

# **FINANCIAL ABUSE OF OLDER PEOPLE: A QUEENSLAND PERSPECTIVE**



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## **BACKGROUND TO REPORT**

This report examines the issue of domestic financial abuse of older people with a view to developing and implementing preventative strategies designed to address this ever-increasing phenomenon. Elder abuse is abuse that occurs within a relationship where there is an implication of trust (usually found in a domestic situation). The report is compiled by the Queensland Elder Abuse Prevention Unit (EAPU) that is funded by the Department of Communities and operates under the auspices of Lifeline Brisbane. The EAPU is a statewide service that has been established to respond to the abuse of older people in Queensland. The vision of EAPU is to:

Contribute towards a society in which older people are valued and unconstrained by abuse, by developing community based strategies and encouraging government policies and initiatives which raise awareness of elder abuse, provide assistance to those who experience abuse and prevent the occurrence of abuse (Prevention of Elder Abuse Task Force, 2001, p. 12).

Financial abuse of older people is a significant emerging issue with far reaching consequences for the community as a whole. A rapidly ageing population and government policies encouraging older people to ensure their financial independence compound this. Loss of financial security through elder financial abuse increases reliance on government assistance as well as hindering the process of successful ageing, which is important to an older person's quality of life. The EAPU has revealed that 32% of callers to its Helpline have identified financial abuse as the primary reason for their call. The EAPU reports losses in excess of \$8 million due to the financial abuse of older people in Queensland between 1<sup>st</sup> November 2002 and 30<sup>th</sup> June 2005. This figure significantly underestimates the magnitude of the problem as only 8.6% of the financial abuse callers disclosed a dollar amount (EAPU Annual Report, 2005).

The EAPU has established that one of the most attractive targets for perpetrators is the older person's family home, which is usually a considerable asset. However, even the loss of small sums of money can be overwhelming for a senior who is reliant on a small fixed income. Some examples of elder financial abuse identified by the EAPU include:

- Lending money to a family member who then advises the older person that it was a gift and they will not be repaying it (it is a common practice for families to use verbal agreements).
- When an older person pays for a "Granny Flat" at their son's/daughter's house and enters into a verbal agreement that they are able to live there for the rest of their life (i.e. they have no separate title). Problems arise when their son's/daughter's marriage ends in divorce and the older person is left with nowhere to live or any money to live off.
- Misusing a power of attorney or enduring power of attorney (this is difficult when the older person has capacity, but is manipulated by the perpetrator).
- When the perpetrator is living with the older person and refuses to contribute money for board or other expenses or incurs expenses in the older person's name e.g. telephone bills.

### Purpose and objective of report

The objective of this report is to provide a comprehensive account of the individual and societal implications of financial abuse of older people within an Australian context

(specifically Queensland) based on the current literature and research. In order to address this issue successfully, it is necessary to understand the phenomenon – to be able to identify the characteristics of both perpetrators and victims as well as to identify predictors (to help in prevention) and indicators (to detect and remedy instances of elder abuse). The recent emergence of the general issue of elder abuse and the more specific issue of financial abuse of older people will be examined. A number of theoretical perspectives seeking to explain elder abuse are then considered. Statistical evidence from Canada and Australia will be presented. Some key preventative strategies will be considered. In conclusion this report will identify some successful types of interventions already established in other countries and make recommendations to be considered for implementation within Queensland. A definition of financial abuse within the context of elder abuse is presented first.

### Definitions

Before defining financial abuse of older people, it is necessary to define the overarching construct of elder abuse. Elder abuse is a complex, multi-faceted phenomenon and defining it is the first step in understanding and conceptualising it (Carp, 2000). The lack of agreement about what constitutes elder abuse and what should or should not be included in a definition is a major impediment into elder abuse research (Fielding, 2000; Carp, 2000). Consequently, researchers have been unable to develop one standard definition (Fielding, 2000; Sijuwade, 1995).

Utilising a definition supplied by the Department of Families, Youth and Community Care (1997), the EAPU (Queensland) conceptualises elder abuse as occurring in a domestic setting, meaning that the older persons' (the victim) relationship with either a family member or a carer (the perpetrator) involves the perpetrators misuse of their position of trust. Situations of elder abuse where the perpetrator is neither related to the older person nor in a relationship of trust (eg. the victimisation of older people by strangers and/or their abuse in nursing homes) are not considered. An older person is often defined by various Australian state and federal government agencies as being a person over the age of 65. However, it is important to note that the life expectancy of Indigenous Australians is significantly lower than non-Aboriginal populations, being as much as 20 years (Department of Immigration, Local Government and Ethnic Affairs, 1988). In light of this fact, Indigenous Australians should be accepted as an older person when they consider themselves as an older person. Similarly, the EAPU (Queensland) considers that callers to their Helpline service are self-selecting for identification as an older person and therefore some of the EAPU data used for this report pertains to "older people" under the age of 65.

Carp (2000, p. 10) specifies domestic elder abuse to include "physical attack, threatening or intimidating physical or verbal behaviour, unnecessary or demeaning confinement or isolation from other people, failure to follow physicians' instructions regarding medication and other care, exploitation of the elder's financial assets or dependence, or any combination thereof". Financial abuse (or exploitation) is one form of elder abuse. It is important to understand elder abuse in its totality because these acts of abuse very rarely occur independently of each other (Carp, 2000). For example, an older person may be isolated from other people (psychological abuse) in order that the perpetrator can financially exploit them (financial abuse).

The majority of definitions of elder financial abuse in the Australian literature cite Kurrle, Sadler and Cameron (1992) in some form or another. Kurrle, et. al. (1992, p. 61) state that financial abuse is "the illegal or improper use of an older person's property or

finances". However, this definition lacks an emphasis on family members or people in positions of trust, being the perpetrators. The Department of Families, Youth and Community Care (1997, p. 3) defines financial abuse as involving "the illegal or improper use of a person's finances or property by another person with whom they have a relationship implying trust". It should be noted that the term 'improper use' implies a legal but inappropriate act. This report combines these two definitions to define elder financial abuse as: "the financial exploitation of an older person, through either legal (but considered improper) or illegal misappropriation of their finances or property, by a person who is in a position of trust such as a family member or caregiver." The emergence of elder abuse as an issue in Australia will now be discussed.

### **THE EMERGENCE OF ELDER ABUSE AS AN ISSUE IN AUSTRALIA**

It was not until the 1980's, when Australia was considering the effects of its ageing population that the reality of older people being victims of crime, abuse and exploitation was brought to the fore (Dunn, 1995). During this time the main issues related to acts of: crime against the elderly; exploitation and intimidation within residential care facilities; and, abuse of older people by people other than family members or care-givers (Biles, 1983). The issue of abuse and neglect of older people by family members had gone unrecognised. However, around this time domestic violence and child abuse were receiving considerable public attention and with them came an increased interest by governments and the community in exploring the concept of family violence (Dunn, 1995).

Medical practitioners first brought this elder abuse to Australia's attention in the early 1990's when articles on elder abuse appeared in the publication *The Medical Journal of Australia* (Dunn, 1995). Kurrle, et. al. (1992) are seen as seminal researchers in the field of elder abuse in Australia. This study involved the reviewing of medical records whereby the researchers found that 4.6% of the study population experienced some form of elder abuse. The patterns of elder abuse were related to issues of frailty and dependency, identifying different types of abuse as: psychological (53.7%); physical (46.2%); neglect (29.6%); and financial (24.0%).

However, it is also necessary to note that a substantial amount of elder abuse goes undetected. James (1994) states:

victims of elder abuse and neglect are often incapable, either physically or psychologically, of stopping the abuse. Fear of further punishment or abandonment keeps others quiet, as does the shame or guilt associated with the fact that the abuser is often a close family member (p. 95).

The contextual factors within which elder abuse occurs will now be considered.

