

SKILLS MODULES

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MODULE 6
Responding to
Financial Abuse

BEFORE WE BEGIN

REFLECTION

Before we begin this module take a moment to think about this statement from [Joosten \(2017\)](#):

Any intervention to address elder abuse must consider the older person's relationship to the perpetrator and how this relationship may be affected by any action that is taken. Multifaceted interventions that are tailored to the individual's experience and which consider the older person's needs and desires as well as the wider context in which the abuse has occurred are likely to be most effective, and to maintain this success over time.

Joosten's point is essential; Interventions and responses cannot exist in a vacuum outside the older person's life course and autonomy. Responses must be tailored to the particular circumstances of each older person. No "one size fits all" approach will work.

OVERVIEW

RESPONDING TO FINANCIAL ABUSE

Responses to financial abuse come from a broad array of options. Choosing which ones suit each older person is a skill. It is important to ensure that each older person whether at risk or experiencing financial abuse gets the information and services they need - just what an age-friendly society promises.

Choosing which response to rely upon, or what combination of responses can be complicated and in many cases advisers will make a referral to a specialist elder abuse service such as the Elder Abuse Prevention Unit (EAPU), A Seniors Legal and Support Service (SLASS) Health Justice Partnerships (HJPs), or a Elder Abuse Prevention and Support Services (EAPSS). See the contacts in the “About the Financial Protections Service” Module.

LEARNING OUTCOMES

include how we respond to financial abuse using an applied ecological approach, gaining skills to determine appropriate interventions, make appropriate referrals and determine what can be addressed by financial industry professionals.

EVERYBODY'S BUSINESS: STOCKTAKE OF ELDER ABUSE AWARENESS, PREVENTION & RESPONSE

Everybody's business is a companion document to the National Plan to Respond to the Abuse of Older Australians 2019-2023 (the National Plan). The National Plan establishes a framework under which governments will prioritise and report on activity to reduce the prevalence and impact of elder abuse by working together on priority areas that would benefit from national collaboration. As a companion document, Everybody's business describes the range of work already underway across Australia as of March 2019 to prevent, intervene, respond to and mitigate abuse of older people. Everybody's business describes measures directly funded by government, as well as other initiatives led by non-government organisations, including the private sector.

OVERVIEW OF RESPONSES TO FINANCIAL ABUSE

Before looking at adviser's responses, it is important to consider the broad range of responses currently available to financial abuse.

We can use Bronfenbrenner's applied ecological approach to consider appropriate responses to financial abuse that place the older person within various environments:

- Individual responses
- Interventions around relationships, particularly with persons of trust or close social networks
- Community responses
- Societal responses

(Joosten, 2017)

INDIVIDUAL RESPONSES

AN APPLIED ECOLOGICAL APPROACH

to responses to financial abuse include individual responses:

- Informal responses
- More formal responses (including advanced care planning, and legal documents)

AN INDIVIDUAL RESPONSE

for the older person can include:

- Information and advice
- Legal documents
- Legal interventions
- Advocacy
- Case Management
- Support and counselling

INDUSTRY EXAMPLE

REFERRAL FOR FINANCIAL PROTECTIONS ASSISTANCE

The Financial protections Service establishes collaborative referral pathways that allow referral of an older person to the appropriate service partner.

The Financial Protections Service use the following referral pathways:

- 1.** Financial Information and advice comprising financial information services, the Financial Literary Service, financial counsellors and accountants.
- 2.** Legal Information and advice comprising legal information services and lawyers.
- 3.** Social worker services comprising social support services and social workers.

INDUSTRY EXAMPLE

CREATING PROTECTIVE LEGAL DOCUMENTS

In Queensland a number of documents that set out an individual's will and preferences can be created. These include:

- Powers of Attorney (General and Enduring)
- Advanced Health Directives and Statement of Choices
- Wills
- Family Agreements
- Advanced Care Plans

Each document acts as a protective tool in a different, but generally complementary way.

These documents can be drafted by Queensland lawyers (for a fee), and in the cases of wills (for free) and powers of attorney (for a fee) [Public Trustee of Queensland](#).

The [Office of Advanced Care Planning](#) can provide assistance with the process of advance care planning

RESPONSES

INDIVIDUAL - Multi-Disciplinary Approach

Multi disciplinary responses respond to older person's experience of financial abuse through multiple, complementary interventions. Older persons may need a range of responses including:



LEGAL
SUPPORT



FINANCIAL
ADVICE



HEALTH
SERVICES



CASE
MANAGEMENT



SOCIAL & OTHER
SUPPORTS

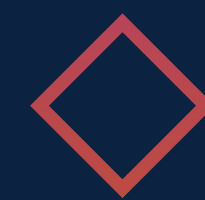
Multi disciplinary approaches can include single services or services working in partnership to provide interventions.

Multi disciplinary approaches can also address the complex and varied needs of older persons experiencing financial abuse, especially important in cases of hybrid abuse – where financial abuse occurs alongside other forms of elder abuse.

