

BLACKPOOL SAFEGUARDING ADULTS BOARD

Practice Guidance

Financial Abuse

Practice Guidance Summary

This Practice Guidance Note forms part of a series of documents that is intended to be used by practitioners when dealing with Adult Safeguarding. They support the overarching Pan-Lancashire Multi-Agency Safeguarding Adults Policy and Procedures.

Financial abuse is one of the most prevalent forms of mistreatment and is specifically mentioned in the Care Act 2014. The purpose of this guidance is to supplement the Pan-Lancashire Multi Agency Policies and Procedures, to ensure that financial abuse is identified early and dealt with in a proportionate, appropriate and timely manner.

This document was originally produced by Gateshead Safeguarding Adults Board and has been adapted with permission for Pan-Lancashire

Contents:

Section 1: Financial Abuse

- Definitions
- Financial Abuse is
- Potential Indicators of Financial Abuse
- Who are the perpetrators?
- Any adult is at risk
- Beware of

Key Considerations

- Consent
- Capacity
- Support Planning

Section 2: Safeguarding Adults Policy and Procedures

- National Context, including link to Care Act 2014
- Links with Pan-Lancashire Safeguarding Adults Multi-Agency Policy and Procedure

Section 3: Quality Assurance

- Governance and Accountability
- Review

Appendices:

Appendix 1 - Financial Management Options

Section 1 – Financial Abuse

1.1 Introduction

1.2 Financial Abuse

Definitions:

S42 (3) of the Care Act defines Financial Abuse to include:

- (a) Having money or other property stolen,
- (b) Being defrauded,
- (c) Being put under pressure in relation to money or other property, and
- (d) Having money or other property misused.

The Guidance provides further detail and defines Financial or Material Abuse as:

Theft, fraud, internet scamming, coercion in relation to an Adult's financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.

A study into the abuse of older people in the UK (Davidson et al, 2015) estimated that between 1 and 2 percent of people aged 65 or over have suffered financial abuse. In addition, a report from the Social Care Institute for Excellence (SCIE) also found that 17 percent of the 'general public' knew a vulnerable adult (18+) who had been a victim of financial crime.

Financial Abuse includes:

- Person paying / gifting money.
- Taking someone's money or property.
- Forging a person's signature.
- Carers keeping change or reward points buying two for one and keeping one.
- Getting a person to sign a deed, will, or power of attorney through deception, coercion, or undue influence.
- Using the person's property or possessions without permission.
- Promising care in exchange for money or property and not following through on the promise.
- Confidence crimes ("cons") i.e. the use of deception to gain victims' confidence.
- Scams i.e. fraudulent or deceptive acts.
- Fraud i.e. the use of deception, trickery, false pretence, or dishonest acts or statements for financial gain.
- Telemarketing scams i.e. perpetrators call victims and use deception, scare tactics, or exaggerated claims to get them to send money. They may also make charges against victims' credit cards without authorisation.
- Bogus callers and rogue traders.
- Vitamins and postal scams
- Phishing and online scams

Potential indicators of financial abuse include:

- Change in living conditions.
- Lack of heating, clothing or food.
- Inability to pay bills/unexplained shortage of money.
- Unexplained withdrawals from an account.
- Unexplained loss/misplacement of financial documents.
- Vulnerability / Susceptibility due to circumstances
- The recent addition of authorised signers on a client or donor's signature card.
- Sudden or unexpected changes in a will or other financial documents.
- Unpaid care home fees or lack of personal money/possessions.
- Signatures that do not resemble the person's normal handwriting – or a signature when the person is too unwell to be able to write.
- Sudden changes in bank accounts or unexplained large withdrawals.
- The sudden and unexplained transfer of assets to someone else.
- Deliberate isolation of an older person from friends and family, resulting in the care giver alone having total control.
- Change of ownership of a property.
- The purchase of items that the person does not require.
- Numerous unpaid bills or overdue rent when someone else is supposed to be paying the bills – or apparent lack of amenities that the older person should be able to afford;
- Power of Attorney obtained when person lacks capacity to make the decision;
- New "best friends", consider 'Partners', and any relevant new relationships. E.g. County Lines.
- Illegal Money Lending, i.e. people who obtain loans without any paperwork or repayment end date.
- Lots of building work being carried out at the home address
- More junk mail than normal
- Piles of boxes, used as storage for items such as vitamins

This is not an exhaustive list, nor do these examples prove that there is actual abuse occurring. However, they do indicate that a closer look and possible investigation may be needed.

