

When to consider raising a safeguarding concern - Financial Concerns

It is important that this guidance is read in full to support decision making

1) Financial abuse and safeguarding

All financial concerns must be recorded and reported using the appropriate procedures but not all concerns will be safeguarding issues.

- ❖ Evidence shows that individuals who have dementia or reduced cognitive function are most likely at risk of being victims of financial abuse. The risk factors associated with financial abuse increases with age and isolation.
- ❖ Financial abuse is often perpetrated by a person acting in a trusted capacity e.g. a family member, friend and neighbours or care workers/other professionals.
- ❖ Where the abuse involves "grooming", the individual may not recognise that they are being abused.
- ❖ The purpose of this section is to provide guidance on the management of financial concerns and determining when the circumstances should be considered as requiring a safeguarding referral.

What is financial abuse?

- ❖ Abuse can range from not acting in the person's best interests, to persuasion or coercion in respect of gifts or loans, misappropriation of property or allowances, theft, rogue trading, or mass-marketing fraud.
- ❖ The Care Act 2014 definition of abuse includes: (a) having money or other property stolen, (b) being defrauded, (c) being put under pressure in relation to money or other property, (d) having money or other property misused.
- ❖ The associated Care Act Guidance contains the following definition of financial abuse (Care Act Guidance Updated October 2018 14:17): Financial or material abuse including: theft, fraud, *internet scamming*, coercion in relation to an adult's financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, and the misuse or misappropriation of property, possessions or benefits.
- ❖ The elderly and vulnerable are particularly targeted for a range of fraud offences including but not limited to courier fraud, rogue traders, romance and investment scams. They may be encouraged to attend a bank in person and withdraw or transfer cash. Rogue traders will target properties occupied by the elderly and the vulnerable, advising them of repair work that needs doing. These types of fraud cause significant emotional and financial harm.

2) Responsibilities of Regulated care providers

- ❖ Where there are no concerns around an individual's capacity to manage their finances, ensure the support given does not override their right to access their money whenever they want and to spend it as they decide.
- ❖ Apply the Mental Capacity Act 2005 [Code of Practice](#) where there are doubts around an individual's decision making ability.
- ❖ Ensure all staff involved in an individual's money management know their roles, responsibilities and the organisations procedures.
- ❖ Provide staff with training relevant to their role and responsibilities.
- ❖ Have relevant procedures in place to identify concerns as early as possible and to take action.
- ❖ Address and record financial management arrangements within individual care and support plans.
- ❖ Keep individual care and support plans under regular review so that changes in the individual's capacity to manage their finances, or concerns about how someone else is supporting an individual's finances can be identified at an early stage to reduce the possibility of significant harm and abuse.
- ❖ Be alert to possible indicators of financial abuse and take appropriate action at the earliest opportunity.

3) Best practice for the prevention of financial abuse

- ❖ Work to the principle that individuals are empowered and enabled to use and manage their own money/finances whenever possible.
- ❖ Where support with finances is required, identify who is providing that support and that they know what they are undertaking (including family members) when they take on responsibility for someone else's finances.
- ❖ Record under what framework support with finances is being provided, for example Lasting Power of Attorney (property and finance), Enduring Power of Attorney, Appointeeship or Court Appointed Deputy.
- ❖ Always check the validity of a Lasting Power of Attorney, Enduring Power of Attorney or appointeeship arrangement, including those which may have been issued abroad. Complete an OPG 100 Form or ask to see the registered document and associated registration number and record this has been seen. If in doubt seek legal advice.
- ❖ Encourage staff to be vigilant for signs that individuals may be a victim of fraud.

The CQC, as part of the inspection process, will require written evidence to confirm that internal reviews, including subsequent actions, have taken place following identification of financial abuse concerns.

Raising a Safeguarding Concern re Financial Abuse

Under the Care Act 2014*, agencies have a legal responsibility to raise safeguarding concerns where there is a **suspicion that abuse** of a vulnerable adult has occurred which may be as a result of neglect or omission of care. This is supplementary to the requirements set out above around the management of financial arrangements.

**Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action'.*

1) Raising a safeguarding concern re financial abuse

It is important to remember that a safeguarding concern must be raised in response to a suspicion of financial and/or material abuse, and not because there is concern about a person's ability and/or mental capacity to manage their finances, accrued debts or dissatisfaction regarding the outcome of a financial transaction. The key factor is that the person has been financially and/or materially disadvantaged as a direct result of their care and support needs.

A safeguarding concern should be raised where there are concerns that:

- ❖ An individual has been financially and/or materially abused by a person in a position of trust.
- ❖ An individual has suffered significant financial and/or material loss on a single occasion or over a period of time.
- ❖ An individual has been subject of coercive or controlling behaviour by another resulting in financial and/or material loss.
- ❖ An individual has been deliberately targeted and exploited because of their care and support needs.

