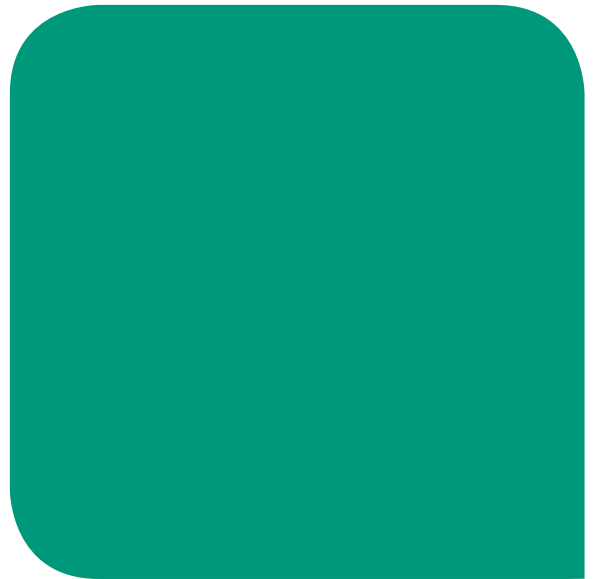




# Assessment: Financial crime against vulnerable adults



**Assessment:**  
**Financial crime against vulnerable adults**  
**For the Association of Chief Police Officers/  
Home Office/Department of Health**

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by the Social Care Institute for Excellence

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Written by City of London Police

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## Acknowledgements

This eagerly awaited assessment commissioned by the Association of Chief Police Officers (ACPO) Economic Crime Portfolio has been produced to highlight the current and potential future threats to vulnerable adults in relation to economic crime. It covers the wide spectrum of financial abuse and exploitation against vulnerable people by family members, care workers and unscrupulous individuals within our society.

Economic crime can have a significant impact on the victim and this assessment articulates the devastation it can cause for individuals. The work of the professionals who work to protect vulnerable people must not be overlooked. This assessment seeks to highlight the true scale of this issue, to identify the existing gaps in financial safeguarding and to ascertain the work required to improve safeguarding practice. The assessment aims to raise awareness of the threat to vulnerable adults and to consider ways to improve safeguarding arrangements.

We would like to thank the wide number of organisations and individuals who contributed their time, thoughts and information to the development of this document.

In addition, special acknowledgement is extended to the following individuals who have made the publication of this assessment possible. Former Detective Superintendent Colin Cowan for his leadership and Detective Sergeant Mark Somers, Jonathan Frost, Helen Tremain and Elaine Cass for their attention to detail and commitment. Thanks also to Chief Inspector Paul Keasey who has continued the good work and contributed to the assessment reflecting the key principles set out by the government in relation to safeguarding vulnerable adults.

Finally we would like to thank the Department of Health, the Home Office and the ACPO National Working Group for Fraud for their vision in developing, funding and supporting this work.

Management at the National Fraud Intelligence Bureau

# 1 Introduction

## 1.1 Background and purpose of this assessment

The Department of Health and the Home Office set out in the *No Secrets* guidance that safeguarding adults is a key responsibility of local authorities. This guidance has led to the development and implementation of multiagency policies and procedures to protect vulnerable adults.

There can be no secrets and no hiding places when it comes to exposing the abuse of vulnerable adults. (DH/Home Office, 2000)

In 2008–09, a cross-governmental, national consultation exercise was undertaken, to consider how best to build on this guidance. The consultation highlighted that financial abuse appears to have increased steadily and gave rise to questions about how to respond most effectively to this challenge. Increased awareness and better levels of reporting may explain the perceived increase but it is still thought that much of this type of crime goes undetected.

Many types of financial crime can go unnoticed and factors, such as the economy, technology and social change, are diversifying the threat. In an increasingly connected world, it can no longer be assumed that vulnerable people are safe in their own homes.

To understand more about the threat posed to vulnerable adults, the Association of Chief Police Officers (ACPO), the Department of Health and the Home Office partnered to commission an assessment by the National Fraud Intelligence Bureau (NFIB) in 2009–10.

This assessment represents the culmination of six months' work by the NFIB over the period January to June 2010 and will help inform the Cross-Government Safeguarding Vulnerable Adults Officials Board on future strategy in relation to financial crime and vulnerable adults.

Key aims of this assessment were to:

- consider the extent of the problem of financial crime against vulnerable adults
- highlight a range of strategic recommendations to combat and reduce the threat.

To conduct this assessment, it was necessary to:

- review current literature
- collect relevant information and viewpoints from key stakeholders
- analyse and evaluate available data
- map current processes
- locate gaps within those processes and identify missed opportunities for safeguarding.

This was achieved by the formation of a team comprising the police, adult social care and intelligence analysts within the NFIB.

To bring an added dimension to the findings, a piece of market research was commissioned to gather the views of a nationally representative sample of the public.

