



Financial elder abuse

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What we will cover

- ▶ Elder abuse – definitions and considerations
- ▶ Financial elder abuse
 - ▶ Warning signs
 - ▶ The FOS Approach – what is expected of financial services providers
- ▶ A tale of two very different couples: Mr & Mrs Canizzo and Roy & Nola
- ▶ Q&A

What is elder abuse – definitions and considerations

A single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.

World Health Organisation

Any act occurring within a relationship where there is an implication of trust, which results in harm to an older person.

Australian Institute of Family Studies

A single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person.

World Health Organisation

WHAT ABOUT AGE?

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Australian Institute of Family Studies

Abuse of elderly parents for cash soars

Elder financial abuse is on the rise - Don't ignore the red flags!

Inheritance impatience causing families to rob granny for school fees, renovations

"casual larceny"

Ramifications of elder abuse profound, State Trustees says

Experts say senior financial abuse will be the "crime of the 21st century."

Royal Commission into Family Violence: Abuse of elderly under-reported by victims due to 'embarrassment, shame'

Call to criminalise financial abuse of elderly as woman reveals how mother's \$2m home was sold by son

Secret shame

Elder financial abuse: Perps may be close to home

Most elder abuse by family of victim, says report

What happens when your child makes a hostage of you?

Children abuse elderly parents for money

Financial elder abuse has been recognised as domestic violence, however it is not broadly understood – or even acknowledged – in the community

Financial abuse of elderly parents on the rise as housing becomes more unaffordable

Baby boomers, inheritance and contested wills

Dodgy transfers

Elder financial abuse – confronting a hidden epidemic statistics shocking

OPINION: Elderly abuse is a terrible silent tragedy on the rise

The rise – and risk – of 'early inheritance syndrome'

What is **financial** elder abuse – FOS summary

A third party who directly or indirectly uses the assets of an older person...

...who is vulnerable because of incapacity, or because of misplaced trust or confidence

...which is to the detriment or potential detriment of the older person and to the gain of another person

When may a financial services provider be legally liable for a customer's losses?

- ▶ Authorisation
- ▶ Forgery
- ▶ Incapacity
- ▶ Notice of undue influence
- ▶ Unconscionable conduct
- ▶ Assisting a breach of fiduciary duty
- ▶ Privacy and confidentiality
- ▶ Whether the financial services provider should have made further enquiries

Financial elder abuse – on the frontline

Staff may have concerns about what they are observing, and have an instinct that something is not right.

However they may be wary about voicing their concerns about a customer being exploited given the suspected exploiter may be a family member.



The older person may...

be accompanied by a new acquaintance to make a large or unusual withdrawal of cash

be accompanied by a family member or other person who seems to coerce them into making transactions



not be allowed to speak for themselves, or another party does all the talking

start to appear withdrawn or fearful (particularly of the person with them)

The older person may...

have withdrawal slips presented by a third party, with their signature on it buy the rest of the slip filled out in different hand writing

give implausible explanations about or appear confused about what they are doing with their money



have large withdrawals or transfers made on behalf of the older person without prior direct contact from them

not understand or be aware of recently completed transactions

The older person may...

have unpaid bills that they should be able to afford to pay
eg complain of having no heating despite the fact that they can afford to have it, or that they are being evicted

indicate that mail is no longer being delivered to their home

be concerned about missing funds or financial service-related documents



suddenly register for internet banking when prior financial activity has been branch based and there has been no preliminary contact with the FSP

engage in financial activity that is unusual, erratic or uncharacteristic

What can financial services providers do about it?

- ▶ Have a **conversation** with their customers when they believe they may be experiencing financial elder abuse
- ▶ A conversation is more than asking one question
- ▶ It may mean having a separate conversation with the customer
- ▶ If concerns remain, then staff need permission to:
 - ▶ Say “no” or “not yet” to the transaction
 - ▶ Ask to speak to a trusted family member
 - ▶ Refer customers to appropriate support services

**It was the best of times,
it was the worst of times...**

P. Field ***Couples***
~~***C. Dickens, A tale of Two Cities***~~

Case study 1

Mr & Mrs Cannizzo* were in their 90s and although they were not separated, they lived in different nursing homes.

In 2014, they signed a power of attorney providing the Mrs Cannizzo's daughter and Mr Cannizzo's son with authority to access online banking to view statements only.

In April 2015, Mrs Cannizzo's daughter rang the bank to report suspected unauthorised transactions on the account by Mr Cannizzo's son.



** Not their real names*

Case study 1 (continued)

Five days after Mrs Cannizzo's daughter reported the suspected unauthorised transactions, Mr Cannizzo's son took his father in his wheelchair to a bank branch.

Mr Cannizzo closed the joint account and transferred the funds into a different account, in his name only, without Mrs Cannizzo's daughter's knowledge.

The closing balance of the joint account was almost \$140,000.

Following this, Mrs Cannizzo's daughter lodged a dispute with FOS.



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We found that the bank had failed to exercise appropriate care in response to a number of 'red flags' and that signs of undue influence should have been recognised.

Our determination required that the bank transfer half the funds, plus interest, into an account nominated by Mrs Cannizzo.

Case study 2

Roy* attended a branch of an FSP in a rural area with new acquaintance, Nola*, and completed a third party operating authority allowing Nola to operate on his personal account.

Roy and Nola also asked to withdraw \$30,000 from Roy's personal account, however they were told to return at a later date when cash would be available.

Two days later, Roy and Nola returned to the same branch to complete the \$30,000 cash withdrawal.



** Not their real names*

Case study 2 (continued)

One month later, Roy was admitted to hospital and was subsequently declared incompetent.

A guardian was appointed to administer Roy's financial affairs.

Nola had left town taking the cash with her.

Roy had never withdrawn such a large amount of cash before and his guardian said he was induced by Nola to change the account operating authority and withdraw the cash.



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In these circumstances, the FSP should have:

- discussed the transaction with Roy separately from Nola; and
- taken steps to identify and protect Roy from potential financial abuse.

The FSP was required to refund the \$30,000 back to Roy's account.

Any questions?





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