Who are the perpetrators?

Anyone can be a perpetrator of financial abuse; common perpetrators are:

Family members, including sons, daughters, grandchildren, or spouses who may:

- Have substance abuse, gambling, or financial problems.
- Stand to inherit and feel justified in taking what they believe is "almost" or "rightfully" theirs.
- Fear that their family member will get sick and use up their savings, depriving the abuser of an inheritance.
- Have had a negative relationship with the person and feel a sense of "entitlement".
- Have negative feelings toward siblings or other family members whom they want to prevent from acquiring or inheriting the older person's assets.

Predatory individuals who seek out vulnerable people with the intent of exploiting them.

They may:

- Profess to love the person ("sweetheart scams") or befriend them
- Seek employment such as personal care assistants, counsellors to gain access.
- Identify vulnerable persons by driving through neighbourhoods (to find persons who are alone and isolated) or contact recently widowed persons they find through newspaper death announcements.
- Move from community to community to avoid being apprehended (transient criminals).
- Consider links to county lines and 'cuckooing' cases

Unscrupulous professionals or businesspersons, or persons posing as such. They may:

- Overcharge for services or products.
- Use deceptive or unfair business practices.
- Use their positions of trust or respect to gain compliance.

Any adult is at risk

There are certain characteristics that might mean that a person is more likely to be a victim of financial abuse. The following are general indicators that, if present, may increase the risk of financial abuse occurring:

The adult has communication difficulties

The adult is socially isolated i.e. does not have other friends or visitors

The adult is dependent on the carer for financial purposes

The adult has substance misuse problems

Beware of:

- The abuser making excuses for their behaviours such as "I need this money more than they do" or "I'll inherit this money anyway".
- The victim may be defensive and insist they do not want to complain or "it was their choice to give the person the money / property" however often they are a victim of 'grooming'.

1.3 Key Considerations

Consent:

The person at the centre of any safeguarding concern must always be at the heart of any action to prevent further financial abuse. The Safeguarding Adult Policies and Procedures clearly state that consent must always be sought before action is taken - if the person concerned is able to give consent. If the person has capacity then they are able to refuse any action. If they lack capacity then a best interest's decision can be taken and it may be necessary, in certain circumstances, to go to the Court of Protection. Advocacy will be offered to any person who appears to have substantial difficulty in engaging with the process so as to allow them to be truly at the heart of the process.

The Care Act guidance document states that if, after discussion with the adult who has mental capacity they refuse any intervention, their wishes will be respected unless:

- There are wider public interest concerns, for example, not acting may put other Adults or children at risk.
- There is a duty of care to intervene, for example, a crime has been or may be committed.

If the person at risk refuses to accept a risk management / support plan, ongoing work should be attempted to agree a plan that is acceptable. If the person lacks capacity, consideration should be given to Best Interest Decisions and potentially Court Of Protection (appropriate legal advice should be sought and recorded).

Capacity:

All Adults have the right to take risks and behave in a way that may be construed as self-neglectful, if they have the capacity to do so without interference from the state.¹ This is central to promoting independence and lifestyle choice. Eliminating all risk is neither possible nor desirable. It is also essential to remember that it must be presumed that a person has the capacity to make their own decisions and should be provided with all available help and information to continue to make decisions before it is established that they do not have capacity. <http://www.ncpqsw.com/financial-scamming-publications/national-mental-capacity-act-competency-framework/>

Any intervention, which limits a person's independence and autonomy when they lack capacity to make their own decisions, should be:

- the least restrictive option necessary to address the risk; and
- Made in the best interest of the person concerned.