#### **Contextual factors**

Over the past several decades, there has been increasing awareness that Australia has a rapidly ageing population. This change has been attributed to an increase in life expectancy of Australian people, a decrease in the number of births and a reduction in the number of people being allowed to immigrate to Australia (Dunn, 1995). Furthermore, Rowland (1991) predicts that by the year 2031, 20% of the population will be over the age of 85 years. This prediction will be realised through an increase in the life expectancy age of males to 79 years and females to 85 years. The most vulnerable and the most rapidly increasing group, of the aged population, is those over the age of 75 years (also known as

'old-old'), with a prediction that this group will increase in numbers by 118% over the next 25 years (Graycar & Jamrozik, 1989).

In relation to living arrangements, older Australians prefer to remain in their family home and be supported by family members who live separate to them, thereby preserving their independence and maintaining an active role within their extended family (Dunn, 1995). Interestingly, compared to the United States and the United Kingdom, fewer older people in Australia (13% of men and 31% of women aged 65 years and over) are choosing to live alone (Rowland, 1991). In instances when the elderly are living with people other than their spouse, they usually choose to live with adult children, and to a much lesser extent, with siblings. Statistics reveal that when elderly people are cared for by adult children, this co-resident role is usually carried out by daughters, with 10% of these daughters caring for the elderly 70 years and older, increasing to 30% of these daughters caring for handicapped elderly aged 75 years and older (Australian Institute of Health, 1990).

Another important contextual factor that Dunn (1995) identifies is the need to study elder abuse within different cultural perspectives because some cultures may be more or less disposed to the occurrence of this phenomenon. The Indigenous age issue referred to previously is another important reason. Such cultural understanding enables the identification of culturally specific risk factors of elder abuse to be made, resulting in appropriate measures being implemented to minimise abuse. The legal context is now considered.

#### The legal context of elder abuse

Constitutionally, the Commonwealth Parliament of Australia has the power to make laws for 'old aged and widows pensions' (Lewis, 2004, p. 23). While the *Commonwealth Aged Care Act 1997* sets standards for aged care, various State and Territory legislation provides protection for adults with impaired decision making capacity. However, a search of Australian legislation reveals that there is no federal, state or territory legislation specifically enacted to address elder abuse issues within Australia. Other than common law, each state and territory relies primarily on provisions within their respective criminal codes and the use of domestic and family violence type legislation to address elder abuse situations. Within Queensland the *Domestic and Family Violence Protection Act 1989* was amended specifically to "help prevent elder abuse in Queensland" (Spence, 2001, p. 2). This legislation attempts to achieve this by making protection orders available to a broader range of relationships, which now include family and informal care relationships. (Note: this legislation is currently under review to determine how effective it has been in providing this protection.)

Due to Australia's ageing population and the many issues facing this demographic, a new area of civil law has emerged, that of Elder Law. Acts of abuse against the elderly are a component of this new specialist field. Some lawyers, by way of their training, focus on different kinds of elder abuse, including financial abuse of the elderly (Lewis, 2004). Consequently, a lawyer may view financial abuse of the elderly as including "duress, undue influence and unconscionable conduct as well as other, statutory, proscriptions of financial misconduct where that misconduct involves an allegation that an elder has been involved as an alleged victim" (Lewis, 2004, p. 52).

A legal area that is closely linked to financial abuse relates to the use of powers of attorney and enduring powers of attorney. The purpose of a power of attorney (POA) is to allow an individual (the principal – an adult with decision making capacity) to appoint

another person (the attorney - usually a family member or a person in a position of trust) with the power to make decisions on their behalf. The power of attorney is revoked in the event that the individual becomes incapacitated. However, an enduring power of attorney (EPA) allows for substitute decision making to continue even after the individual has been deemed incapable of making informed decisions (Setterlund, Tilse & Wilson, 2002). Queensland researchers Setterlund, et. al. (2002) conducted research to determine the level of understanding held by older people in relation to legal documentation such as powers of attorney and enduring powers of attorney. What they found was that the overwhelming majority of older people had a limited to low understanding of law relating to substitute decision making.

Setterlund, et. al. (2002) concluded that these older people were vulnerable to financial exploitation and educative strategies designed to enhance older people's knowledge of the advantages and disadvantages associated with POA's and EPA's is needed. The different states around Australia appear to have different statutes governing the administration of Powers of Attorney. For instance in New South Wales (NSW) the government introduced changes to the *Powers of Attorney Act 2003* on 16 February 2004, that placed the onus of responsibility with the lawyer (or anyone else explaining, witnessing and certifying enduring powers of attorney) to ensure that the person signing the power of attorney fully understands the powers and purpose of signing such a document (Whitehead & O'Neill, 2004). It appears that each state has various levels of safeguards to ensure the Principal has capacity (and understanding) to sign these documents. For example Western Australia (Office of the Public Advocate, 2005) and Victoria (State Trustees Limited, 2005) requires two witnesses sign these documents. Alternatively, in Queensland capacity guidelines for witnesses of enduring Powers of Attorney are provided to ensure that the witness is satisfied that the person signing the document has the capacity and understanding to do so (Office of the Adult Guardian, 2005).

In Queensland the *Power of Attorney Act 1998* is used in conjunction with the *Guardianship and Administration Act 2000*, to provide a range of safeguards around substitute decision making. The Office of the Adult Guardian has a wide array of powers some of which include: investigation of complaints about exploitation of Principals; requiring the account keeping records of Attorneys be audited; take legal action to recover Principal's money; mediate and conciliate disputes; and remove dependent Principals from a premises if they are being exploited or neglected (Queensland Advocacy Incorporated, 1998). Queensland Advocacy Incorporated (1998) acknowledges the positive changes that have been implemented with this Act. However, they state that a major limitation is that little has changed for people who already have impaired decision making capacity, leaving this already vulnerable group still unprotected. A brief overview of theoretical perspectives is now presented.

### Theoretical perspectives

Over the years a variety of theoretical perspectives have been used to examine elder abuse (Carp, 2000). These include perspectives from feminist theory, social learning theory, functionalism (ageism), ecological theory, social exchange theory and symbolic interactionism (care-giver stress) (Carp, 2000; Nadien, 1995). See Nadien (1995) for a more comprehensive review of relevant theoretical perspectives. A number of these theoretical frameworks reflect the psychological, situational, ecological and political dimensions of elder abuse. While an in depth discussion of these theories is beyond the scope of this report, it is important to understand the relevance of theory in the study of this phenomenon. A short précis of two of these theoretical frameworks will be presented.

The feminist perspective on elder abuse adopts an approach that identifies and condemns power relations that lead to inequality between the sexes, specifically male dominance over females within a given society (Jönson & Åkerström, 2004). Interestingly though, recent research by Jönson and Åkerström (2004) have criticised feminist studies for neglecting to include older women as a part of the demographic when investigating violence within a domestic setting. They also state that the feminist viewpoint on elder abuse generates a theoretical lack of foresight, where male victims and female perpetrators are dismissed as inconsequential exceptions.

Under the theoretical framework of functionalism elder abuse is attributed to ageism, which stereotypes older people as being frail, stupid and mentally and physically incompetent (Nadien, 1995). Nadien (1995) asserts that these negative stereotypes of older people emanate from institutional policies that condone and perpetuate this way of thinking because it is functional for a community to continue with their current traditions. This way of thinking ensures the preservation of ageism until society accepts that age integration is more “functional” than age discrimination. An example of this type of ageism has been identified in Australian research conducted by Kurrle, et. al. (1992) where they note reluctance on the part of the Australian medical profession to acknowledge older people are being abused. Interestingly, other authors have also made this observation (Dunn, 1995). Rowland (1991) attributes ageism within the medical profession (in particular the need for more young doctors to specialise in geriatric medicine) as being instrumental in lowering the standard of care and rehabilitation opportunities for older people in Australia. In Nadien’s (1995) paper investigating domestic elder abuse theory, she concludes that an overarching theoretical framework that includes interpersonal, intrapersonal and contextual factors is needed.

