

Financial Abuse Guidance

pushing
bullying pinching
withholding food & drink coercion intimidation
hitting isolating emotional abuse
restraint shaking
misusing medication
scalding teasing sexual abuse
leaving on own blaming
stealing money or benefits neglect
leaving on own ignoring needs

1. Introduction

This guidance is designed to support professionals in understanding what financial abuse is, how to spot the signs of financial abuse, the impact it can have on individuals, and how to broach the subject of financial abuse with individuals who may be reluctant to talk about it or unaware they are being abused. The final section covers options for legal redress.

This guidance builds on work undertaken in East Sussex County Council to develop their Safeguarding Adults Financial abuse toolkit.

2. What is Financial Abuse?

The Care Act 2014 describes 'financial abuse' as a type of abuse which includes having money or other property stolen, being defrauded, being put under pressure in relation to money or other property and having money or other property misused.

What financial abuse looks like can vary which can make it difficult to detect and identify. As the Care Act 2014 definition shows, financial abuse can be concerning money, property or belongings.

Financial abuse might look like:

- Borrowing money and not giving it back
- Stealing money or belongings
- Taking pension payments or other benefit away from someone
- Taking money as payment for coming to visit or spending time together
- Forcing someone to sell their home or assets without consent
- Tricking someone into bad investments
- Pressuring or even forcing someone to make changes in wills, property or inheritance.

3. When Should a Safeguarding Concern Be Raised?

Professionals and members of the public should raise a safeguarding concern when financial abuse is suspected. This may include:

Coercion

- Preventing someone buying goods, services or leisure activities.
- Controlling access to money or benefits.
- Exerting undue influence to give away assets.

Exploitation of position of trust

- Demanding early inheritance.
- Pressure to transfer property, inheritance, possessions or benefits, take out a loan, or change will for the family / professional benefit.
- Pressure to accept lower-cost or lower-quality services in order to preserve more financial resources to be passed to beneficiaries on death.
- Staff or volunteers borrowing money or accepting gifts or money.
- Misuse of a person's assets by professionals, including misuse of powers of attorney.

Deception

- Goods or services purchased in someone's name but without their consent.
- Forgery.
- Altering ownership of property without consent.

Money redirected to others

- Money being absorbed into a care home or household budget without the person's consent.
- Unlicensed money lending (loan sharks) i.e. being offered a loan on bad terms.

Other types of financial abuse

- Theft i.e. money or possessions stolen, borrowed or withheld without permission.
- Being deliberately overcharged for goods or services, or being asked to part with money on false pretences.
- Postal, telephone and internet scams where the person has interacted with someone and lost money.

4. The Link Between Financial Abuse and Domestic Abuse

Financial abuse can involve exerting control over another adult by controlling their ability to acquire, use and maintain economic resources. This is one of a range of controlling behaviours used by perpetrators of domestic abuse.

Whilst not an exhaustive list, these behaviours can include:

- Interfering with employment and / or education.
- Destroying property.
- Stopping or controlling access to finances including benefits, savings or wages.
- Forcing an adult to take out credit.
- Forcing an adult to commit fraud.
- Transferring financial liability into an adult's name.
- Refusing to contribute to household or other costs.
- Prolonging legal proceedings.
- Stealing.

The Care Act identified the local authority as the lead agency in adult safeguarding. Adult Social Care co-ordinates the response to allegations of abuse and neglect of adults with care and support needs. However, the police will take the lead in allegations of a criminal nature.

5. Signs of Financial Abuse

Here are some of the behaviours and signs that might suggest financial abuse could be happening:

- Unexplained money loss
- Lack of money to pay for essentials such as rent, bills and food
- Inability to access or check bank accounts and bank balance
- Changes or deterioration in standards of living
- Unusual or inappropriate purchases in bank statements
- Isolation and withdrawal from friends and family
- An adult not receiving their benefits
- Payment of adult's contribution towards services suddenly stops.
- Disparity between assets and satisfactory living conditions.
- Reluctance on the part of family, friends or the person controlling funds to pay for replacement clothes or furniture.
- Large volumes of 'junk' mail.

This powerful video from Public Protection Kent is designed to help people to spot the signs of doorstep crime and financial abuse [Spot the Signs of Financial Abuse](#)

6. Who is Likely to Perpetrate Financial Abuse?

Financial abuse is most frequently perpetrated by a person acting in a trusted capacity. This includes family members, friends, neighbours, care workers and other professionals. In 2017/18 66% of adults at risk who were the subject of a section 42 enquiry into alleged financial abuse were being abused by someone they knew – a family member, friend or someone else they held in their confidence (NHS Digital, 2018).

Family members and friends:

- May have a substance misuse or gambling problem, or financial difficulties.
- Are due to inherit money, but feel justified in taking it before it is due.
- May have a negative relationship with the adult and feel a sense of 'entitlement'.
- May have negative feelings towards other family members and want to prevent them from acquiring or inheriting the adult's assets.
- Are acting with the adult's consent but not in their best interest. Some families may have a view that the income of individual family members, including benefits for disabled adults, should be pooled into the family income.