In coordinating a response to identified risks of financial abuse, professionals should always consider the balance between exercising a duty of care to offer protection, and upholding human rights. It should be acknowledged that situations will occur where the person at risk will not engage with structured support and it may not be possible to prevent harm. In these circumstances, it is crucial to ensure that there is well documented evidence of coordinated and proportionate multi-agency efforts, which include all relevant individuals or groups, to facilitate appropriate intervention and support.

Poor or unwise decision making is not evidence that a person lacks capacity. The assessment of capacity must be based on the person's ability to make a decision in relation to the relevant matter. In cases of financial abuse, where a person is repeatedly making decisions that place them at risk and could result in preventable suffering or damage, an assessment of capacity should be undertaken. For further guidance on assessing capacity, see the link to the mental capacity act above.

Support Planning:

All agencies should take responsibility to ensure the adult at risks care and support planning specifically addresses financial management arrangements by:

- Involving the adult and empowering and enabling them to use and manage their own money / finances

¹ This is made clear in Article 8, European Convention of Human Rights

- Identifying as early as possible whether someone is already providing financial support to the adult and ensuring that they know what is expected of them (especially family members).
- Developing financial profiles/care and support plans.
- Keeping the adult's financial profiles and care and support plans under regular review so changes in an adult's capacity can be identified at an early stage or concerns about how someone else is supporting an Adult can be identified at an early stage to reduce the possibility of significant harm and abuse.

Section 2: National Context

The Care Act sets out a clear legal framework for how local authorities and other statutory partners should protect adults at risk of abuse or neglect.

The Care Act defines an Adult 'at risk' as someone who:

- Has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- Is experiencing, or at risk of, abuse or neglect; and
- As a result of those care and support needs, is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

Local authorities must promote wellbeing when carrying out any of their care and support functions in respect of a person. This may sometimes be referred to as "the wellbeing principle" because it is a guiding principle that puts wellbeing at the heart of care and support.

The wellbeing principle applies in all cases where a local authority is carrying out a care and support function, including safeguarding, or making a decision, in relation to a person and it applies equally to Adults with care and support needs and their careers. The local authority must begin with the assumption that the individual is best-placed to judge their own wellbeing and their views, wishes, feelings and beliefs are taken into account fully before any decisions are made.

The Guidance also enshrines the six principles of safeguarding:

- Empowerment – Presumption of person led decisions and informed consent.
- Prevention – It is better to take action before harm occurs.
- Proportionality – Proportionate and least intrusive response appropriate to the risk presented.
- Protection – Support and representation for those in greatest need.
- Partnership – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
- Accountability – Accountability and transparency in delivering safeguarding.

Links with Pan-Lancashire Safeguarding Adults Multi-Agency Policy and Procedures:

The Care Act 2014 explicitly refers to financial abuse because some definitions of abuse may not ordinarily include this type of abuse.

This Practice Guidance is intended to supplement, and should be read in conjunction with the Safeguarding Adults Multi-Agency Policy and Procedures

www.lsab.org.uk/policies

<https://www.blackpoolsafeguarding.org.uk/resources>

Section 3: Quality Assurance

Governance and Accountability:

This Financial Abuse Practice Guidance has been produced by a multi-agency Task and Finish Group that reports directly into the Safeguarding Adults Board. The Guidance was endorsed by the Safeguarding Adults Board in January 2019 and will be reviewed on an annual basis.

Review:

The Quality Assurance and Performance Management Group function form part of the individual Safeguarding Board structures, and are responsible for ensuring that all Safeguarding Adult cases are effectively managed and that wherever possible Adults at risk of abuse or neglect receive the outcomes that they desire.