#### A multidisciplinary approach to elder abuse

As mentioned previously Carp (2000) identifies that the many forms of elder abuse usually occur in combination and rarely independently. Therefore, it is important to understand elder abuse in its totality to ensure comprehensive preventative strategies are developed. Little research has yet adopted a multidisciplinary approach embracing the totality of this phenomenon. Failure to do so may result in findings that only ever address one aspect of a wider problem. This need has been supported by Lachs and Pillemer (2004) who assert that a multidisciplinary approach to the incidence of elder abuse would enable interventions to be tailored explicitly to a given situation. In spite of little multidisciplinary research, practical responses of this type have already been established with several communities in the United States of America. Multidisciplinary teams have been set up to respond to elder abuse cases and address the systemic problems that may be prevalent (Teaster, Nerenberg & Stansbury, 2003).

This approach appears to have emanated out of teams that were originally set up in certain United States jurisdictions to deal with financial abuse of older people and are referred to as Financial Abuse Specialist Team (FAST) (Allen, 2000; Aziz, 2000; Kaye & Darling, 2000; Mals, Buckmaster & Cunningham, 2003). Another concept of a multidisciplinary team has also emerged suggesting that specialist teams of medical and social services be established to examine the physical and psychological injuries of victims (Mosqueda, Burnight, Liao & Kemp, 2004). These teams appear to be very effective within the community and will be discussed further under interventions. Specific factors relating to financial abuse of older people will now be presented.

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## **FINANCIAL ABUSE OF OLDER PEOPLE**

Financial abuse of older people is an insidious offence that has far reaching monetary as well as personal consequences for the victim (Wilber & Reynolds, 1996). Wilber and Reynolds (1996) identify this type of abuse as being problematic in its detection and investigation because it may interfere with the older person's legal right to buy and sell property, enter into contracts and make gifts of their assets to other people. Thus, for professionals looking after the interests of older people, they need to be able to distinguish between valid private dealings and those that are considered acts of abuse (Wilber & Reynolds, 1996). A way to enhance a professionals understanding of what is or is not an act of financial abuse is to identify certain factors that may increase the likelihood of abuse against an older person.

It is difficult to understand why a family member (or person in position of trust) would commit such acts. One possible explanation may be the many different stereotypical perceptions surrounding older people (Carp, 2000). For instance common assumptions drawn about older people are that: they have large amounts of disposable cash and easily liquidated assets; their relatives or close family friends are entitled to those assets; they do not contribute to society; and they have no real need for money (Nadien, 1995; Tilse, Wilson & Setterlund, 2003). These assumptions are instrumental in creating a particular perception of older people and may serve to provide current or potential perpetrators with a much needed justification for committing the abuse (Carp, 2000).

Nadien (1995) identifies specific traits, gender and/or situational circumstances of the older person as three possible sets of factors that increase the risk of abuse or neglect. Other factors that are also relevant include age, culture, social isolation and access to relevant information (Lachs & Pillemer, 2004). Regarding traits, Nadien (1995) states that dependency is possibly the most pervasive trait in predisposing the older person to abuse. This assertion is supported by previous research (Kurrle, et. al., 1992). Examples of dependency may include situations where an older person is: suffering with a physical or mental illness; unable to manage their financial affairs; and, experiencing diminished capacity through the effects of ageing (Nadien, 1995). Another relevant trait is personality characteristics. Some personality characteristics such as a lack of gratitude and continuous complaining may incite acts of abuse from stressed-out caregivers (Kosberg & Cairl, 1986). Other personality characteristics such as timidity and stoicism may predispose an older person not to report the abuse (Kosberg, 1988).

In relation to gender, Field's (1996) Australian research indicates that financial abuse is not gender specific and is found to occur against men and women alike. These findings have also been mirrored in research conducted in the United Kingdom and Canada (Biggs, 1996). However, Field's (1996) research indicates a larger incidence of financial abuse was found to occur against women. Garrod's (1993) UK study found that women were more likely to be victims of abuse than men, however, when consideration was given to the over-representation of women in the ageing population the rate of abuse was found to be equal. In relation to age, Field (1996) found that the majority of abuse occurred against people in the age group of 66-70 years and over 80 years. EAPU data also supports these finding and will be presented later in the report.

In relation to situational circumstance, predominantly older Australians prefer to live in their own homes and be independent for as long as possible (Rowlands, 1991). However, Lachs and Pillemer (2004) state that an increase in the risk of an older person being abused is when they live in a shared arrangement. Several exceptions have

emerged, specifically in relation to financial abuse. In Choi, Kulick and Mayer's (1999) and Podnieks (1992) research they found that that older people living alone were in fact more vulnerable to financial abuse.

Regardless of whether or not an older person does co-habitat, it is not uncommon for family members to feel a sense of entitlement to their relatives' assets through an early inheritance, which is a view that the older person commonly shares (Tilse, Wilson, Setterlund, Robinson & Rosenman, 2002). In Langdon and Means' (1996) UK research they identified that much of the abuse reported was not intentional but rather related to a lack of knowledge and confusion on the part of the family member. In light of these facts, it is no wonder that there is a tremendous amount of ambiguity in determining who the actual perpetrators of financial abuse are and who are not. Nevertheless, identification of risk factors relating to perpetrators is useful in the formation of prevention and intervention strategies.

### **Case Study of Mrs L**

Mrs L was an active woman who belonged to many clubs located in her small country town and enjoyed participating in the activities they provided. Shortly after her 45<sup>th</sup> Wedding Anniversary her husband died suddenly of a heart attack. Mrs L was devastated and allowed her youngest son to look after and sort out her financial affairs. Mrs L admitted that at that time she was so full of grief that she wasn't taking any interest in her financials and was happy that the son had offered to help her out. At that time she signed a power of attorney, although she has no recollection of doing so.

Over the next few years the son convinced her to move to another town with him and his family and sold her house, installing Mrs L in a granny flat. Mrs L didn't like the new arrangements and could no longer attend the clubs and visit her friends. The son had 'bought her' a new four wheel drive car that she had difficulty driving and getting into. The son and his wife used the car as their own. When the son's marriage ended in divorce, Mrs L's assets were all in the son's name and there was no attempt to separate them in the property settlement. Mrs L found herself approaching her 80<sup>th</sup> birthday without the financial security that she and her husband had built up over a lifetime.

This case was brought to the Queensland EAPU's attention after another son complained that he was cheated out of his inheritance. Mrs L was directed a community Legal Service for advice.

EAPU Annual Report (2000)

Factors that are commonly associated with perpetrators include: suffering from a mental illness; substance abuse; experiencing financial difficulties; an attitude that they are entitled to the money or other resources (Rabiner, Brown & O'Keefe, 2004); caregiver stress; economically dependent on the older person (Choi, et. al., 1999); and, transgenerational violence as a learned behaviour (Nadien, 1995). Additionally, in Field's (1996) Australian research she found that women were more likely to be perpetrators, while other research from Australia (Sadler, 1994a) and the UK (Biggs, 1996) and has shown that a higher percentage of men than women commit acts of abuse.

It is important to note that the different types of elder abuse are not mutually exclusive, with one type of abuse rarely happening in isolation (Carp, 2000; Choi, et. al., 1999). Financial abuse of older people is one of the most common types of abuse against the elderly, second only to that of psychological abuse (EAPU Annual Report, 2005).

Choi, et. al. (1999) state that the profiles of victims and perpetrators of financial abuse are not substantially different from other types of elder abuse, except that the victims of financial abuse may be more likely to have experienced some level of cognitive impairment that impacts on their ability to manage their finances.