### 1.1.1 Partnership

This assessment could not have been produced without the vision and support of a broad network of businesses, public bodies and charities, and the openness of individuals within them. The following organisations deserve specific recognition for their support:

- Action on Elder Abuse
- Association of Public Authority Deputies (APAD)
- Audit Commission
- Aviva Life and Pensions
- Consumer Financial Education Body (CFEB)
- Department of Health
- Home Office
- local authority safeguarding coordinators
- Mind
- National Fraud Authority (NFA)
- National Association of Financial Assessment Officers (NAFAO)
- Office of the Public Guardian (OPG)
- Office of Fair Trading (OFT)
- Social Care Institute for Excellence (SCIE)
- Serious Organised Crime Agency (SOCA)

## 1.2 The definition of a vulnerable adult

The definition of a vulnerable adult is currently set out in *No Secrets* (DH/Home Office, 2000):

Someone who is, or may be, in need of community care services, by reason of mental or other disability, age or illness; and who is, or may be, unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.

## 1.3 What is financial abuse/crime?

The *No Secrets* definition of financial abuse is:

Financial or material abuse, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits. (DH/Home Office, 2000)



According to Section 44 of the Mental Capacity Act 2005, offences associated with financial abuse include:

- theft
- fraud by abuse of position
- fraud by failing to disclose information
- fraud by false representation
- blackmail
- forgery
- ill treatment or neglect.

## 1.4 Safeguarding

Safeguarding covers a range of activities aimed at upholding an adult's fundamental right to be safe. Included in this is the right for a person to be safe from financial exploitation.

## 1.5 Document structure

This assessment examines the current threat towards vulnerable adults and provides an insight into the nature of victims and perpetrators. It explains methods used to commit such financial crimes and examines the impact on victims.

Adult safeguarding processes are already well developed and this assessment provides an insight into best practice. To understand how that process deals with the threat posed by financial crime, the group sought the views of a wide range of safeguarding professionals and reviewed a number of case studies.

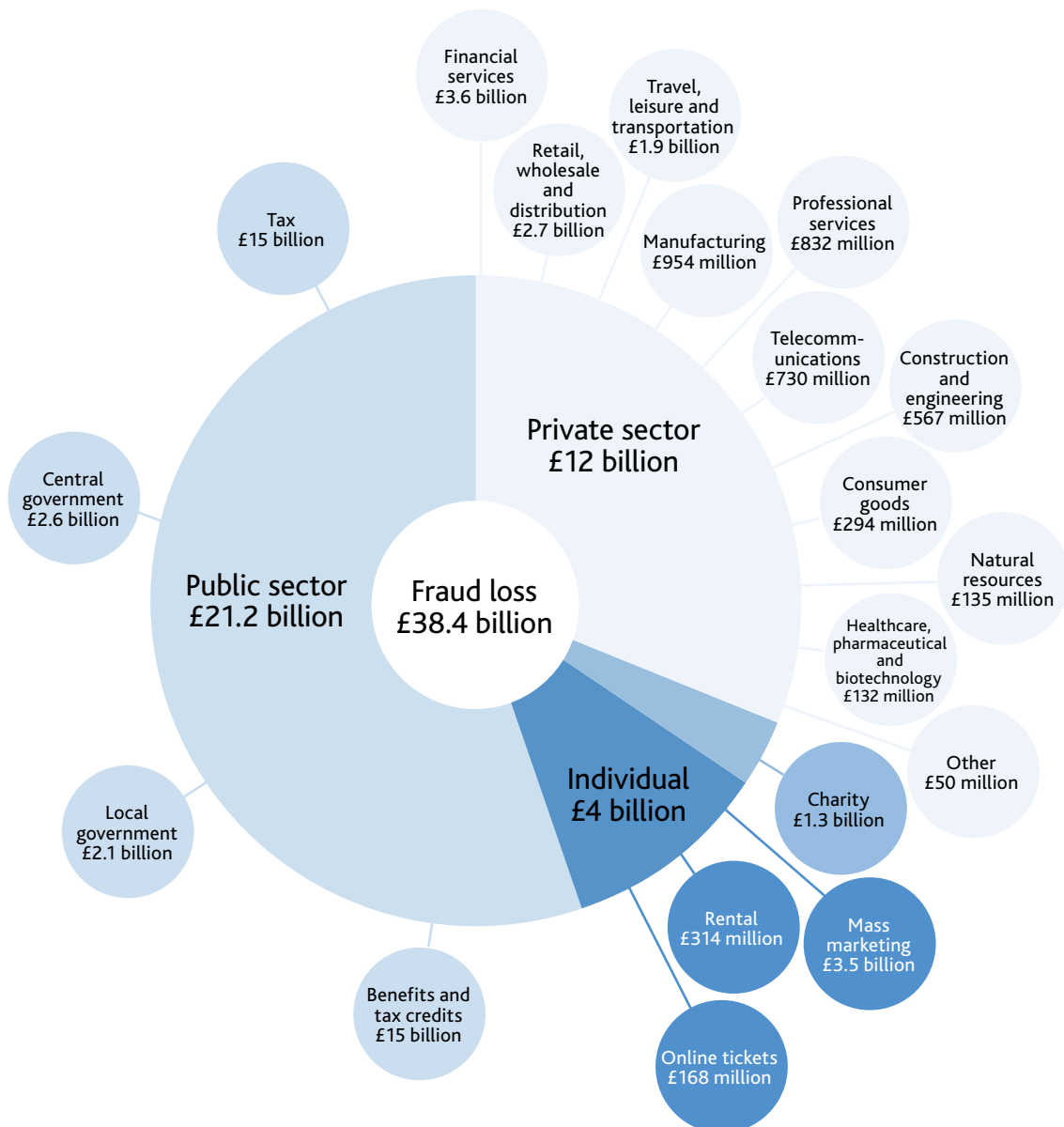
These exposed a number of significant gaps in the process and multiple missed opportunities to reduce harm to the victim and society as a whole. One such case, which dates from 2008, is described in detail within the assessment and, at the time of writing this report, enquiries were still ongoing.

