

Steering the Right Path: Planning a Family Route for Ageing



Focus on Situational Abuse

Long term family violence

- Continuation of gendered abusive power and control being exerted in family relationships.

Or Situational abuse

- Potentially preventable abusive situations arising in the context of vulnerabilities associated with ageing, with multiple contributing causes: ill-advised living and financial arrangements; carer stress; sibling conflict; unresolved relationship issues; mental health problems etc.

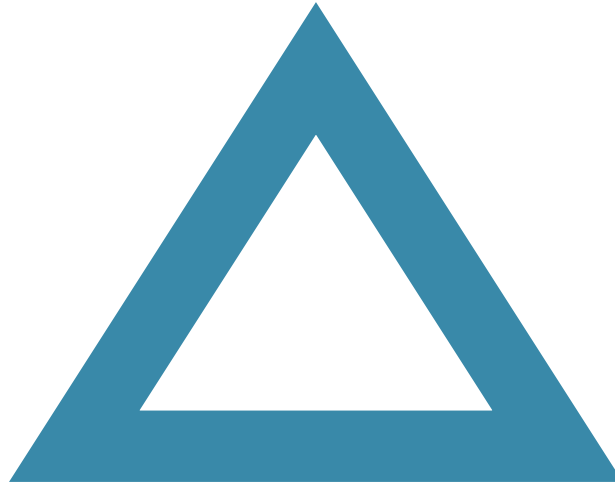
Steering the Right Path

- **Planning:** finances, living arrangements, care plans, advance directives, and powers of attorney
- **Preserving:** family relationships, social connection, autonomy and respect
- **Preventing:** resentment, conflict and abuse.

Risk mitigation when there is still capacity and a degree of good will.

The Golden Triangle of Wellbeing

Robust personal relationships



Financial control

Sense of purpose
& meaning

Lucy's Story



Hypothetical Case Study

- Intergenerational living arrangements and informal and formal financial agreements
- Adult child with problems moving back to family home
- Powers of Attorney
- Advance care directives
- We reference these to elder abuse risk and protective factors
- Conflict and disputes in families- options for resolution, including mediation services.

Hypothetical Case Study

- Problematic Scenario
- What ensues
- Impact on Lucy
- What could they could have done to avoid pitfalls
- Proceed to next issue assuming better decisions had been made.



Rebecca suggests she become Lucy's Power of Attorney and takes over her mother's finances.

Who Knows What a Power of Attorney is?

If Rebecca is given Power of Attorney

Pros & Cons?

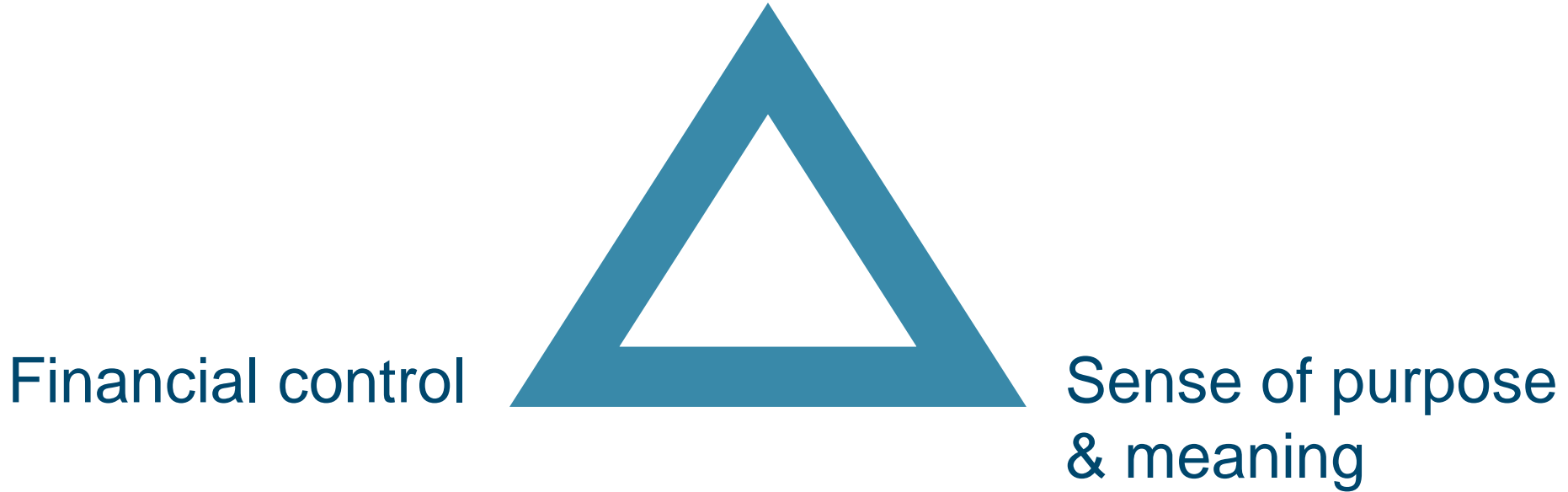
- For Lucy
- For Rebecca
- For Lucy's other children, Michelle & Rebecca

What Actually Happens?

- Lucy gives Power of Attorney to Rebecca
- Rebecca is under financial stress
- She uses Lucy's money for her own expenditure, justifying it in her mind because of all the things she does for her
- Threatens to stop helping Lucy
- There isn't enough money for Lucy's rates, medical, and everyday expenses
- Michelle and Andrew hear about it and confront Rebecca.