Australian studies on abuse of older people and in particular financial abuse are few and far between. In the first Australian study on elder abuse undertaken by Kurrle et. al. (1992) they found 13 cases of financial abuse out of a total of 54 cases studied. While, Kurrle, Sadler and Cameron's (1991; 1992) research is regarded as pivotal in addressing the issues of elder abuse within Australia, the empirical validity of their studies is questionable due to the method of sampling employed. Taking into account the variance in methodologies used in analysis of Australian research on elder abuse, Field (1996) found psychological and financial abuse as the most common types of abuse experienced by older people.

In an effort to gain a greater understanding of what constitutes financial abuse, Queensland researchers Tilse, Setterlund, Wilson and Rosenman (2005) utilise data from two research projects to investigate the mismanagement of older people's assets by non-professionals. What they have found is that in the prior 12 months, one in four people from the general population had assisted an elderly person with a financial matter; this financial assistance was primarily performed by a family member; and that there is an increasingly significant number of older people having their assets managed by a non-professional. This type of research is particularly helpful in the formation of policies and practices by community and law practitioners to assist family members in protecting the older person as well as themselves as the asset manager. Furthermore, Tilse and her colleagues investigated informal caregivers managing the assets of older people, and found that the main reasons they required financial assistance were: *lack confidence in doing it themselves* (28.3%); *disability or poor health* (27.2%); and, *old and frail* (20.6%). These examples of dependency were mirrored in Nadien's (1995) research where she found that older people required financial assistance because they: suffered with a physical or mental illness; were unable to manage their financial affairs; and, experiencing diminished capacity through the effects of ageing.

#### Indicators of financial abuse

Many different researchers have identified indicators of financial abuse (Choi, et. al., 1999; Field, 1996; Langan & Means, 1996; Wilber & Reynolds, 1996). Rabiner, et. al. (2004) have compiled a table of potential signs of financial abuse, stating that singly, these indicators may not constitute an act of financial abuse. However, when one or more of these indicators appear together they may suggest that an act of financial abuse has occurred. Some of these indicators include:

1. An older person is suddenly unable to pay their bills;
2. An older person's bank account appears to have large amounts of money being withdrawn that are unexplainable;
3. There is an inconsistency between the living conditions of the older person and their actual assets;
4. When an older persons family members or people in a position of trust are overly interested in their financial matters;
5. When an older person has a family member who lives with them but does not contribute financially; and
6. The use of legal documentation, such as an enduring power of attorney that is used for purposes beyond its intention.

It is interesting to note that in the first instance employees of an older person's banking/financial institution may identify most of these indicators. The active participation of banking institutions in the United States in training their front-line personnel using possible scenarios depicting acts of financial abuse has occurred for many years (Harris, 2005). This training may have emanated out of the banking industry's concern over who would be found liable for these acts of deception if banking staff were in fact aware that "something was wrong" but did not know what to do about the situation. Harris (2005) notes that while many financial institutions want to help with the situation, most of them object to the idea of being compelled to report such incidences (mandatory reporting). As different privacy laws bind the financial sector the inclusion of mandatory reporting by banks or financial institutions would be a particularly ominous task.

**Question – How would banking staff of your bank react to these situations?**

Mrs C walks into the bank for the second time in six hours. She wants to make another large withdrawal from her saving account. The first withdrawal was \$500. This time she wants triple that amount. Mrs C, a widow, says the money is needed for payment to a contractor for some work being done on her driveway. She confides to the teller that she doesn't see why she needs the money or the work done, the driveway looked fine to her.

Mr Q walks in with his new sweetheart, a very young woman by the name of Tara. He's about to give Tara power of attorney for all his accounts. Mr Q is slightly confused and mistakes the power of attorney for something else. Tara corrects him and immediately does the majority of the talking.

These scenarios and others like them occur every day. Elderly persons fall prey to individuals who have ulterior motives.

Harris (2005, p.7)

Statistical data relating to the incidence of financial abuse will now be presented. Although there has been a considerable amount of research conducted on financial abuse in North America and a moderate amount of research in the UK (Bennet, Kingston & Penhale, 1997), this report will be mainly focusing on research conducted in Canada and Australia. Interestingly, even though there is substantial research on financial abuse from the United States, there is no national record of the prevalence and incidence of financial abuse of older people (Rabiner, et. al. 2004). However, studies conducted by researchers like Quinn and Tomita (1997) have found that one-third to more than one-half of elder abuse cases involve financial abuse. To commence with, a small representation of data collected from Canada will be presented followed by data from the Australian states of Western Australia and Queensland.

Statistical data from Canada

In Canada two national surveys have been conducted. First, Podnieks (1992) investigated elder abuse and neglect using 2008 telephone interviews with older people. They found that as many as 4% of senior Canadians (or 98,000) are victims of abuse, with financial abuse being identified as the most prevalent type of abuse affecting more than 60,000 older Canadians. Most of the victims lived alone, considered his or her health to be below average, admitted to being unhappy and wished they were dead. Men were just as likely as women to fall victim to acts of financial abuse, while 40% of perpetrators were

friends, neighbours or close acquaintances and 29% of perpetrators were sons or daughters. The most common form of financial abuse involved perpetrators endeavouring to persuade the victim to part with money.

A second national study was undertaken in Canada that collected data from agencies who provide services to abused older Canadians (Aber-Schlesinger & Schlesinger, 1999). This study revealed that 26.6% of the sample population had been financially abused. In this study the majority of victims were women (74%) and widowed (44%). Most of the perpetrators were either a husband or son. Two-thirds of the sample population indicated that they suffered from a psychological health problem while the records of three-quarters of the participants indicated a physical health problem (Aber-Schlesinger & Schlesinger, 1999). Results similar to these two national studies are also found in Bond, Cuddy, Dixon, Duncan and Smith's (1999) Canadian research into the financial abuse of mentally incapacitated older people. They found a prevalence rate of 21.5% of the sample population and that the majority of victims were women and over 80 years of age. The most common suspect of financial abuse against the older person was their adult child.

#### Statistical data from Western Australia

The most recent investigation of elder abuse in Australia relates to data collected from research conducted by Boldy, Homer, Crouchley, Davey and Boylen (2005) in Western Australian. While this data does not specifically relate to financial abuse its relevance is important in identifying trends in elder abuse across Australia. This research differed slightly to that of previous research in that the participants were asked to identify suspected cases of abuse as well as known cases. Nevertheless, the results of this study yielded similar findings to research conducted in other parts of Australia and the world. For instance, they found that older women were more at risk of abuse than older men and a higher rate of abuse was found in people over the age of 75 years than younger people. Two or more different types of elder abuse were found to be committed against the older person and financial abuse (81% of cases) was the most common type of abuse experienced. The main perpetrators of elder abuse were family members including daughters (22%), sons (21%) and spouse or de facto (18%). Finally, in relation to risk factors this research reported that 76% of known cases and 43% of suspected cases of older people who experienced acts of abuse were identified as either suffering from dementia or felt that they were a burden.

#### Statistical data from Queensland

As previously identified, most cases of elder abuse usually involve multiple types of abuse occurring concurrently. The Queensland EAPU distinguishes between the primary reason a person calls and that of a secondary reason for the call. During the period from 1<sup>st</sup> November 2002 to 30<sup>th</sup> June 2005, 49.5% of the total number of elder abuse calls received identified financial abuse as having taken place. Of these 664 financial abuse calls, 63% identified financial abuse as the primary reason for calling (EAPU Annual Report, 2005).

