

# SKILLS MODULES

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7 OF 7

MODULE 7  
Professionals  
Responding to  
Financial Abuse

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# BEFORE WE BEGIN

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## REFLECTION

Before we begin this module take a moment to think about this statement from AFCA [Determination 472675](#):

*The relationship between a FSP and its customer is based on contract. The FSP must act on the instructions of its customer, unless something is known about the transaction which would cause a reasonable banker to question those instructions. Examples of this include where it appears the customer is or might be a victim of elder abuse or domestic violence.*

**Think** about when and how an adviser should respond to the issue of financial abuse?

# OVERVIEW

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## PROFESSIONALS RESPONDING TO FINANCIAL ABUSE

General responses to financial abuse have already been covered and now we turn to the specific responses of financial industry professionals in cases of suspected or known financial abuse.

Financial industry professionals now have the knowledge to identify financial abuse and the skills to deal with older persons at risk of abuse. They know the impacts of abuse and what happens they don't stop being part of the **PROBLEM** and instead become part of the **SOLUTION**.

In this final module we look at some specific actions that financial industry professionals should take to be part of the solution. While actions are industry specific, they all have industry wide application and are part of good industry practice.

### LEARNING OUTCOMES

include gaining skills to determine how to start being part of the solution when presented with risks of financial abuse and how to stop being part of the problem when faced with decisions within a professional setting.

# PROFESSIONALS RESPONDING TO FINANCIAL ABUSE

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Using the knowledge and skills from this training program, advisers should:

1. Understand ethical rules and standards as they apply to their own professional setting and to the issue of financial abuse
2. See older persons within a positive context and encourage positive constructs of ageing
3. Understand the context, form and types of financial abuse
4. Understand how financial abuse coalesces around key decision making areas
5. Be prepared to assess relevant risks and vulnerabilities as they arise
6. Carefully consider the existence or risk of financial abuse in older persons
7. Take a client centred approach, and adapt to the needs of each older person
8. Work with capacity issues if necessary
9. Respond in accordance with obligations (legal, ethical, regulatory, industry practice)
10. Be proactive in assisting and referring older persons
11. Develop policies and practices to ensure systemic responses to financial abuse

# INDUSTRY EXAMPLE

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## CPA AUSTRALIA

CPA Australia lists some of the **ethical considerations** that arise for cases of financial abuse:

### *ETHICAL CONSIDERATIONS*

- Avoid conflicts of interest
- Maintain your client's confidentiality
- Avoid contributing to the perpetration of unlawful acts
- Ensure your client is well informed; give comprehensive advice.
- Ensure your client understands the advice, and has capacity to act
- Be respectful. With older clients, beware of ageism and making an assumption that, because the client is old and perhaps frail, they are not capable of making a valid decision.
- Your client's best interests come first

# ISSUES THAT WARRANT A CAUTIOUS APPROACH

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When any of the following issues present, a cautious approach should be taken:

- Indicators or evidence of cognitive impairment or impaired decision making capacity (supports, maximise)
- Signs of lost or diminished autonomy
- Presence of a third party or persons of trust or influence (motives, family influence)
- Negative relationships within close social networks
- Indicators of life course issues (polyvictimisation, care leavers, financial stress, social exclusion)
- Particular community issues (for example members of vulnerable groups)
- Risk factors, vulnerabilities or behavioural triggers
- Industry red flags

# INDUSTRY EXAMPLE

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## THREATS & SAFEGUARDS

APES 110 sets out the sorts of threats accountants face to their values and ethics.

*100.12 Threats may be created by a broad range of relationships and circumstances. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise, a Member's compliance with the fundamental principles.*

Importantly, financial abuse could potentially fit into any of the list of threats including Self-interest threat, Self-review threat, Advocacy threat, Familiarity threat, Intimidation threat.

Where threats are encountered, accountants are expected to use safeguards. Safeguards are actions or other measures that may eliminate threats or reduce them to an Acceptable Level

# THE CAUTIOUS APPROACH

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Taking a cautious approach includes

- Avoid conflicts of interest
- Know your client (who they are, their needs etc)
- Maximise capacity and support autonomy and independence
- Ensure no undue influence, coercion or duress
- Address particular needs
- Seek Guidance
- Provide independent, and comprehensive advice so that the older person fully appreciates the nature of the proposed transaction and can make an informed decision.



# INDUSTRY EXAMPLE

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## CONFLICTS OF INTEREST

Advisers must ensure that actions they take do not create a conflict of interest.