Key Contact Details

Social Care – Local Areas

Blackpool

Tel: 01253 477592 (Adults)

Blackburn

Tel: 01254 585957 (Adult safeguarding team)

Tel: 01254 587547 (Out of hours team)

Illegal Money Lending Team

Hotline Number: 0300 555 2222

Email: reportaloanshark@stoploansharks.gov.uk

Text: text loan shark and your message to 60003

Office of the Public Guardian

Tel: 0300 456 0300

Text phone: 0115 934 2778

Email opg.safeguardingunit@publicguardian.gsi.gov.uk

Care Quality Commission

Tel: 03000 616161

Email: enquiries@cqc.org.uk

Police

Tel: 101 or 999

Department for Work and Pensions

Under 65

Tel: 0345 608 8545

Over 65

Tel: 0345 606 0265

Email: www.gov.uk.

Financial Conduct Authority

<https://www.fca.org.uk/scamsmart>

- How to avoid investment scams
- Protection from pension scams
- Reporting a scam or unauthorised firm

Age UK

<https://www.ageuk.org.uk/information-advice/money-legal/scams-fraud/investment-scams/>

This website provides a range of advice and support on:

- Doorstep scams
- Postal scams
- Phone scams
- Support for scam victims
- Links to other advice services

There are also downloadable guides.

Appendix 1: Other Financial Management Considerations

Adult Protection Plan

The protection plan is the multi-agency plan that is made to stop the abuse or harm that has occurred or to keep the risk of abuse or neglect at a level that is acceptable to the person being abused or neglected or to support the individual to continue in the risky situation if this is their choice and they have the capacity to make that decision.

Where financial abuse has occurred or there are ongoing concerns about financial management the following may be included in the protection plan:

- Change or taking on an Appointeeship
- Application to the Court of Protection to change Lasting Power of Attorney - or to change/appoint a Deputy

Lasting Power of Attorney

When an Adult has capacity, they can appoint another adult to help them make decisions or make decisions on their behalf.

They do so through a legal document called a Lasting Power of Attorney (LPA).

This gives more control over what happens if an adult can't make decisions at the time they need to be made (due to 'lack mental capacity')

An LPA can be appointed to deal with health and welfare or property and financial affairs, or both.

The attorney must act in your 'best interests' and it could be financial abuse if an attorney misuses your money or makes decisions that are not in the adults best interests.

If there are concerns about someone who is acting as an attorney, contact the Office of the Public Guardian who will investigate those concerns.

Where an existing Attorney is removed, the council will look at the most appropriate way to support the individual to manage their finances. Where the individual has capacity, this could be by supporting them to appoint another Attorney, or where they lack capacity, one of the options detailed below will be considered.

Appointee

In cases where a person has lost capacity to make decisions in regards to finances but whose income is limited to Social Security benefits, and they do not own property, such as a house, that person's financial affairs can be effectively managed on their behalf by the Appointment of an Appointee by the Department for Work and Pensions (DWP).

The DWP can appoint a third party to act on the individual's behalf regarding their benefits. Where there are no suitable relatives to act, an application can be made for the council to apply to take on this role for service users either in residential or nursing care and for those living in the community.

Deputyship

What is a Deputy?

A deputy is a person appointed by the Court of Protection to manage the affairs of someone who lacks the mental capacity to manage their own affairs. A deputy is usually a friend or relative of the person who lacks capacity, but in some circumstances it could be a professional such as a solicitor or the council. A deputy is usually required where the individual has capital and/or assets that cannot be dealt with by someone acting as appointee.

A deputy must at all times act in the best interests of the individual, in good faith and with due care, at all times complying with the directions of the Court of Protection.

Where there are concerns about an existing Deputy

It is the responsibility of the Court of Protection to protect the person with dementia and to support people in their role as deputy.

However, where this relationship breaks down and financial abuse by the deputy is identified, the removal of an existing deputy may be the option identified in the protection plan.

The Office of the Public Guardian will deal with any concerns and where there is a clear risk that someone may suffer serious loss or harm, an application can be made to the court for someone else to be appointed as deputy. In some instance, the most suitable person may be the council.

The option for the council to become deputy for an individual can be discussed in detail with the Deputyship team.