The findings of this assessment have been used to formulate a number of strategic recommendations, the aim of which is to reduce the threat of financial crime against vulnerable adults.

## 2 Threats

### 2.1 The bigger picture

Financial crime is an increasing threat to the well-being of the UK economy. The National Fraud Authority's (NFA) fraud loss figure states that the cost of fraud to the UK economy was £38.4 billion during 2009/10. A visual breakdown of this cost is shown in the diagram below.



Source: NFA (2011)

While methodologies for estimating the cost of theft compared with fraud are different, for the period 2003/04 the Home Office estimated the cost of theft (excluding vehicle crime and robbery) to the economy at £2 billion (Home Office, 2005).

In addition, loss of wealth by individuals has real implications for the wider economy, as proceeds may be diverted to people outside the UK. Other impacts include a reduced flow of wealth between generations in families and a subsequent loss of tax revenue (inheritance).

There are also consequences for the public purse. Victims of financial crime who need care may no longer be able to afford it and so become dependent on state funding. Also, where crime is perpetrated by a professional, such as a care worker or solicitor, there may be harm to the reputation of individuals and organisations, leading to decreased trust and confidence.

In future, the provision of social care is likely to present further challenges. The Audit Commission (2009) identified that pressures on public services are increasing, and characterises them as being 'squeezed from all sides'. Coupled with these economic pressures, the demand for adult social care is projected to increase rapidly.

The Skills for Care report (2010) forecasts substantial increases in the number of older people, and those who are learning-disabled, or have physical or sensory impairment. It also projects an increase in the numbers of these groups receiving care from paid workers, family or friends.

Increasing awareness of the harm experienced by vulnerable adults (Centre for Public Scrutiny, 2010) may increase these pressures further and there is a danger that current adult safeguarding mechanisms may have to prioritise their services towards those they perceive as being at greatest risk of harm. Those who do not fit such criteria will remain at risk – clearly, a gap in safeguarding will result.

Due to measurement challenges, the value for 'individual' fraud loss (£3.5 billion; see OFT, 2006) only pertains to mass-marketing fraud.

## 2.2 Detail of the problem

The diversity of financial crime against vulnerable adults makes it difficult to provide a single, all-embracing solution to the problem. Prevention and responses need to take into account the nature of the perpetrator, the detail of the crime and the level of vulnerability of the adult.

A perpetrator may be a family member, friend, care worker/professional or a stranger who has chosen to target a vulnerable adult. 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.

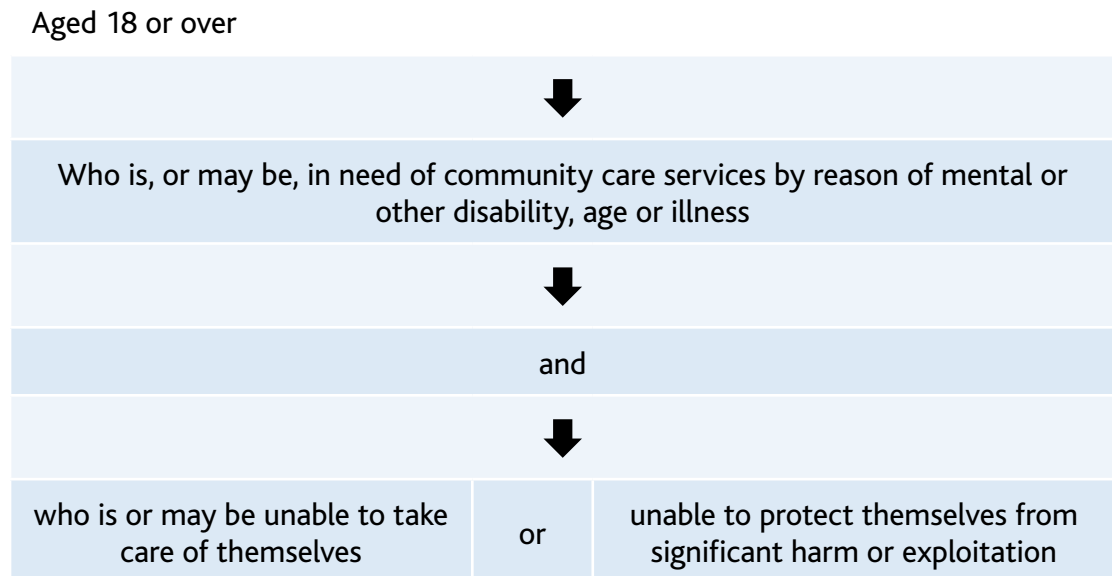
Regardless of the nature of such abuse, or the methods used by perpetrators, the resulting impact on vulnerable adults can be significant.

