecution of the abuser.

With the victim reluctant to suspect a close family member, ashamed to admit what is happening, and opposed to taking any kind of legal action, chances are that the incidence will pass without any consequences for the perpetrator. As highlighted by the professionals the potential personal cost of taking action, particularly when the perpetrator is the main source of social and emotional support, is simply too high.

Unlike other criminal offences, such as ‘break and enter’ where specialist skills often are required, financial abuse within families is based on everyday, life skills of banking, purchasing and handling money as well as the interpersonal skills of asking for loans/favours/contributions. Situational factors such as access to the victim, invisibility of the crime and opportunity to commit the offence are all favourable to family members taking financial advantage of the older person.

Conclusion

This study identifies risky and abusive practices in relation to older people’s money and assets, as well as a range of underlying rationales for such practices. Risky financial management practices do not necessarily lead to financial abuse. However, risky practices that are taken for granted, that are supported by societal and family attitudes to older people and their assets in a context of ease of access and limited means of detection and legal protection set the conditions for increased financial abuse of older people. There is a need for public debate, education and strengthening of legal and other protective mechanisms for both older people and family members involved in asset management.

References:

- Age Concern Auckland (1999) *Current and future implications for the older population with the Enduring Power of Attorney*, Report compiled for Age Concern Auckland and Auckland Elder Abuse Advisory Network, Auckland, New Zealand.
- Anetzberger, Dayton and McMonagle (1997) 'A Community Dialogue Series on Ethics and Elder Abuse, Guidelines for Decision-Making', *Journal of Elder Abuse and Neglect* 9(1), pp.33-50.
- Bandura, A. (1986) *Social Foundations of Thought and Action: A Social Cognitive Theory*, Englewood Cliffs, NJ: Prentice-Hall.
- Bandura, A. (2001) 'Social Cognitive Theory: an agentic perspective', *Annual Review of Psychology*, Annual 2001.
- Feldman, P. (1993) 'The cognitive/behavioural approach', Ch 9, *The Psychology of Crime* Cambridge Uni Press, Cambridge.
- Gazard (1996) 'All you need is....', Preparation of practitioners for intervention in situations of older abuse, *Papers and Proceedings*, NSW Advisory Committee on Abuse of Older People in their Homes, Wesley Centre, Sydney 2-3 May.
- Kurrle, S. & Sadler, P. (1994) *Assessing and managing abuse of older people: a handbook for the helping professions*, NSW Government, Broadway, NSW: Alpha Biomedical Communications.
- Langan, J. & Means, R. (1996) 'Financial management and elderly people with dementia in the UK: as much a question of confusion as abuse?', *Ageing and Society*, 16:287-314.
- Wilber, K. & Reynolds, S. (1996) 'Introducing a framework for defining Financial Abuse of the Elderly', *Journal of Elder Abuse and Neglect*, Vol. 8(2), pp. 61-80.