Figure 1: Primary & Secondary Financial Abuse Records

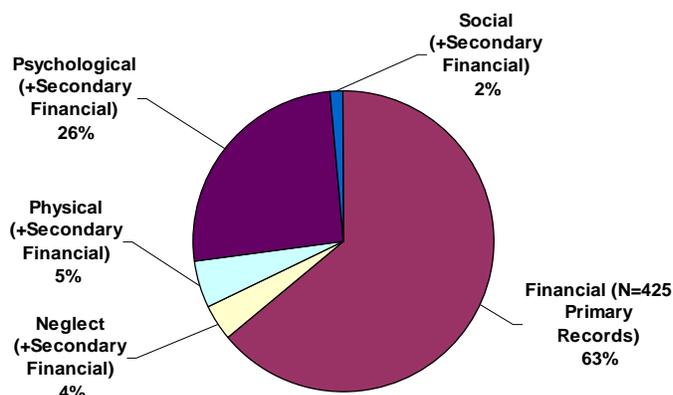
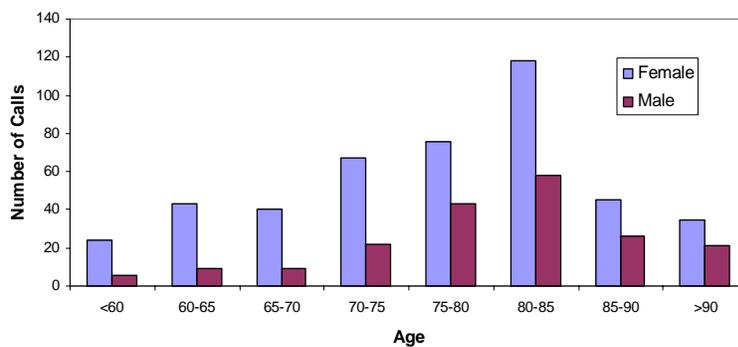


Figure 2: Gender and Age of Victims



(41%). However, adult daughters were also identified as perpetrators in 29.3% of cases. Another interesting statistic that has emerged is that 32.6% of older people who have been financially abused have other people (and not necessarily the perpetrator) being financially dependent on them (EAPU Annual Report, 2005). Statistical data relating to older people from a special interest group will now be provided.

### **AUSTRALIAN SPECIAL INTEREST GROUPS**

In Dunn's (1995) overview of Elder Abuse in Australia, he identifies other sub-groups of elderly people that are also at risk. These vulnerable sub-groups are cited as being "widows, aged migrants, disabled/frail persons, the Aboriginal and Torres Strait Islander aged population, isolates, medication users, rural and remote dwellers, and the poor" (Dunn, 1995, p. 19). It is important to examine each of these sub-groups individually to ensure cultural, economic, health and locality factors are included as possible relevant factors that may increase the vulnerability of older people to financial abuse in Australia.

#### **Older people from an Aboriginal and Torres Strait Islander background**

Approximately 1.4% of Australia's population is comprised of Indigenous Aboriginal and Torres Strait Islanders (Commonwealth Department of Health Housing and Community Services, 1991). Dunn (1995) identifies that the number of Indigenous Australians over 50 years of age is around 20,000 people. It is important to note that the life expectancy of Aboriginal Australians is significantly lower than non-Aboriginal populations, being as much as 20 years less (Department of Immigration, Local Government and Ethnic Affairs, 1988). Research into the abuse of Indigenous older people is quite limited. One of the earliest references to elder abuse taking place within Indigenous communities is qualitative data collected by Field (1996). Field states that at a New South Wales Advisory Committee meeting held with the Wagga Wagga Indigenous community in June 1994, participants agreed that abuse and neglect of older people was prevalent within their community. Furthermore, the committee concluded that the prevalence of this phenomenon within the Indigenous community is often caused by systemic realities such as: an over-reliance of younger Indigenous people on older Indigenous people for money and daily resources; and, the disintegration of the Indigenous culture as younger people become more influenced by white culture.

More recent research has been conducted in Western Australian by Boldy, et. al. (2005). Their data has yielded some interesting results. They found that agencies that dealt exclusively with Indigenous people reported a prevalence rate of 18% for known

cases of elder abuse and 11% for suspected cases of elder abuse. Boldy, et. al. (2005) identifies several culturally sensitive issues that may account for this high prevalence rate. They suggest that possible barriers to Indigenous older people reporting acts of abuse may include such factors as it is the 'Aboriginal way' to share resources/money amongst their family members and the shame associated with acknowledging such behaviour.

However, it should be recognised that cultural differences are probably not the most significant factor leading to a higher prevalence rate of elder abuse within the Indigenous population. Systemic factors such as inadequate access to fundamental resources (e.g. employment, health care, education, housing, etc.) are likely contributing factors that increase the risk of abuse for vulnerable older people including people from the Indigenous community. Risk factors such as: dependency through poor health; financial dependency by the perpetrator; and, a lack of respect for older people (ageism) have all been identified through non-Indigenous research as contributing to elder abuse. Research and investigation of the cultural and systemic factors leading to increased risk of abuse is needed so that a holistic approach to developing effective preventative strategies can be undertaken.

#### Older people from a non-English speaking background

The face of the Australian population is ever changing, with an increased number of aged migrants from non-English speaking countries accounting for 22% of the population of people aged 60 years and over in 2001 (Dunn, 1995). Regardless of this significant representation of older people from non-English speaking backgrounds being present in Australia's population, there is a lack of research investigating ethnic differences in the patterns of abuse experienced by these older people (Field, 1996). Hugman, Bartolomei and Pittaway (2004) identify these ethnic differences with older refugees coming to Australia and the intergenerational tensions that may arise within their families. These tensions may be exacerbated by older refugees feeling displaced and being totally dependent on the younger members of their family (Hugman, et. al. 2004). These two factors may lead to an increased risk of some form of abuse taking place.

In an effort to identify cultural differences in perceptions of elder abuse and their approach to seeking assistance, Moon and Williams (1993) conducted a comparative study investigating African-American, Caucasian American and Korean-American elderly women. They found that these three groups were significantly different in their perceptions of elder abuse as well as their preference in seeking formal or informal help. While this research is limited due to its sampling methods (lack of generalisability) and its applicability specific to financial abuse, it does identify that cultural differences do exist and vary depending on the culture (Moon & Williams, 1993). Further research of older people from a non-English speaking background is needed to determine the prevalence of this phenomenon and the culturally specific issues facing these older people. However, it is important that future research includes a large representative sample of older people and examines issues such as ethnicity, gender, age, socioeconomic status and living arrangements.

#### Older people with dementia or a physical disability

Kurrle et al.'s (1992) study into elder abuse found that 64.8% of victims within the study population had a physical disability and 46.3% had dementia. In a more recent study conducted by Kurrle, Sadler, Lockwood and Cameron (1997) 67% of victims had a physical disability and 37% had dementia. In both of these studies, financial abuse was found to be the least prevalent form of abuse. However, more recent Australian research conducted by Boldy, et. al. (2005) found that 76% of known cases were considered to

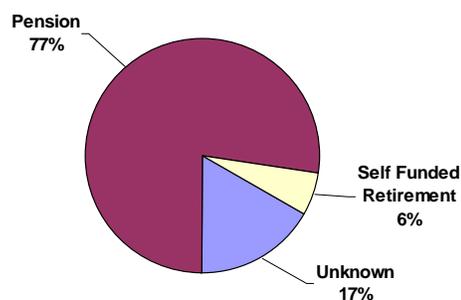
have diminished decision-making capacity. 43% of these cases identified that a major physical disability was apparent. Statistical data from the EAPU Helpline revealed that only 18% of financial abuse cases involved older people with dementia, a mental illness or intellectual disability (EAPU Annual Report, 2005). This low prevalence rate may be attributed to any number of factors. For instance an older person with dementia would probably be unaware of what was actually going on, which means that a third person (e.g. a professional caring or acting on behalf of the older person) would need to report the abuse. These people may be reluctant to get involved in the situation because they may be unaware of the reporting options open to them or they may feel that the older person with dementia would have intended for their family members to inherit their assets anyway (Langan & Means, 1996). In relation to physical disability EAPU statistics revealed that 65.2% of older people were found to have a physical disability, suffer with a physical illness or were considered frail (EAPU Annual Report, 2005).