### 2.2.1 Who might be vulnerable?

The range of vulnerabilities exhibited by victims of financial abuse pose difficulties for organisations involved in safeguarding.

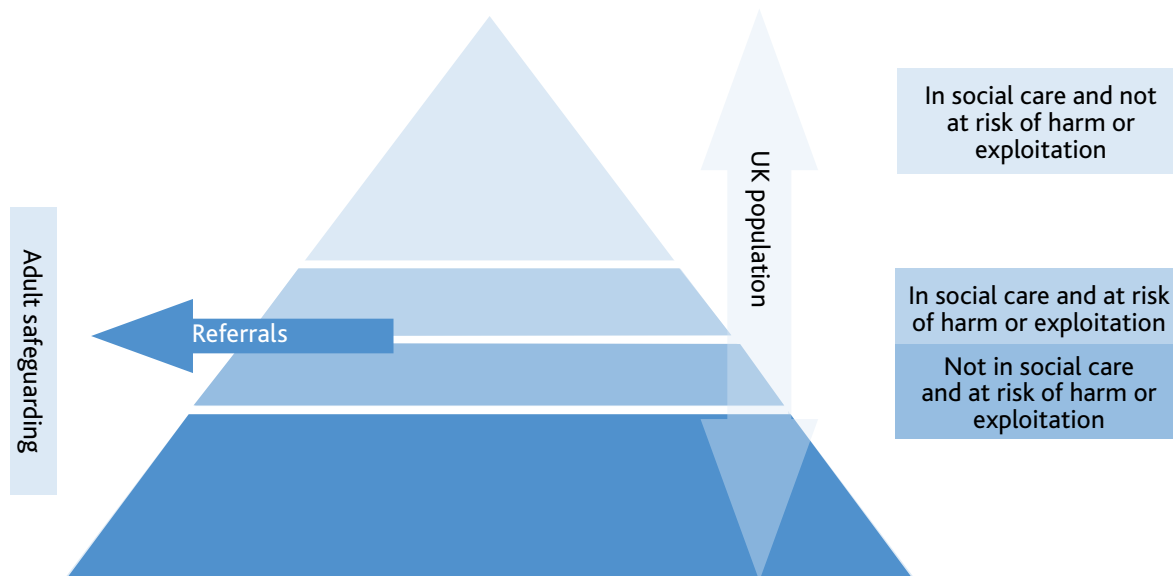
The key to safeguarding is knowing when and how to intervene in an adult's personal affairs. There are situations where it is clearly appropriate to act, for example, where the person lacks capacity to manage or make decisions about their finances. A wide range of people are vulnerable to financial crime. The Office of Fair Trading's (OFT) report on *The psychology of scams* (2009) implies that there is no single risk factor and, in fact, at one point or another, everyone is vulnerable to a persuasive approach. The OFT proposes that, ultimately, the success or failure of a fraud depends on an error of judgement on the part of the victim.

*No Secrets* guidance provides adult safeguarding bodies with a definition for 'vulnerable adults', the component parts of which are shown below:



The definition of a vulnerable adult, particularly with respect to whether the person may be 'in need of community care services by reason of mental or other disability, age or illness', is subjective and can be open to differences in interpretation.

National statistics show that 1.78 million adults were receiving services from a social care organisation during 2008–09 (NHS Information Centre, 2010a). It does not follow automatically that all those who are in receipt of, or in need of, social care are unable to safeguard themselves from harm or exploitation. Nor does it follow that those not considered eligible for social care services are able to protect themselves from financial abuse and crime.



This figure divides the population into four parts: the top two sections of the triangle refer to those who are in receipt of social care, a proportion of whom are unable to protect themselves from harm or exploitation. The two bottom sections of the triangle refer to the rest of the population, who are not in receipt of social care. Some of these, within the third section down, demonstrate an inability to protect themselves from harm and exploitation.

Those who demonstrate an inability to protect themselves from harm or exploitation may have managed with support from family members and so had not come into contact with adult social care. Others may have had personal wealth that excluded them from receiving publicly funded services. While this group, known as self-funders, are entitled to assessment, they may have decided to arrange and fund their own support and not to contact adult social care.

Many people who are not receiving services, or considered eligible for them, may lack the ability to protect themselves from financial exploitation or harm. Such vulnerabilities or risk factors may include the following:

- Lack of capacity to know what's happening.
- Dependency on others to manage care or finances.
- Cognitive impairment having an impact on decision-making.
- Low levels of financial capability (ability to deal with financial products and services).
- Bereavement/social isolation/loneliness, which may provide an opportunity for exploitation.
- Gullibility/over-trusting nature.
- For older people in particular, potentially increased assets coupled with low cost lifestyles and a lack of awareness of the modern world may make them more susceptible.

