

KNOWLEDGE MODULES

5 OF 7

MODULE 5
What Financial
Abuse Looks Like

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BEFORE WE BEGIN

REFLECTION

Before we begin this module take a moment to think about this statement from [Taylor et al \(2014\)](#):

The issue of trust and duty in financial transactions within families occurred in all of the groups' deliberations around financial abuse. Much of this discussion related directly to relationships within families. For family and neighbors looking on, their interpretation of actions can differ from those directly involved.

*Well, I know for a fact that my brother robbed my mother blind, but my mother thought the sun shone out his backside, but . . . there is nothing you can do about it . . . as far as she was concerned she wasn't being abused. He was coming to visit her.
(Rita, NI, urban)*

OVERVIEW

THE IMPACTS OF FINANCIAL ABUSE

Understanding what financial abuse looks like is the first step in detection and prevention.

Understanding what financial abuse looks like improves the chances of detection and opportunities for reactive actions (to intervene where financial abuse is happening) or proactive and preventative actions (where an older persons is at risk).

This module includes the following topics:

- What does Financial Abuse look like

LEARNING OUTCOMES

include gaining knowledge about what financial abuse actually looks like in day-to-day life, including transactions, and examples from industry. Knowing what it looks like helps advisers to identify financial abuse in real life relationships including client relationships with older persons.

INDUSTRY ISSUES

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry [Interim Report Vol. 1](#) stated, “Consumers of financial services cannot expect to be insulated from loss, but they can properly expect to be treated fairly and honestly.” Allowing financial abuse runs counter to these expectations

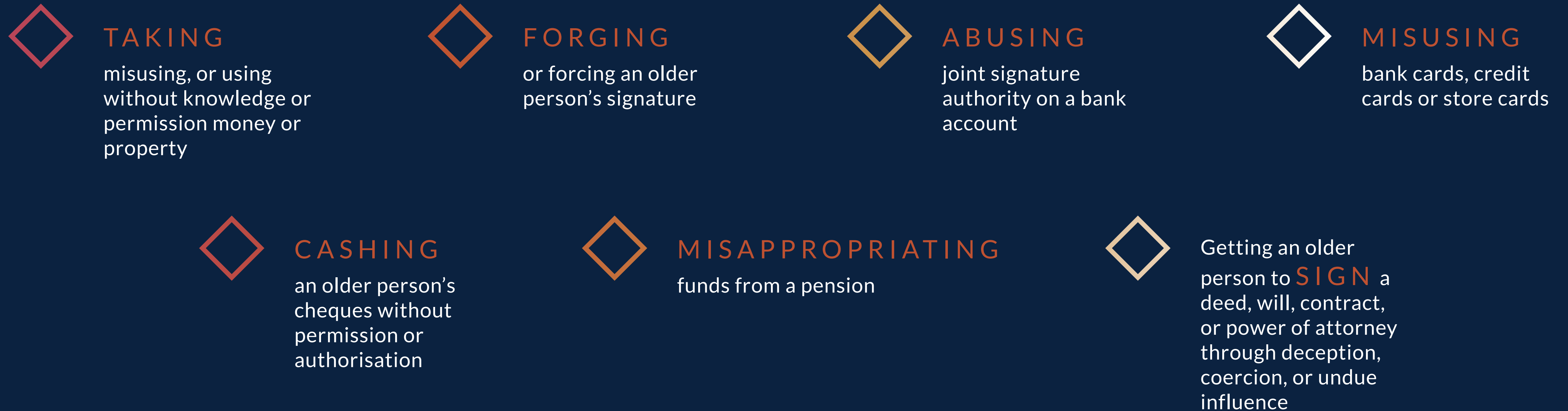
Understanding how the financial industry **contributes to or causes financial abuse**, whether directly or through involvements with third parties, is essential to avoiding being part of the problem. It includes some **cultural issues** within the industry that are now identified as contributing to financial abuse of older persons.

Developing an **understanding** of how financial services industry contributes to financial abuse is directly relevant to the ethical duties of financial advisers. Understanding the industry involvement in financial abuse allows opportunity to **avoid future involvement** and instead work towards prevention of abuse in dealings with older persons.

WHAT FINANCIAL ABUSE LOOKS LIKE

Financial abuse can differ depending on the perpetrator or person in position implying trust. It often happens within an older person's own home. ([Dalley, 2017](#))

Examples specifically relevant to a domestic setting and financial abuse by individuals relatively well known to an older person include:



WHAT FINANCIAL ABUSE LOOKS LIKE

Continued.