Professionals may:

- Overcharge for services or products.
- Use deceptive or unfair business practices.
- Use a position of trust or respect to gain compliance.
- Seek employment, such as care workers or personal assistants, and then gain adults trust and take over their finances unlawfully.
- Find adults who are isolated or alone, or contact the recently bereaved, in order to financially abuse them.
- Move from community to community to avoid detection.

Financial abuse may also be perpetrated by individuals who are initially strangers and seek out vulnerable adults with the intention of exploiting them. This includes mass marketing fraud, identity theft, scams or rogue traders.

7. It May be Difficult to Detect Financial Abuse for a Variety of Reasons Which Can Include:

- The adult may be reluctant to speak out through a sense of shame, or fear of repercussions, such as the family member withdrawing their support or getting into trouble.
- A belief that financial matters are private and raising concerns may seem like an intrusion.
- An adult may not recognise the abuse.
- It may often start out as a legitimate transaction, but escalate over time, making it difficult to identify when it has tipped over into being abuse.
- It can be difficult to spot if an adult is being coerced.
- Individuals can be targeted because of perceived vulnerabilities such as dementia, learning disability or social isolation and therefore may not know they are being financially abused.

8. How Does Financial Abuse Affect Someone?

A person may experience any of the following:

- Depression or anxiety.
- Distress.
- Anger.
- Embarrassment or loss of self-esteem.
- Self-blame – decline in mental health.
- Denial or fear.
- Betrayal.
- Stress.
- Loss of confidence to live independently.
- Deterioration in physical health (leading to premature death).
- Social isolation.

9. How to Start a Conversation About Financial Abuse

Financial abuse can be a sensitive topic to approach. Sometimes, it's inflicted on adults by the people closest to them, including family members, caregivers, or friends.

Ask questions that prompt conversation and help identify the abuse. For example:

- Have you ever felt pressured to lend money?
- Have you ever shared your personal banking information when you didn't feel comfortable to?

- Have you lent anyone money that they haven't yet paid back?
- Have you been pressured into changing your will, or power of attorney?
- Do you have any loans that you don't remember taking out?

Remember to be sensitive while asking questions, and to be aware that an adult may not be willing to open up about these topics, especially if the situation involves family.

Focus on behaviours. This signals that you're there to support the person, and not judge their relationships. A great way of doing this involves asking the adult how specific behaviours make them feel.

Making Safeguarding Personal (MSP) is the approach taken for all safeguarding work. The key principle is to support and empower the adult to make choices and have control over their own life. It is about seeing people as experts in their own lives and working alongside them to identify the outcomes they want.

Strengths based approaches underpin the idea of Making Safeguarding Personal and will support a shared conversation about risk between professional and adult.

Strengths based conversation might focus on the following:

- What does well-being mean to the adult?
- What is important to them in supporting their well-being and what isn't important?
- What solutions have they tried?
- What worked or didn't work?
- What gets in the way of them being able to use their strengths and make changes in their life?
- What supports and resources are available for them to use?

These conversations can begin to shape a plan that will protect the adult whilst enhancing their wellbeing.

10. Obtaining Consent to Undertake an Enquiry

Everyone has a legal right to make decisions about their own life and, where practicable, the adult's consent should be sought before taking action.

However, there may be circumstances when consent cannot be obtained because the adult lacks capacity, but it is in their best interest to undertake an enquiry.

Whether the adult has capacity to consent or not, action may need to be taken if:

- Others are, or will be, put at risk if nothing is done.
- It is in the public interest to take action because a criminal offence has occurred.

Whilst an adult who lacks capacity may be considered to be more at risk of financial abuse, it should be remembered that someone with capacity can be equally susceptible. For example, it should not be assumed that if an adult who has capacity makes a gift, then it cannot be regarded as theft. Coercion and undue influence, emotional grooming and predatory behaviours as well as the reasonableness of the transaction all need to be considered.

11. Planning an Enquiry into Financial Abuse

A safeguarding enquiry into alleged financial abuse will need:

- To identify the person or organisation responsible for the financial abuse, and enable the adult experiencing financial abuse to achieve resolution and recovery.
- To consider welfare and prevention alongside any enquiry actions.
- To work with the adult to identify and focus on their desired outcomes.
- To consider whether a police investigation is required and agree how to work with the individual alongside any such investigation
- To consider the breadth of remedies available to the adult at risk of financial abuse.
- A well-planned meeting or discussion which involves and uses the skills of partners at the earliest opportunity

12. Seeking Legal Redress

The criminal courts

If a criminal offence e.g. theft or fraud has been committed, the adult experiencing financial abuse may wish to press criminal charges against the person thought to be responsible. The dynamics of the relationship between the adult and abuser can make it difficult for the adult themselves to decide on criminal prosecution, even when large amounts of money have been stolen from them.

For more information about theft and fraud, see The Theft Act 1968 and The Fraud Act 2006 – both available on www.legislation.gov.uk.