Criminal Acts

- ❖ Financial abuse is always crime, but it is not always prosecuted. All suspicions or incidents of criminal acts involving financial and/or material abuse must be reported to the Police.
- ❖ A full police investigation will be conducted if fraud is suspected. Action Fraud is the UK's national reporting centre for fraud and cybercrime where fraud should be reported. If no loss is suffered a report should still be made to [Action Fraud](#).
- ❖ Where there is uncertainty around financial abuse i.e. whether money or possessions have been misplaced, lost or stolen, a safeguarding concern should not be raised as an alternative to reporting the incident to the Police. A judgement will be required, and if the conclusion is that a criminal act may have been committed the matter should be referred to the Police for investigation.

2) When a Safeguarding Concern Does Not Need To Be Raised

In situations where an individual with capacity chooses to lend, give, donate, or spend money, and by doing so put themselves in a position that may financially disadvantage them, there is no role for safeguarding ([Article 8 of Human Rights Act](#)).

The following examples require actions other than raising a safeguarding concern to be taken:

- ❖ Where there are concerns or suspicions involving a Lasting Power Of Attorney, Enduring Power of Attorney or a Court Appointed Deputy not discharging their duties appropriately. These should be raised directly with the [Office of the Public Guardian](#).
- ❖ Suspicions or concerns involving a [Department for Work and Pensions](#) (DWP) appointee should, in the first instance, be reported to the Department for Work and Pensions.
- ❖ Individuals who respond to a random leaflet drop or doorstep seller, receive a poor service and no redress from the provider of the service despite having made a complaint. These incidents should be directed to [Lancashire Trading Standards](#).
- ❖ Individuals, who understand the potential risk and consequences of engaging in risk taking behaviour involving financial transactions i.e. paying for sex or purchasing drugs. Regular review of capacity around specific decisions may need to be undertaken along with repeated discussions around the risks. Also providing relevant information and signposting as appropriate.
- ❖ Carers benefitting in a way that does not involve abuse of money i.e. collecting service users reward points or benefitting from two for one offers which should remain the property of the service user.
- ❖ Self-funding individuals, in a residential placement, accruing debts regarding their care charges. A referral should be made to Adult Social Care for a review of the person's needs and current financial circumstances.

This document is intended as a guidance tool, and should be used in conjunction with professional judgement. When there is any doubt as to whether to raise a safeguarding concern, staff should always speak to the safeguarding lead in their organisation, and if further advice is required to the local authority safeguarding team via the Customer Access Service safeguarding line: 0300 123 6721.

Links to guidance Information:
<p>Mental Capacity Act Code of Practice: Chapter 14 details means of protection for people who lack capacity to make decisions for themselves. https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice</p>
<p>Lancashire Safeguarding Adult Board: Pan-Lancashire and Cumbria Safeguarding Adults Policy & Procedures. http://www.lancshiresafeguarding.org.uk/lancashire-safeguarding-adults/policies-and-procedures.aspx</p>
<p>Office of the Public Guardian: The Office of the Public Guardian can be contacted for concerns about an attorney or a deputy, e.g. misuse of money or decisions not made in the best interests of the person they're responsible for. opg.safeguardingunit@publicguardian.gsi.gov.uk</p>
<p>Department for Work & Pensions: Information relating to lasting power of attorney and financial affairs, including links to information outlining the responsibilities of becoming an appointee. https://www.gov.uk/browse/births-deaths-marriages/lasting-power-attorney</p>
<p>Trading Standards: Report cold calling and door step selling activity to prevent further incidents. https://www.lancashire.gov.uk/consumer-advice/consumer-advice/</p>
<p>Lancashire Safe Trader scheme: Operated by Lancashire County Council Trading Standards Service. Assists residents of Lancashire to find reputable traders for property repairs, home improvements, gardening services, mobility aids and other services around the home. http://safetrader.org.uk/</p>
<p>Scam Buster Stan: Lancashire Trading Standards Champion against counterfeit goods, scams and doorstep crime. https://www.facebook.com/StanleyDards/</p>
<p>Safety Net: Project to prevent the exploitation of people with learning disabilities by those claiming to be their friends, and aimed to deal with issues around mate crime. https://arcuk.org.uk/safetynet/examples-of-mate-crime/</p>
<p>Think Jessica: Charity committed to protecting elderly and vulnerable people from fraud. https://www.thinkjessica.com/</p>
<p>Financial Conduct Authority Resource: Report a scam or unauthorised firm. https://www.fca.org.uk/consumers/report-scam-unauthorised-firm</p>
<p>Action Fraud website: National Fraud and Cyber Crime Reporting Centre. https://www.actionfraud.police.uk/</p>
<p>Money Management Guidance: for people who may lack capacity to make some decisions about how their money is used. http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=2ahUKEwjQvq_thoTfAhXbVxUIHTS5CR4QFjAEegQIBhAC&url=http%3A%2F%2Farcuk.org.uk%2Fpublications%2Ffiles%2F2011%2F09%2FGuidance-on-Money-Management.pdf&usg=AOvVaw13JBmuDc96Kf9Z55ZouwRV</p>