Particular factors, such as age, social isolation and/or declining/variable mental health, may lead vulnerable adults to become chronic or repeat victims.

## 2.2.2 How are people victimised?

### 2.2.2.1 Perpetrators

A range of perpetrators target vulnerable adults in a variety of ways. A distinction can be made between those acting in a position of trust and all other perpetrators. Perpetrators of financial abuse may simply be driven by opportunity; those who occupy a position of trust may have a greater opportunity to commit financial crime.

Research evidence suggests that financial abuse is most frequently perpetrated by a person acting in a trusted capacity, for example, a family member or, to a lesser extent, friends, neighbours or care workers/other professionals.

“ Sarah befriended John, who was naive, gullible and of limited intelligence. At Sarah’s trial her defence was that the money and the property had been handed either to Sarah (or to her young son), either as loans or as valid gifts.... The conviction of theft, however, was upheld. (Example from an actual case) ”

Adults with higher levels of dependency on others may assign higher levels of trust. There may be more scope for abuse against people with higher levels of independence by people unknown to them, such as rogue traders or organised criminals involved in mass-marketing fraud.

Several organisations outside traditional adult safeguarding (OFT, Royal Mail, Serious Organised Crime Agency [SOCA], Trading Standards, Think Jessica) describe examples of these financial crimes, more commonly perpetrated by a stranger, such as mass-marketing fraud, identity theft or rogue trading. These may be just as common as those crimes perpetrated by a person occupying a position of trust but the adult may be less likely to be recognised as being vulnerable.

While the motivation is financial gain, the potential for significant reward, with minimal risk of detection, can further motivate a perpetrator.

Putting motivation aside, some perpetrators, especially those in positions of trust, may also fail to appreciate that their actions amount to a crime.

Many practitioners reported that families may not perceive financial abuse or crime as harmful and think it’s acceptable to take money from their vulnerable relative – especially if inheritance of the money is likely anyway.

The literature suggests that if perpetrators are heirs, they may feel that they are simply securing assets, to prevent their inheritance being spent on fees for care services (Dessin, 2000). Furthermore some families may have a view that the income

of individual family members, including benefits for disabled adults, should be pooled into the family income.

Abuse may frequently have a hidden or overlooked dimension. Help the Aged (2008) found that financial abuse within families and communities may often be accompanied by other forms of abuse, such as physical abuse or neglect. There is also evidence in the literature that there is a link between financial abuse and domestic violence. A financial guide produced by the charity, Refuge, suggested that abusive partners might use control over financial resources (such as money) as a way to exert power over their partner. Help the Aged (2008) suggests that signs of physical abuse or neglect should alert professionals to consider the potential existence of financial abuse.

#### **2.2.2.2 Abuse/crime type**

During the course of this assessment, many accounts of financial abuse were submitted from a wide range of those organisations consulted. The table overleaf shows examples of types of abuse being perpetrated against vulnerable adults. In some cases, there were multiple reports of the same type of abuse.

#### **2.2.3 Typical losses**

By virtue of the broad spectrum of crime types, losses can vary, from petty theft of small amounts to millions of pounds, taken by friends, family, professionals or organised criminals.

Results from this assessment's public survey showed low levels of loss (predominantly losses from £5 to £49) related to advance fee fraud – where someone is asked to pay a fee in order to receive a prize. In contrast, there were losses of over £5,000 in over 20 per cent of cases of investment fraud, abuse of position of trust and coercion by family members/friends. (For details, see 'Maven Public Survey', in Appendix A.)

#### **2.2.4 Impact of financial crime and abuse**

Even small losses have the potential for significant impact when considered in context with a person's overall wealth/income and whether or not they have access to the right support.

The impact of financial crime should not be underestimated and can be every bit as significant as physical abuse.

- Deem (2000) suggests that victims of financial crimes can suffer as much as those who are victims of violent crime.
- Spalek (2007) suggests that anger and outrage, as well as anxiety, stress, fear and depression, were experienced by victims of the Maxwell pension fraud. Spalek (1999) also found that some of the victims felt their husbands' deaths were accelerated as a result of the scam.
- Social care practitioners describe the distress and betrayal experienced by vulnerable adults who are victims of financial crime perpetrated by a person they