How's The Golden Triangle of Wellbeing

Robust personal relationships



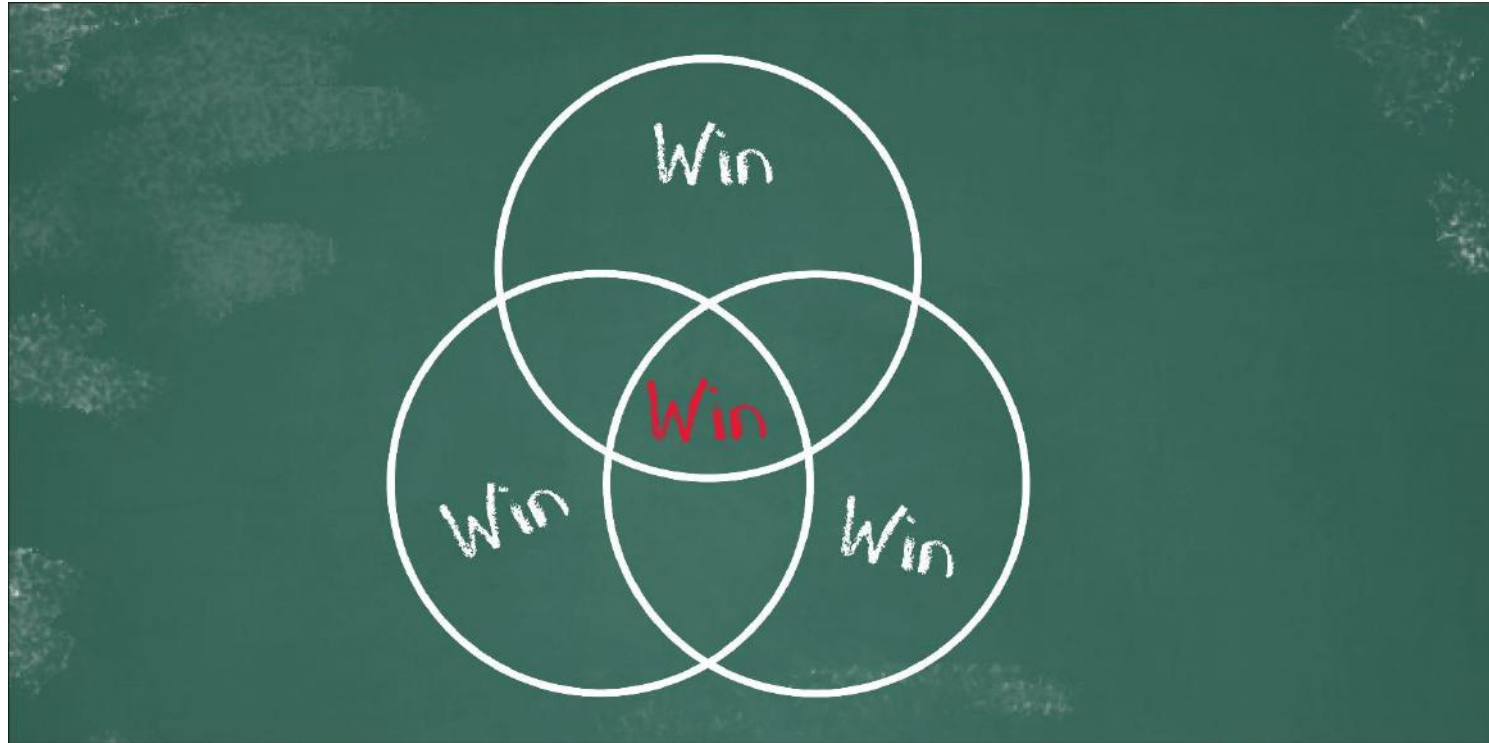
If this situation occurred how can it be dealt with?

- Michelle and Andrew can contact RAV or FMC for mediation
- Lucy can get advice from Seniors Rights
- Office of the Public Advocate
- Community Legal Centre
- Application to VCAT- to change Power of Attorney, or repay money, or both
- Put in checks and balances for PoA
- If Lucy has capacity she can revoke or change the PoA.

What Might The Family Have Done Differently?

- Discussed it all as a family, identifying what was important for Lucy, working through pros and cons, and contingency plans
- Obtained legal advice
- Attended mediation or counselling early on to agree about what was going to happen and put some rules and expectations in place, for example:
 - Two people nominated- checks and balances
 - Transparency- Rebecca keeping transparent accounts for sharing with other family members.

Resolution



On Second Thoughts

- After family discussions and legal advice, two Powers of Attorney are appointed (Rebecca and Michelle, because of Andrew's previous gambling problem)
- Both are to agree about expenditure
- They keep accounts that all family members can view
- Everybody agrees that expenses incurred by Rebecca on Lucy's behalf should be repaid.

A Modest Proposal

- Power of Attorney Register
- Online 'road rules driving test' ensuring thorough understanding of fiduciary duties, and applied knowledge of PoAs in specific scenarios.
- Capacity for someone with concerns about exploitation or misuse of power to report a breach of fiduciary duty.
- Triggers mandatory mediation, providing avenue for informal resolution better suited to this client group.



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