### Older people from remote rural areas

Dunn (1995) identifies that almost one-third of older Australians live in rural and remote areas. There is limited data available regarding abuse of older people from remote rural areas. Furthermore, the situation for older people in these areas is certainly made worse by the limited resources available to them (Field, 1996). Nevertheless, it is considered that elder abuse, and in particular financial abuse, is taking place within rural communities. Field (1996) states that at the New South Wales Advisory Committee meeting held with the Wagga Wagga in June 1994, financial abuse was identified as the most prevalent type of elder abuse. However, it was also identified that some of the older people would not consider the passing on of their financial holdings (e.g. money and/or property) as abuse or exploitation even when pressured by relatives to do so. Consequently more research is needed in this area to not only identify the needs of older rural people but to ensure that their interests are looked after, after family property/s have been passed down the next generation.

### Older people from lower socioeconomic backgrounds

Figure 3: Income Source (Financial Abuse Only)



Dunn (1995) identifies older people from a lower socioeconomic background as being more vulnerable than older people coming from a higher socioeconomic background. The EAPU has found evidence to support Dunn's assertion. Data collected from 1<sup>st</sup> November 2002 to 30<sup>th</sup> June 2005 indicated that out of the 664 cases of financial abuse reported 515 of those reported cases were from older people who were receiving a pension. Only 38 cases reported being self-funded, with 111 cases not providing income source details (EAPU Annual Report, 2005).

This data is also consistent with the fact that older people are mainly asset rich but income poor. However, with the federal government encouraging older Australians to self-fund their retirement, assets will end up being sold or mortgaged to provide for retirement income (Tilse, et. al., 2005). Banks have also developed an interest in the assets of older people by creating new security documentation such as reverse mortgages. A reverse mortgage secures the interests of the bank and allows an older person to borrow money against the equity that they have in their property (Thosar, 2002). While reverse mortgage

is a relatively new concept within the banking industry, community consultation is needed before its use becomes wide spread. Uncertain factors in life such as knowing exactly when one is going to die, makes it difficult to predict how long the debt may remain outstanding. This is particularly relevant if the older person has used all their equity in their home by the time they are 70 years old yet may live for another 20 years. This raises questions such as “Can the bank foreclose on the loan whenever they want?”; “Who will take care of the older person if all their assets have diminished?”; and, “Will the bank sell the property at a price that covers the older person’s debt or will they endeavour to get market value so that relatives receive some inheritance?” Preventative strategies for dealing with financial abuse will now be discussed.

### **PREVENTATIVE STRATEGIES FOR DEALING WITH FINANCIAL ABUSE**

As stated previously, the Queensland EAPU’s vision is to develop strategies that help prevent older people from being abused. A part of the EAPU charter is to provide awareness raising workshops with groups of older people. EAPU has developed a fact sheet that depicts preventative strategies that may assist in reducing the likelihood of financial abuse. The older person should:

- Avoid making important decisions following a significant event in their life such as the death of their partner.
- Make all their plans for the future when they are well, healthy and independent.
- Not give up control of their assets while they can manage them.
- Seek a wide social network beyond their immediate family and remain active with their community.
- Have all of their pensions and cheques credited directly to their bank account.
- Know their rights and do not be afraid to assert them.
- Know they have a right to confidentiality, privacy and to refuse anyone to intervene on their behalf.
- Ask for help if needed and fully understand all legal documents before signing.
- Not allow adult offspring to live with them without first seeking advice from a trusted person.

There are two issues to be considered when an older person lives with an adult offspring. The first issue is whether or not the older person actually wanted to live with the adult offspring (either in the older person’s home or in the adult offspring’s home) or was unduly influenced (or manipulated) to do so by the adult offspring (Lewis, 2004). The second issue relates to how the older person is able to legally deal with the situation should one or more of the parties no longer be satisfied with the living arrangements. These types of situations have featured in the media recently. For instance an older person may sell, transfer or gift a part of their property in exchange for the adult offspring verbally undertaking to take care of them for the rest of their life (Herd, 2004). Complications may set in if the adult offspring divorces and/or other adult offspring feel they have been cheated out of their inheritance. Carne and Herd solicitors have identified the need for families to enter into written agreements prior to any arrangements being implemented. Herd (2004) states that Family Agreements (also described as: Independent Care Agreements; Personal Services Contracts; and Lifetime Care Contracts) are essential to ensure that all members of the family are included in the decision making process and that the expectations of all parties are clearly documented. Herd (2004) justifies the need for this type of an agreement because the 1996 Australian

Census indicated that 20% of older people either lived with their children, relatives or friends.

Fielding (2000) points out that raising community awareness about the issue of elder abuse is a major preventative strategy in dealing with this problem. He states that other educative strategies aimed at changing people's attitudes, behaviours and values are also needed. However, Fielding (2000) proposes that there are three issues that should be rectified before a successful educative process that includes all these strategies, can be developed. First, to enhance clarification of what constitutes elder abuse, and develop an Australian definition that is widely accepted. This need is also reflected in the financial abuse literature with most researchers identifying that definitional parameters are important to determine what does constitute financial abuse (Choi, et. al., 1999; Rabiner, et. al., 2004).

### **Case Study – The proactive behaviour of a bank employee**

EAPU recently received a call from a bank employee working in a regional community in Queensland. The bank employee expressed the concern she had for one of her clients who was considered to be in the early stages of dementia but was able to manage financial arrangements with the assistance of the bank staff.

However, the bank employee lived near the client and always made a point of "keeping an eye out" when she was driving around the neighbourhood. She noticed two things that she considered unusual. First, the client was driving when the licence had been revoked and, second, she knew that the client did not have any family yet she had seen a lot of car activity going on at the house. When the bank employee questioned the client about all the cars, the client vaguely referred to them as "boarders". The bank employee asked if she may be able to call in for a cup of tea on the way home that afternoon, which the client agreed to. The bank employee was greeted at the front door by the client who showed her inside. Here she found a group of young men sitting in the lounge smoking what smelt like marijuana. When the bank employee checked the kitchen cupboards, they were completely empty which probably explained the client's very thin frame.

The bank employee was unable to get in contact with the client's doctor so phoned the local police to have the young men removed from the home. The bank employee said that the police were reluctant to take the complaint as the client could also be charged with possession of an illegal substance, being the owner and resident. The bank employee contacted another community based organisation within her area and was given the contact number of the EAPU. EAPU staff went through a safety assessment of the client's (and the caller's) risk of physical harm and after discussion about the client's capacity; the bank employee undertook to make a referral direct to the Office of the Adult Guardian for investigation.

Note: The EAPU cautions workers about direct interventions in abuse situations outside their area of expertise, for reasons of safety for both the older person and the worker. However, the bank employee is to be commended on her persistence in following this up.

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Second, more research into the phenomenon needs to be conducted in Australia. This assertion is supported by other researchers (Rabiner, et. al., 2004) who identify that a greater understanding of the risk factors for victims and the reasons behind the actions of a perpetrator will assist in developing successful preventative strategies. As previously stated, cultural differences do exist in relation to what is perceived as elder abuse. As such it is important that research into Australia's multi-cultural society is conducted and analysed so that successful prevention and intervention strategies are developed. Finally, Fielding (2000) asserts that certain demographic groups within our community should be identified as a 'high priority' for awareness training. Groups identified are: children; professionals who have regular contact with older people (such as medical professionals, legal practitioners, social workers, bank employees); professional and non-professional individual's who care for older people; and, older people themselves. In relation to the older people, Rabiner, et. al. (2004) states that the effectiveness of these public awareness campaigns needs to be evaluated to ensure that the information is reaching potential victims and results in possible acts of financial abuse being circumvented.