Types of abuse/crime perpetrated against vulnerable adults	Source of example							
Example of abuse/potential crime	Crime type	Police Public Protection Units, social care, NHS	Local authority finance	Charities <sup>c</sup>	Care homes	Financial industry	Government <sup>b</sup>	Other (specified)
<p>People not receiving the benefits or allowances to which they are entitled. An appointee, deputy or attorney (refer to 'Frameworks for protection' in Appendix A) receives payment on behalf of the individual and does not:</p> <ul style="list-style-type: none"> <li>• pay money towards the cost of care for the adult</li> <li>• pass on money for food, clothes etc</li> <li>• pass on the weekly personal allowance for people in residential care.</li> </ul>	Fraud	✓	✓	✓	✓		✓	
<p>An individual befriending a vulnerable adult to gain access to their benefits. In one particular case, a perpetrator targeted six to seven people in one housing area.</p>	T/F	✓	✓					
<p>People unable to get out of the house (due to, for example, frailty, disability, mental health problem) and depending on others to withdraw/collect money or essential items for them. Where others abuse this (taking out money or buying items for themselves), some victims may be unaware, while others may tolerate abuse because they have no one else on whom to depend.</p>	Fraud	✓		✓		✓		
<p>Withdrawals of cash and transfer of property, by those with registered and unregistered Power of Attorney. Reports indicate that some relatives and friends have presented 'fake Power of Attorney documents'.</p>	T/F	✓	✓	✓		✓	✓	
<p>People being persuaded to give away assets or gifts.</p>	Theft	✓		✓	✓	✓		
<p>Thefts from care home residents and people in hospital by staff, including unauthorised use of payment cards, or taking items and replacing them with cheaper ones.</p>	T/F	✓		✓	✓			
<p>Care home manager gaining trust of residents and taking over their finances unlawfully.</p>	Fraud		✓					
<p>Financial institutions or solicitors exploiting vulnerable adults. For example, corrupt bank insiders targeting vulnerable adults' funds, or a solicitor exploiting an adult's finances.</p>	T/F	✓				✓		
<p>Non-investment fraud – rogue traders providing goods or services that are unnecessary, of a poor standard, or at a higher cost than the market value.</p>	Fraud	✓		✓		✓	✓	
<p>Share purchase fraud – unsolicited callers putting pressure on or harassing a vulnerable person into investing in fraudulent shares.</p>	Fraud	✓ <sup>a</sup>				*		NFIB
<p>Mass-marketing fraud – perpetrated, for example, through direct mail as lottery scams/advance fee fraud, encouraging people to send money.</p>	Fraud	✓ <sup>a</sup>				✓	✓	NFIB/Think Jessica
<p>Identity theft – for example, stolen identity, or customer impersonation, to obtain bank accounts or mortgages. Stolen identity may be through a phishing scam, or grooming the person for information.</p>	Fraud					✓		CIFAS

Notes: \* Inferred from: large sums of money sent abroad. T/F refers to theft/fraud; CIFAS, the UK's Fraud Prevention Service.

<sup>a</sup> Seen less frequently by police Public Protection Units.

<sup>b</sup> For example, OFT, Royal Mail, OPG, Department for Work and Pensions (DWP).

<sup>c</sup> Including charities for older people, people with mental health problems or learning disabilities.



have trusted. They suggest that it can leave such victims unsettled and without the confidence to live independently.

The negative impact of financial abuse, regardless of the source, can cause an adult who previously did not have a need for social care services, to deteriorate to the level at which they require services.

The literature and discussion with agencies and practitioners have highlighted a number of impact factors, including:

Depression	Anger
Social isolation	Stress
More vulnerable to further exploitation	Anxiety
Embarrassment	Loss of self-esteem
Inability to replace lost savings due to lack of earning potential	Deterioration in physical health (leading to premature death)
Denial	Fear
Self-blame	Decline in mental health
Betrayal	Loss of confidence to live independently
Distress	

The general impact of financial crime may be intensified where the victim is a vulnerable adult.

Rabiner et al (2006) report that financial abuse may leave older people depressed, socially isolated and more vulnerable to further exploitation. Due to a lack of earning potential, older people may be also unable to replace lost savings (Walsh and Bennett, 2000).

In addition, Cohen (2006) states that consumer fraud can leave older victims feeling embarrassed and in denial. The experience of the NFIB's Operation Archway, into share purchase fraud, and information provided on mail-scam victims by Think Jessica and SOCA, demonstrates that victims are often in denial and may refuse to believe that they are victims, despite the attempts of others to convince them otherwise. Think Jessica identifies that the declining mental health of chronic victims is often worsened by the scam mail they receive. This is supported by the mental health charity, Mind, who suggest that financial abuse can cause further mental distress for the victim, exacerbating existing symptoms or causing new ones. It can also lead to greater isolation and social exclusion, particularly where loss of money or property make it more difficult for the person to live a full and active life. People with mental

health problems are more likely to be living on a low income and less likely to be in regular employment, so financial loss will have an exaggerated impact (Mind).

“ ... misuse of her accounts led to a debt of more than £15,000. (Example from an actual case involving an agoraphobic adult) ”

Mind also reports that ‘many individuals find themselves in a catch-22 situation, where they are so lonely that they will permit abuse to continue to maintain human contact’, even if they are aware that they are being exploited.

### 2.2.5 Prevalence

When considering the likely prevalence of financial crime among vulnerable adults, there are a number of very immediate obstacles.

Both professionals and society as a whole face difficulties when it comes to determining who may, or may not be, a vulnerable adult. Furthermore, crime data does not characterise the victim as vulnerable or non-vulnerable.

Vulnerable adults may also be less inclined to report crimes for reasons of embarrassment or a lack of acceptance, and fraud in particular is significantly under-reported (NFA and ACPO, 2009).