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry [Interim Report Vol. 1](#) set out the nature of conflicts of interest within financial advice services:

*To speak in the abstract of conflicts between the interests of a financial adviser and the interests of the client does not reveal (and may even obscure) the way in which those interests intersect and conflict. The interests of the client are to obtain the best financial advice reasonably available. More particularly, if the advice is for the client to acquire some financial product, it is in the client's interests to obtain the best product: best in the sense that it is fit for purpose but best in the sense also that it is the cheapest and (as far as can reasonably be determined) the best performing product available. By contrast, the adviser's interest is to further his or her career and to maximise financial reward and the licensee's interest is to maximise profit.*

# SEEK GUIDANCE

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All advisers have the obligation and opportunity to seek guidance on ethical or standards issues:

## APES 110:

### 100.11

*When a Member encounters unusual circumstances in which the application of a specific requirement of the Code would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the Member consult with a member body or the relevant regulator.*

## FCAQ Code of Ethics:

### 1.3.3 Supervision

*Financial counsellors should have regular technical (casework) supervision and also clinical supervision<sup>3</sup>. These may be provided separately or provided together by the one supervisor. Line management supervision is not considered to be casework supervision. Supervisors shall meet the State or Territory association supervisory standards.*

# IF ABUSE IS HAPPENING

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The accepted approach to responding to elder abuse (of any kind) has a number of actions:



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1

Identify whether  
abuse is taking  
place

2

Provide any  
necessary supports  
including decision  
making supports

3

Assess the risks  
and make a safety  
plan

4

Make appropriate  
referrals

5

Keep relevant  
records

# SOME REMINDERS FROM GOOD INDUSTRY PRACTICE

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A generic approach to responding to elder abuse (of any kind) has a number of actions:

- Financial advisers have training to identify red flags [Determination 397494](#)
- Financial advisers have a duty to inquire and identify financial abuse [Determination 272977](#)
- Positive steps to inquire about and identify financial abuse may lead to delay [Determination 497968](#)
- Positive steps may include a duty to warn or duty to protect [Determination 472675](#)
- Positive steps may involve breaching confidence [Determination 481497](#) or contacting third parties [Determination 472675](#). This is reinforced by industry ethics for example at APES 110 140.7 which sets out permitted disclosures.

# INDUSTRY EXAMPLE

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## HOLISTIC RESPONSE TO FINANCIAL ABUSE

The CPA Australia recognises that its members can and should respond in all cases:

Accountants may come across potentially abusive situations either:

### BEFORE THE ABUSE OCCUERS

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such as when providing  
advice on retirement planning  
or intergenerational asset  
transfer planning

### AFTER THE ABUSE COMMENCES

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when advising a client on  
the state of their financial  
situation.

# INDUSTRY EXAMPLE

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## RESPONDING TO FINANCIAL ABUSE

The CPA Australia uses a checklist called “Planning Ahead – Checklist for Preventing the Financial Abuse of Older Persons”. This checklist is used in conjunction with practical advice about:

- Implementing an organisational policy and practice around elder abuse and financial abuse
- Responding when employees raise concerns
- Investigating concerns
- Showing leadership “Champions Guide”

# INDUSTRY EXAMPLE

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## IMPLEMENTING FINANCIAL ABUSE POLICY

Examples of policy approaches are beginning to be seen in a wide range of services:

[The Victorian Water Sector](#) policy approach in respect of family violence and economic abuse which notes forms of abuse include:

- Insisting an account is in a victim's name and refusing to contribute to the cost
- Putting a service in the sole name of the victim without their knowledge or consent
- Holding an account jointly and refusing to contribute to the cost
- Holding the account in their own name and not paying bills, resulting in disconnection
- Holding the account in their own name and threatening to have the service cut off, or having it cut off when they leave the family home.

## IMPLEMENTING FINANCIAL ABUSE POLICY

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Examples of policy approaches are beginning to be seen in a wide range of services.

The [Australian Banking Association](#) uses a [industry guideline](#) on responding to requests from a power of attorney or court-appointed administrator to explain how these different arrangements work legally across Australia, how they are used by bank customers and their substitute decision-makers, and provides a framework for how banks should respond to these arrangements.



# BEFORE WE LEAVE

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## REFLECTION

**Think** about working effectively with older persons and the skills needed to do that.

**Think** about:

- In your workplace, has there been discussions about financial abuse, if there has been discussions, have those discussions considered how you and your colleagues should respond to financial abuse
- In your “industry” have advisers been taking a cautious approach to cases that might involve financial abuse of older persons
- Does your workplace have a policy on elder abuse and financial abuse, does it reflect the sorts of issues in this training program