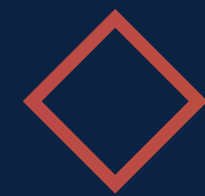
Providing true but **MISLEADING** information that influences the older person's use or assignment of assets



PERSUADING
an older person to change a will or insurance policy to alter who benefits from the will or policy using a power of attorney, including an enduring power of attorney, for purposes beyond those for which it was originally executed



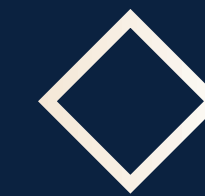
IMPROPERLY
using the authority provided by guardianship, trust, etc. negligently mishandling assets, including misuse by a fiduciary or caregiver



PROMISING
long-term or lifelong care in exchange for money or property and not following through on the promise



OVERCHARGING
for or not delivering caregiving services



DENYING
older persons access to their money or preventing them from controlling their assets. ([Bonnie, 2003](#))

INDUSTRY EXAMPLE

ROYAL COMMISSION INTO FINANCIAL SERVICES

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry identified a range of practices that affected older persons including types of financial abuse:

- **Irresponsible** lending practices including involving older persons in joint loans, equity release products like reverse mortgages, guarantees, finance for joint ventures and other forms of security
- **Emotional** lending which is where an older person is persuaded to enter into a joint loan with a third party, such as a son or daughter
- **Failure** ensure older persons have independent advice about financial services and products before entering contracts and agreements
- **Failure** to identify actions by attorneys that were not in the interests of older persons who were principals in powers of attorney and enduring powers of attorney
- **Taking** enforcement action that impacted on older persons' welfare, assets and housing including repossession and power of sale over property

INDUSTRY EXAMPLE

BANKING INDUSTRY

The Australian Banking Association ([ABA](#)) has [Industry Guidelines](#) that suggest financial abuse within the banking context includes:

- **Stealing**, taking or 'borrowing' an older person's money, debit or credit cards, possessions or property without their knowledge or consent (and with no intent to return the valuables or pay back the money)
- **Forging** an older person's signature, forcing them to sign a document or misleading them about what they are signing, including blank withdrawal forms
- **Using** an older person's money for purposes other than what the person wanted
- **Cashing** an older person's cheque without permission or authorisation, or withholding portions of the funds
- **Deceiving**, coercing or unduly influencing an older person to sign a will, deed, contract or power of attorney
- **Pressuring**, tricking or threatening an older person to make changes to their will, power of attorney or other legal arrangements

BANKING INDUSTRY (CONT)

- **Using** a power of attorney in a way that is not in the interests of the donor or for direct personal gain (e.g. taking money from their account to pay for personal bills)
- **Pressuring** an older person into being a guarantor when they lack sufficient knowledge about the transaction or the capacity to make informed decisions
- **Transferring** real estate or acquiring joint property without thoroughly considering how this would impact the older person
- **Attempting** to manage a competent older person's finances without their permission or legal authority such as trying to stop them from spending their money on what they want
- **Pressuring** an older person to take out a loan or a product so they can personally benefit without taking on the risk (e.g. having an older person take out a mortgage, a shared equity loan, a reverse mortgage, or invest in 'too good to be true' investments)
- **Providing** an unnecessary or unaffordable loan to someone, resulting in detriment or potential detriment to them and benefits to the lender (known as predatory lending)

BANKING INDUSTRY (CONT)

- **Pressuring** an older person to engage in financial scams through door-to-door sales, over the phone, via email or the Internet
- **Failing** to provide agreed-upon and paid for services to an older person, such as care giving, home or vehicle repair or financial management – or charging an unreasonable amount for these services and
- **Requiring** an older person to pay for their expenses (e.g. someone shares a home with them and does not contribute to bills, maintenance and other expenses).

INDUSTRY EXAMPLE

ACCOUNTANTS

The [CPA and Seniors Rights Victoria](#) have catalogued a range of case studies around common financial abuse scenarios:

- Sibling disagreement, possible greed, capacity
- Potential abuse of trust and theft
- Capacity
- Entitlement and greed
- Helping out the children
- Suspected abuse of a power of attorney
- Supporting the children's business ambitions
- Exposure to potential isolation from assets and loss
- Loss of independence and impact of isolation from assets
- Isolation from assets, entitlement and revenge
- Isolation from assets, loss of independence and informal arrangements
- The boomerang child – using up a parent's assets
- Assets for care

BEFORE WE LEAVE

REFLECTION

Think about what financial abuse might look like in your industry, profession, occupation, setting or environment.

Think about:

- Are there any key examples that can be foreseen and avoided?
- Do any relevant Industry Guidelines exist that need to be considered and implemented?
- Do those Guidelines need adjustment in your setting?
- What is the outcome of failing to consider and implement Guidelines?