What is clear, however, is that financial crime against vulnerable adults is considered a significant problem and is likely to be more widespread than that known to safeguarding practitioners alone.

Existing prevalence studies have tended to focus on age; however, this is not an indication that other groups are unaffected.

A national prevalence study, by O’Keeffe et al (2007), found that financial abuse is the second most common type of abuse experienced by the elderly in the UK, with neglect being the most common. They report that approximately 1 per cent (86,500) of people aged 66 and over were subjected to financial abuse over a 12-month period.

Data from adult safeguarding coordinators in England (2009/10) suggest that financial abuse constitutes a significant proportion of all safeguarding referrals, at, on average, 25 per cent. Data from Welsh Authorities (CSSIW, 2010) put this figure at 21 per cent. It is important to note that these figures only refer to the initial concern; often, there may also be additional dimensions to the abuse. (For further details, see ‘Adult safeguarding statistics, in Appendix A.) Relying too heavily on statistics has the potential to give a false impression of the problem. While financial abuse cases will sometimes feature physical abuse, the same could just as easily be said for the inverse situation. The available data only reflects those people who were referred to adult social care and there is evidence that some expressions of concern

may, on occasion, not be recorded as a 'referral'. It was therefore also necessary to draw on the perceptions of those who come in contact with vulnerable adults. Safeguarding coordinators indicate that financial abuse is increasing, although this may be a product of increased awareness and reporting. Verbal responses from police Public Protection Units also report that it is an increasing problem. In addition, other agencies involved in referring vulnerable adults, for example, care homes, Trading Standards, OFT and charities, perceive that financial crime is widespread.

Financial institutions have not traditionally been involved with adult safeguarding, but have nevertheless recognised that financial crime can be a problem for vulnerable adults. For example, the Building Societies Association (BSA) considers it to be a growing problem, although again, this may be a product of increased awareness.

Those vulnerable adults who become victims but are not recognised as 'vulnerable' may far outnumber those who are recognised as vulnerable. People in this group may have started to decline and, in those instances, there is scope for chronic victimisation in the short-to-medium term, prior to recognition of a problem.

A report by OFT (2006) discusses 'suckers' lists, sold between perpetrators, which detail previous victims of scams. Think Jessica defines chronic victims as those who receive in the region of 100 scam letters per day, have lost thousands of pounds and spend their day keeping up with the mail. Think Jessica estimates that they receive emails with details of 5 to 20 chronic victims every day.

It is difficult to estimate the size of the problem on two accounts: first, those vulnerable adults who come to the attention of adult safeguarding partners will not always be appropriately passed onward to, or recorded by, adult social care. Second, more independent vulnerable adults, who are likely to only come to the attention of organisations outside traditional safeguarding, are unlikely to be referred.

### 2.2.6 Public perceptions and experience

Equally as important, from a trust and confidence perspective, are the views of the public. A public survey, commissioned by this assessment, interviewed a nationally representative sample of the population, as well as an extra group of vulnerable adults. (For details, see 'Maven Public Survey', in Appendix A.)

Vulnerable adults in the sample are defined as those who are in receipt of social care or who have a disability, as it was not possible to identify those within the sample that might fit within the *No Secrets* definition using any other means.

The survey gave examples of certain types of financial crime and asked questions about the public's experience of such crimes. Results suggest that the general public do perceive there to be a problem with financial crime against vulnerable adults:

- 60 per cent of the 'general public' respondents perceived financial crimes against vulnerable adults to be a fairly common or very common occurrence
- 65 per cent of 'vulnerable adult' respondents perceived financial crimes against vulnerable adults to be a fairly common or very common occurrence.

Furthermore, when asked about personal experience, the number of people who had known a vulnerable adult affected was not insignificant:

- 17 per cent of 'general public' respondents knew a vulnerable adult who had been a victim of financial crime
- 24 per cent of 'vulnerable adult' respondents knew a vulnerable adult who had been a victim of financial crime.

The survey also demonstrated that vulnerable adults were more likely to have fallen victim to financial crime than the wider population. They were:

- 1.2 times more likely to have fallen victim to theft
- 3.1 times more likely to have been abused by a family member or friend.

(For further details, see the table under 'Maven Public Survey', in Appendix A.)

## 2.3 Cross-cutting themes within adult safeguarding

There is a lack of coordination across all organisations within the public and private sectors, leading to inconsistent delivery of appropriate advice, support and intervention to safeguard vulnerable adults from financial abuse. The specific gaps at each point in the process are highlighted in Chapter 4. However, there are a number of cross-cutting themes that contribute to this aspect of the overall threat.

### 2.3.1 Recognising a vulnerable adult

Threats from financial crime are often not immediately visible and, therefore, the subtleties of its nature can leave vulnerable adults exposed for long periods before symptoms are identified. Those organisations who come into contact with vulnerable adults exhibiting high levels of independence may not recognise their vulnerability. *If vulnerable adults themselves are not aware of the occurrence of financial crime, or refuse to accept it, then it is even less likely to come to light.*

### 2.3.2 Recognising the impact of financial crime

Even when recognition occurs, organisations often do not fully appreciate the impact that financial crime can have.