Bank employees can be particularly useful in identifying possible acts of financial abuse against older people. In the United States various financial institutions have introduced training for their staff that is specifically related to financial abuse of older people. In particular, the California Bankers Association developed a training video to provide their staff with skills that allows them to identify the warning signs associated with potential acts of financial abuse (Harris, 2005). The case study above is taken from a recent call received on the EAPU Helpline. This case study identifies another sector of our community that should be targeted for awareness training – the police force. Nerenberg (2000) asserts that when the local law enforcement is not adequately trained in the issues of abuse that are facing older people, response to these crimes may be slow and/or inappropriate. Different types of interventions will now be investigated.

### **TYPES OF INTERVENTIONS**

Field (1996) states that the most effective intervention used by people working with older people who are victims of abuse was that of negotiation. In the first instance, field workers would informally discuss the issue with the older person, concluding with advice on their options. In Queensland, this first point of contact may be with the EAPU, where if it was determined that an act of financial abuse had occurred, they would generally refer the older person (or professional notifying of the incidence) to the adult guardian, if the person does not have capacity. In the instances where the older person does have capacity they may be referred to a solicitor or a community legal service. However, in Australia there are no government funded general legal services for older people experiencing financial abuse. An older person who has experienced financial abuse may not be able to generate sufficient funds to employ a private solicitor who specialises in Elder Law. During investigation of this issue it was found that in Queensland a generalist legal service (known as: Legal Outreach for Older People - under the auspice of Caxton Street Legal Service) was available until funding was withdrawn in 2002. Refer attached addendum for current services. This service uniquely combined a lawyer and a social worker to respond holistically to the issues facing the older person, including situations of financial abuse. Unfortunately, this type of generalist legal service is no longer available within Australia.

Other options identified and available to older people include: police services (when incident is of a criminal nature); the Queensland Aged and Disability Advocacy (QADA); and, dispute resolution services. Furthermore, depending on the circumstances

there is a plethora of other avenues that can be explored. For example ombudsmen from different jurisdictions such as the banking industry can sometimes be useful in protecting the rights of the older person who has been financially abused. Family members and/or close friends are often needed to support the older person during an intervention. In the United States, legal services are considered one of the most effective ways for protecting and dealing with financial abuse of older people (Sadler, 1994b).

Another dimension that should be considered when investigating interventions into elder financial abuse is the implementation of specific elder abuse legislation. Mandatory reporting that usually compels an individual to report any abuse against an older person to an adult protection service may be a component of this legislation (Wolf, Daichman, & Bennett, 2002). This type of intervention has been included in most areas of the United States, Israel and some of the Atlantic provinces of Canada (Wolf, et. al., 2002). Wolf, et. al. (2002) note that while mandatory reporting has been considered valuable in situations where the victim is unable to report, this legislative requirement may not induce individuals to notify authorities. For instance, Wolf identifies that an individual is more likely to report abuse due to organisational, ethical, cultural and professional factors rather than through being forced to by legislation. Biviano (1996) presented a comprehensive examination of the issues surrounding mandatory reporting in an Australian context and concluded, "The law should not impose solutions that do not allow for the complexity of individual circumstances or respect for their needs and their wishes" (p. 46). In Australia, there is currently no elder abuse legislation in existence. However, the debate on this matter has resurfaced with mandatory reporting forming a part of the opposition Victorian Liberal Party's election policy for the 2006 state government elections (Liberal Victoria, 2005).

Another component of elder abuse legislation is the establishment of multidisciplinary teams of professionals to investigate acts of elder abuse. In the United States specific teams to investigate acts of financial abuse have been established. Allen (2000) describes these Financial (or Fiduciary) Abuse Specialist Teams (FAST) as:

a partnerships of professionals from diverse disciplines, who volunteer their time to review cases of financial elder abuse and facilitate comprehensive service delivery. The team also advocates for legislative reform, educates the community about the problem, and trains professionals in how to recognise, prevent, and resolve financial abuse of older people (p. 85).

These specific teams have been set up in numerous jurisdictions throughout the United States, including: Oregon (Kaye & Darling, 2000), Orange County (California) (Allen, 2000), and Los Angeles County (Aziz, 2000) documenting their successes. For example an intervention in Orange County consisted of a team of professionals who discuss the best way to assist two elderly women. The different disciplines involved in assisting these women were from: Adult Protective Services (Queensland equivalent would be – The Adult Guardian); Police; Public Guardian (Queensland equivalent – the Public Trustees Office); Financial Planner; Public Law Centre (Queensland equivalent – community legal service); Real Estate Broker; Mental Health Professionals (Queensland equivalent – psychologist from an Aged Care Assessment Team); Medical Practitioner; Social Worker; Social Security Administration (Queensland equivalent – Centrelink); Alzheimer's Association; California Department of Community Care (Queensland equivalent – the Department of Communities); private attorney's; and, family members (Allen, 2000). It would also be highly beneficial to have a representative from a financial institution involved in this team.

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The FAST in Los Angeles County was made up of a large number of professionals from the public and private sectors comprising 79 people (Aziz, 2000). This FAST differed from the Orange Country FAST in that they also provided consultation and training to professionals and the public as a way of increasing community awareness regarding financial abuse of older people. In this particular county, the FAST is co-ordinated by the Elder Abuse Prevention Program which amongst other things, recruits new team members and oversees the planning of education and training programs (Aziz, 2000). Oregon's efforts to reduce financial abuse of older people saw the introduction of a multi-media training package that was designed to educate older people at risk and also to assist bank employees in identifying possible financial abuse cases (Kaye & Darling, 2000). The 20 minute video gave bank employees tips on how to effectively communicate with the older person and vignettes on suspicious over-the-counter transactions. The training package was distributed to all banks in Oregon and was supported by the Oregon Bankers Association and the United States Department of Justice (Kaye & Darling, 2000).

The introduction of multidisciplinary teams in the United States may have been made easier through the implementation of elder abuse legislation. However, as observed by Wolf, et. al. (2002) legislation may not be the driving force behind the best response to elder abuse. In the absence of legislation, a case management approach that brings together this multidisciplinary expertise is seen as a viable option. As an example an advocacy type service could act as the case manager in getting together relevant professionals to respond to the different types of elder abuse. A social worker based within a legal service would be well positioned to undertake a case management role. Under the direction of a case manager, the investigation of financial abuse of older people would include the co-ordination of professionals similar to those included in the United States FAST's. These professionals could get together to develop an understanding of the older person's situation, assess the older person's situation and make recommendations in resolving that situation (Pritchard, 1995). Pritchard (1995) discusses the value of case conferencing (or management) in supporting the case manager to achieve an acceptable outcome for the older person. However, she identifies the need for the professionals participating in these multidisciplinary teams to remain committed because it would be senseless to get these people together if relevant information that may assist the older person's situation is not readily available.

In summary, Rabiner, et. al. (2004) highlight an important factor to be considered when developing interventions. They state that when designing interventions it is necessary to distinguish between perpetrators who are opportunists and those who are predators. Another consideration identified by Bolton and Bolton (1987) is the need for interventions to be designed to ensure that older people are treated like adults; with compassion and respect. Bolton and Bolton's (1987) following statement about older people conveys this:

The elderly are not children and in many cases they are not dependent. We cannot continue to remove them from their chosen environment, against they will, and place them in one we have chosen for them. To do so is not our right for unlike the children we analogize these adult victims to, the older person has the right to make his or her own choices (p. 240).

Recommendations emerging from this report will now be identified.