INDUSTRY EXAMPLE

SOCIAL WORKER-LAWYER INTEGRATED MODEL

A multi-disciplinary response using the social worker-lawyer intervention model assists older persons through:



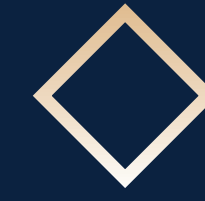
Taking a human rights approach to older person's rights



Recognising the interconnectedness of legal and social issues



Seamless pathways of service delivery



An integrated model that conducts:

- Intake and management of complex referrals
- Initial risk assessment and safety planning
- Psychosocial assessment and capacity screening
- Urgent social supports, counselling and referrals
- Identification of legal issues and integrated case plan
- Measurement of outcomes

Caxton Legal Centre, 2018

RESPONSES

INDIVIDUAL - Case Management & Advocacy

Many services offer case management and advocacy for older persons. These include:



OLDER PERSONS'
ORGANISATIONS



SPECIALIST ADVOCACY
AGENCIES



COMBINED HEALTH &
SUPPORT SERVICES

Advocacy and case management approaches are often combined within a service approach to elder abuse including financial abuse.

INDUSTRY EXAMPLE

OPAN ADVOCACY

Older Persons Advocacy Network offer free, independent and confidential services that focus on supporting older people and their representatives to raise and address issues relating to accessing and interacting with Commonwealth funded aged care services.

Older Persons Advocacy Network seek to ensure that aged care consumers understand and exercise their rights and participate, to the maximum degree possible, in the decisions affecting their care.

Older Persons Advocacy Network achieve this through the delivery of individual advocacy support, information and consumer and service provider education.

Nine State and Territory based organisations form the OPAN network. Older Persons Advocacy Network is funded by the Australian Government to deliver the National Aged Care Advocacy Program (NACAP), providing a national voice for aged care advocacy.

RESPONSES

RELATIONSHIP

An applied ecological approach to responses to financial abuse that include the **relationship** of trust or close social networks include interventions such as:



Family or group **mediation** (including elder justice mediation or therapeutic family counselling)



Interventions for the person of trust:

- Psychological support, behaviour change (anger management, perpetrator programs)
- Carer support and respite
- Legal support
- Support with housing, mental health, financial support, substance and gambling abuse

INDUSTRY EXAMPLE

RELATIONSHIP SERVICES

Relationships Australia (Queensland) offers Elder Relationship Services:

Elder Relationship Services

If families are given the support and tools to work together, overcome differences and respectfully resolve conflict, the interests, health and safety of their elders and other family members can be met and protected.

Our Elder Relationship Service provides therapeutic family counselling and mediation support to assist older people and their families to prevent or resolve family conflict, plan for the future (including medical, health, financial or living arrangements), resolve differences in ways that improve their relationships, and make decisions that protect the interests, rights and safety of all family members.

RESPONSES

COMMUNITY

An applied ecological approach to responses to financial abuse that include the community include interventions such as:



AGENCY RESPONSES

including statutory agencies
& statutory processes

For Example

Public Guardian, Public
Trustee, Banks, Helplines



CIVIL REMEDIES

statutory agencies and
statutory processes

For Example

Community legal centres etc



CRIMINAL REMEDIES

statutory agencies and
statutory processes

For Example

Queensland Police Service

INDUSTRY EXAMPLE

COMMUNITY RESPONSE - Elder Abuse Prevention Unit

State-wide helplines exist in most states and territories of Australia.

In Queensland, the [Elder Abuse Prevention Unit](#) (EAPU) was established in 1997 following the release of “A Report of the Project on Abuse of Older People” (1994) commissioned by the then Department of Family Services and Aboriginal and Islander Affairs. The unit is funded by the Department of Communities to provide a state-wide service to respond to the abuse of older people in Queensland and operates under UnitingCare Community.

The EAPU operates a state-wide telephone information, support and referral service for anyone experiencing abuse, suspecting or witnessing the abuse of an older person. Callers may choose to remain anonymous and can call HELPLINE on 1300 651 192 between 9am and 5pm Monday to Friday.

INDUSTRY EXAMPLE

COMMUNITY RESPONSE - Peer Support

The EAPU provides a state-wide Multidisciplinary Peer Support Network (PSN) to assist, resource and support workers in rural and remote locations to respond to elder abuse.

The Peer Support Network operates via teleconferencing, newsletters and additional written communication. The Peer Support Network (PSN) is a multidisciplinary network for workers to quickly tap into the information and expertise they require.

It is recognised that for workers responding to elder abuse in more remote areas the ability to establish and maintain a useful network may be more difficult due to:

- Limited opportunities to physically meet and form relationships with other workers due to the distances involved,
- Limited opportunities to make contacts outside a workers own discipline or area of expertise
- Limited time, energy and resources available to establish and maintain a network
- An irregular need to use a network specifically designed to respond to the abuse of older persons.