The civil courts

Where a criminal offence has not been committed, it may be possible for the adult subjected to financial abuse to obtain relief through civil law. This would be the case where financial abuse occurs as a result of undue influence or duress.

Undue influence occurs when an adult's wishes regarding a gift or bequest are overruled as a result of coercion or undue pressure by somebody else.

Duress relates to where an adult enters an agreement as a result of threats.

Where it is established that duress or undue influence has been exerted, any contract the adult experiencing financial abuse has entered into may be set aside and they must take steps to void the contract. Where duress has occurred, it may also be possible to obtain damages; damages are not available with undue influence.

Office of the Public Guardian

If the abuse is perpetrated by an attorney or deputy and the donor still has capacity, he / she can revoke the Lasting Power of Attorney (LPA) by way of a Deed of Revocation. The attorney should be alerted and, where the LPA is registered, the Public Guardian informed.

A local authority can make representations to the Office of the Public Guardian if there is reasonable belief that an attorney or deputy is not acting in the adult's best interest.

The Court of Protection

Where the adult experiencing financial abuse lacks capacity the Court of Protection has wide powers to deal with the consequences of financial abuse.

These include:

- Making an order prohibiting a named person from having contact with the adult experiencing financial abuse.
- Making an order enabling another person to bring proceedings on behalf of the adult experiencing financial abuse, for example, for redress in the civil court. This may involve claims of fraud, coercion, undue influence, lack of capacity, and breach of trust.
- Appointing a deputy.

In addition, the Court can simply set aside gifts or wills on the grounds that the person lacked capacity at the relevant time.

The High Court

The High Court can:

- Make freezing injunctions to prevent money or property being disposed of.
- Make search orders to allow access to the home or workplace of the person alleged responsible to search for documents.
- Can intervene and use Inherent Jurisdiction where an adult has capacity but requires protection.

Injunctions can also be obtained to prevent the person alleged responsible from leaving the country.

A person acting as a 'litigation friend' (i.e. representing an adult with mental health issues) can also apply to the High Court for recovery of funds.

The Legal Ombudsman

Complaints about a solicitor should, in the first instance, be directed to the practitioner or law firm concerned, in writing.

Should the practitioner not deal satisfactorily with the complaint the matter should be referred to the Legal Ombudsman. The Legal Ombudsman is a free, independent service that has formal powers to resolve complaints about lawyers.

The Legal Ombudsman can be contacted on 0300 555 0333 or at enquiries@legalombudsman.org.uk.

Further information can be found at <http://www.legalombudsman.org.uk/>.

The Banking Protocol

The Banking Protocol is a UK-wide initiative through which branch staff can alert the police to suspected scams. It was launched in 2017 by UK Finance, National Trading Standards and local police forces.

If a customer attends bank/post office and requests cash withdrawal or transfer and this is assessed as unusual or out of character, trained staff ask questions to establish if the customer is a potential victim of fraud (and whether the suspect is in the vicinity). If so they call police on 999 quoting “Banking Protocol” and a unit is deployed and undertakes an initial investigation.

13. Strategies for protecting adults at risk of financial abuse

There can be significant difficulties in investigating, proving and rectifying financial abuse once it has occurred. So, the most effective way of protecting people from financial abuse is through preventive interventions.

Working with individuals at risk

Prevention needs to take place in the context of person-centred support, with individuals empowered to make choices and supported to manage risks.

The following should be considered in individual cases:

- The risk of potential exploitation and how to mitigate this, could be included in the individual’s support plan, and shared with care providers.
- The use of advocacy
- Advising the adult at risk of sources of useful information e.g. The Money Advice Service, Age UK, Citizens Advice Bureau.
- Working with partner agencies involved with the individual to develop risk management plans

Trading Standards

Trading Standards can help to protect against financial abuse by:

- Providing information and advice on how the adult at risk can protect themselves from being deceived in relation to doorstep crime, rogue traders, loan sharks and mass marketing scams e.g. lottery, postal or internet scams.
- Known scam victims can be supported by Trading Standards, and interventions can take place where necessary to support the person.

Policies and procedures

- Residential care homes should have policies and procedures in place for dealing with individuals’ finances and valuables, and keep proper auditable records.
- Home care providers should have formal arrangements in place for home care staff to take on financial responsibilities.
- Supported living accommodation should have systems in place to support individuals in managing their finances which do not put staff in conflict with their employer.
- Clear auditable records should exist to show the individual has been invoiced in accordance with the care that has been delivered.

Direct payments

There are a number of ways to reduce the risk of direct payment misuse, by:

- Conducting a capability assessment on the individual's/third party's ability to manage the direct payment.
- Encourage Direct Payment recipients to have their Direct Payment through a Pre-Paid Card.
- Be clear that providers and PA's should not manage any of the finances associated with the Direct Payment
- Undertake a DBS check on the third party.
- Be specific in the Care and Support plan about what the direct payment can be spent on.
- Ensure the Direct Payment recipient or third party understands the need to keep records of all Direct Payment spend.
- Referring to the Adult Care and Support Direct Payments Risk Management, Framework & Escalation Policy