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## **RECOMMENDATIONS**

The incidence of domestic financial abuse of older people in Queensland has been established. There are several recommendations that emerge from this report. These are as follows and presented under relevant headings:

### ***Definition***

In the first instance, a definition encompassing what constitutes financial abuse (or any type of elder abuse) needs to be established to provide a relevant framework from which research of this phenomenon can be conducted. This definition, as identified by Dunn (1995), should be constructed within an Australian context. Furthermore, Fielding (2000) asserts that this definition should be generally agreed upon by researchers in this field. Consequently, it is recommended that a nationally representative committee be established to develop a mutually agreed upon definition, with relevant state and federal government jurisdictions taking a lead role in developing this committee.

### ***Research***

Once an agreed Australian definition is established, researchers are better placed to conduct studies (on all the different types of elder abuse) that can be compared and replicated. Therefore it is recommended that future research include the following features:

- the use of standard definitions;
- establishment of a suitable theoretical framework in which to examine this issue;
- a greater degree of methodological rigour;
- use of a representative sample of the Australian population;
- utilisation (or development) of reliable and valid psychometric measures;
- the use of quantitative and qualitative measures; and
- the adoption of non-discriminatory data collection practices when surveying older people (e.g. ageist and/or sexist). (For example, excluding men as victims from research on elder abuse.)

Recommendations for future research, based on this report, could include some of the following areas:

- establishment of an elder abuse prevalence base line within an Australian population;
- examination of this phenomenon systemically (individual, community and government levels);
- Indigenous Australian population;
- multicultural Australian population;
- rural and remote Australia;
- socio-economic advantage;
- profiling of perpetrators;
- cultural differences in the perception of elder abuse;
- risk factors associated with older people suffering from physical or mental disability; and
- public perception and understanding of the use of reverse mortgages.

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### ***Training Programmes***

Another recommendation is the need for training programmes to be developed, targeted at specific groups. Fielding (2000) has identified that education awareness should not only be provided for older people but also encompass different age groups, such as children. However, in relation to financial abuse some targeted groups should include members of the police force and financial (banking) institutions. Financial institutions in particular have the ability to play an intermediary role in the intervention of financial abuse. Training packages could be developed to assist front-line banking staff in the identification of potential acts of financial abuse against older people, and provide ways in which staff could deal with these issues. In the United States the Massachusetts Banking Association along with relevant agencies, developed such a training package for education of their staff and other interested bodies (Commonwealth of Massachusetts, 1995).

The Trainer Reference Manual covers such topics as: recognising financial exploitation; responding to financial exploitation; preventing financial exploitation; and general information regarding an overview of the phenomenon and relevant prevalence rates. The manual also includes a detailed training programme for delivery of the training package (Commonwealth of Massachusetts, 1995). Therefore, it is recommended that this type of pro-active response from banking institutions be developed within Australia. Not only will this reduce financial abuse, it will also enhance the financial institutions image within the community as a caring and socially responsible organisation.

### ***Multidisciplinary Teams and Case Management***

Another area emerging from this report is the coordination and development of multidisciplinary teams that investigate acts of financial abuse against older people in a comprehensive and timely manner. These teams are usually established under an adult protection legislative framework (e.g. FAST in the US). At this stage Australian States have not introduced this type of legislation or mandatory reporting. It is recommended that a case management approach be investigated to determine the appropriateness of implementing this type of intervention within an Australian context. This approach would see a case manager drawing on existing resources. The case manager could develop networks with a diverse range of professionals who would be committed to participating in these types of teams (enhanced community perception of their organisation) and provide expert advice on possible solutions to these acts of abuse. It is further recommended that a social worker, preferably embedded within a community legal service, undertake the role of case management.

### ***Establishing a seniors legal service***

There is a need to establish a seniors legal service that is able to help older people who have had their money and assets taken from them. At present there is no free legal service available for older people to pursue the return of their belongings. As we have seen by the data collected at the Queensland EAPU, the majority of older people being abused are in the age bracket of 80-85 years and at this stage of their life it is uncommon for these older people to be able to independently generate an income. This service would allow the older person to recoup their losses and regain their sense of independence, self-respect and dignity. These factors are very important in ensuring the older person achieves contentment and satisfaction during the later years of their life. A successful model for this type of service has been demonstrated previously and included a social worker to support the older victim. It is recommended that a free legal service specifically addressing the needs of older people and modelled on the defunct Legal Outreach for Older People be re-established.

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In conclusion, this report has examined the issue of domestic financial abuse of older people. A broad perspective of elder abuse within an Australian context was provided, followed by an overview of financial abuse of older people. Statistical data from Canada, Western Australia and Queensland was included. Identification of special interest groups was made and included older people from the following backgrounds: Indigenous Australian; non-English speaking; remote rural areas; lower socio-economic; and physical or mental disability. Preventative strategies for dealing with financial abuse were presented as well as different types of interventions that could be utilised. Finally, several recommendations have emerged from this report and are presented for government, community and individual consideration.

### **ACKNOWLEDGEMENTS**

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*"A serious problem will not be solved by further consideration of that problem within the mindset that has created it".*

Albert Einstein

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## **ADDENDUM**

Explanatory notes in *Types of Interventions* p.18 in the Report on 'Financial Abuse of Older People: a Queensland Perspective'.

It has been raised by the Seniors Advocacy Information and Legal Service (SAILS) that due to the omission of information about the SAILS program within the main body of the report, readers may conclude that this program is no longer operating or is irrelevant to financial abuse. This was not the intention of the EAPU nor the Author and both apologise for the omission. The EAPU support the SAILS Program and provide the following information for readers to include with the original report. An amended version can be located on the EAPU website at [www.eapu.com.au](http://www.eapu.com.au)

It should also be noted that in the mention of the Legal Outreach for Older People that funding was not in fact withdrawn but came to the end of the agreed timeframe for funding. Further funding could not be secured.

### **Seniors Advocacy Information and Legal Service**

In Brisbane, a free legal service is currently available to older people through the Senior's Advocacy Information and Legal Service (SAILS) which comes under the auspice of Caxton Legal Centre Incorporated. The service is funded by the Department of Communities and was set up following amendments to the Domestic Violence and Family Protection Act 1989. The legislation was amended to extend protection to people suffering abuse at the hands of family members or unpaid carers. The Department of Communities recognised a gap in domestic violence services for older people and was keen to provide a practical and constructive means of addressing, not just physical abuse, but all forms of abuse threatening older people.

SAILS is staffed by a solicitor and a social worker and this combination of skills is an ideal way of approaching problems confronting older people.

Services Include:

- Providing legal information, advice and advocacy to people over 60 experiencing domestic or family (non-spousal) violence and other forms of abuse.
- Undertaking court representation and support in certain circumstances.
- Providing crisis and short-term counselling including development of safety plans.
- Referral to other legal and/or support organisations.
- Providing information, advice and support to service providers.
- Providing community legal education.

Clients include:

- An older person or their nominated representative;
- Service providers working with older people.

SAILS workers (the social worker or lawyer) will discuss each possible referral once an initial contact has been made. A decision will be based on the mission statement and the casework guidelines of the programme. As soon as possible the workers will advise the individual or service provider who made contact whether or not the referral will be accepted.

SAILS can give hands-on assistance with the lawyer being in a position to provide not only legal advice, but where appropriate, legal assistance and representation. The social worker often provides ongoing support and/or can assist with such issues as re-housing. Since the inception of the program, it has become clear that abuse often includes a combination of both physical and financial features. Many of the matters referred to SAILS

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include considerations of Enduring Powers of Attorneys, issues of capacity and the intermingling of finances by family members.

Although SAILS represents a great deal of forward- thinking on the part of the Queensland government, there are many areas of unmet legal needs for older people. A petition has been developed by SAILS seeking funding of a comprehensive legal service for older people.

For further information, advocacy or legal advice, contact SAILS via:

28 Heal Street  
New Farm Q 4005  
Phone: 07 3254 1811  
Fax: 07 3254 1356  
Email: [sails@caxton.org.au](mailto:sails@caxton.org.au)