RESPONSES

COMMUNITY - Civil

Civil remedies can include a range of agencies and actions, including legal interventions:



EQUITABLE REMEDIES

Breach of Fiduciary Duty,
Unconscionable Dealings
and Conduct, Undue
Influence, Implied Trusts)



CONTRACTUAL DISPUTES

including oral and written family
agreements. Informal family
accommodation agreements are
usually oral rather than written
([Munro, 2002](#))



FAMILY COURT APPLICATIONS

COMMUNITY - Civil

Civil remedies can include a range of agencies and actions, including:

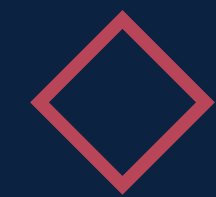
- **Compensation** payable under the [Powers of Attorney Act 1998](#) (Qld) (for a loss caused by the attorney's failure to comply with the Act in the exercise of a power) (Moylan v Rickard [\[2010\] QSC 327](#))
- **Actions** under the [Public Guardian Act 2014](#) (Qld) (suspending the operation of an EPA for up to 3 months if an attorney is not competent, applying for interim orders to protect a principal's rights and interests, applying for an entry and removal warrant if a principal is at immediate risk of harm and bringing a claim for damages or to recover possession of a property or payment of money wrongfully dealt with)
- Systemic advocacy can be undertaken by the [Public Advocate](#). The Public Advocate works on behalf of adults with impaired decision-making capacity to:
 - promote and protect their rights, including protecting them from neglect, exploitation and abuse
 - encourage the development of programs to help them reach the greatest degree of autonomy
 - promote, monitor and review the provision of services and facilities for them

The Public Advocate's statutory systems advocacy provides an important layer of protection for the rights of Queensland adults with impaired decision-making capacity. The Public Advocate is uniquely positioned to influence government and non-government agencies.

RESPONSES

COMMUNITY - Criminal Justice

Criminal justice responses can include a range of agencies and actions, including:



Police intervention for family violence (Civil Protections orders)

- [Domestic and Family Violence Protection Act 2012](#) (QLD)
- Relevant relationships include intimate personal, family, and informal care
- Relevant conduct includes economically abusive (defined)



Police and **prosecutorial** interventions for criminal offences (Criminal charges)

- Breaches of orders made under the Domestic and Family Violence protection Act 2012 (Qld)
- For example: Misappropriation, theft, fraud ([Wuth, 2013](#))
- Neglect (Failing to provide the necessaries of life): R v Young [1969] Qd R. 417
- [Powers of Attorney Act 1998](#) (QLD) (dishonestly induce the making or revocation of enduring document)

COMMUNITY - Criminal Justice



Statutory **investigations** and interventions for specific conduct (Investigations)

- [Powers of Attorney Act 1998](#) (QLD) (Act honestly and with reasonable diligence, avoid conflict transactions, keep property separate, gifts)
- [Public Guardian Act 2014](#) (QLD) (protecting the adult from neglect, exploitation or abuse)

INDUSTRY EXAMPLE

COMMUNITY - CRIMINAL JUSTICE - PUBLIC GUARDIAN

The Office of the Public Guardian safeguards their rights and interests by investigating allegations of neglect, exploitation and abuse against people with impaired capacity. This includes financial, such as misusing a person's money and exploitation, such as taking advantage of someone. Whilst carrying out their own investigation about a matter concerning an adult with impaired capacity, the Public Guardian will refer allegations of a criminal nature to the Queensland Police Service.

The Public Guardian does not replace the role that the police fulfil in relation to domestic violence or criminal behaviour. Their role is to investigate alleged abuse from the perspective of whether the current decision making arrangements provide an older person with impaired capacity with the appropriate assistance or protection from the alleged abuse, as opposed to being punitive against the alleged perpetrator.

Some of the complaints they receive are about concerns that someone who is appointed as attorney, for example under an Enduring Power of Attorney, for an older person with impaired capacity is not acting in their interests.

RESPONSES

SOCIETAL - Systemic Advocacy

The [Public Advocate](#) is an independent statutory officer who protects and promotes the rights of Queensland adults with impaired decision-making capacity through systems advocacy.

Systems advocacy is focussed on influencing and changing systems—including the legislative, policy and practice aspects of systems. This is done to promote and improve opportunities and outcomes for people with impaired decision-making capacity.

The Public Advocate has reported on issues involving older persons including [The Use of Restrictive Practices in Aged Care](#).

BEFORE WE LEAVE

REFLECTION

Think about effective responses for financial abuse using the applied ecological approach.

Think about:

- Do you understand actions or referrals that can be taken by older persons as individuals that protect them from financial abuse
- Do you understand relationship interventions that can prevent financial abuse or deal with abuse that is already happening
- Do you understand community agency supports and mechanisms that can intervene or respond in cases of financial abuse