Where organisations see no immediate threat to a person's well-being, they may fail to consider the long-term impact of financial crime. This lack of realisation, or sense of urgency, can lead to safeguarding procedures not being invoked, or organisations choosing not to share data.

The social care element of the *No Secrets* definition has the potential to limit the response of adult social care, leaving a group of people who are unable to safeguard themselves against harm or exploitation excluded from the provision of protection.

There is often a question mark over whether financial crime in isolation equates to 'significant harm' and, as such, a vulnerable adult may slip through the net.

There is evidence that there may be a bias towards safeguarding those having obvious social care needs, regardless of the potential for significant harm. This problem could escalate as demands on social care increase. *Given that the demand for social care is increasing at a time when funding is diminishing, there is potential for this problem to escalate.*

### 2.3.3 Understanding financial crime

Compounding the difficulties with identifying vulnerable adults and the lack of perception of harm is the perceived complexity of financial crime. A lack of understanding of financial crime can lead to reluctance to investigate and a potential for adults to be turned away before their vulnerabilities can even be considered. Furthermore, police officers may not have a full appreciation of the safeguarding process. *The need for specialist financial knowledge can lead to vulnerable adults being dealt with by police officers who may not have a full appreciation of the safeguarding process.*

### 2.3.4 Social care delivery

The current social care agenda is firmly focused on personalisation. This is about the individual being at the centre of decisions making rather than them having to accept service-led responses to their needs. Personal budgets are gradually being introduced and aim to enable individuals to have more choice and control over the services they receive.

Personal budgets are welcomed by many recipients of care, due to the fact that they provide choice and flexibility. Individuals can continue to have some or all of their services provided through the local authority. For non-residential services they can request all or part of their personal budget as a direct payment in cash. In common with cash benefits, there is an inherent risk that others may seek to take those monies.

This assessment does not consider that the risks attached to direct payments outweigh the benefits. However, it is essential that sufficient emphasis is placed on assessing the risk of financial abuse and monitoring for safeguarding. The potential for financial abuse to occur may increase where the adult demonstrates some form of vulnerability. For the assessment and monitoring process to be meaningful, it is essential that practitioners are equipped with the knowledge and appreciation of the potential threat represented by financial crime against vulnerable adults. (For further information, see Chapter 6.)

## 3 The adult safeguarding landscape

### 3.1 The bigger picture

Safety from harm and exploitation is a basic need. 'Safeguarding' comprises a range of activities, the aim of which is to uphold an adult's right to be safe. However, safeguarding cannot detract from, or fail to demonstrate, an implicit respect for people's right to make their own decisions. *In the broadest of terms, safeguarding involves empowerment, protection and justice.*

Safeguarding can comprise specialist services that mitigate harm where abuse has been identified, as well as provide more generalised services that aim to promote well-being and empower adults to be safe.

While core safeguarding services will come from national and local governance bodies, it should be recognised that safeguarding is everyone's business – the public, volunteers and professionals.

The *Adult safeguarding scrutiny guide* (Centre for Public Scrutiny, 2010) outlines how Overview and Scrutiny Committees (OSCs) can contribute to better safeguarding, and it defines 'safeguarding' as involving four key activities, shown below.

Prevention and awareness	The promotion of general well-being to support communities to 'look out for each other'.
Inclusion	Activities to ensure that providers of community safety services have a good awareness of vulnerable adults and can identify and support them with appropriate services.
Personalised management of benefits and risks	The identification and support of people, with a view to allowing them to protect themselves and make informed decisions when they are suffering or are likely to suffer harm.
Specialist safeguarding services	Specific action to ensure that people who have (or may have) experienced harm or abuse are enabled to protect themselves. It also includes ensuring that justice is facilitated where vulnerable adults are the victims of crime.

Source: Summarised from Centre for Public Scrutiny (2010)

This report is primarily concerned with specialist safeguarding services, which are generally provided by a Council having Adult Social Services Responsibilities (CASSR), the NHS and the police, in relation to financial crime and abuse. However, outside core safeguarding, there are numerous organisations that actively contribute to one or more of the four activities above. Community Safety Partnerships (CSPs) coordinate aspects of the prevention and inclusion activities of the local authority,

police and the NHS, as part of a statutory requirement that is placed on the locality to prevent crime and disorder.

- The Court of Protection and OPG oversee protection mechanisms, such as deputies and registered Lasting Powers of Attorney (LPA)/Enduring Powers of Attorney (EPA).

These are defined by the Mental Capacity Act (MCA) 2005 for England and Wales, which provides a framework to empower and protect people who may lack capacity to make some decisions for themselves.

- The DWP appoint 'appointees' and is responsible for revoking appointeeship, if appropriate.

(A comprehensive list of protection mechanisms is detailed in 'Frameworks for protection', Appendix A.)

Local authorities have a community leadership role and are responsible for Safeguarding Adults Boards. These boards have a critical role to play in terms of leadership and the management of safeguarding services within multiagency partnerships. Each Board may include representation from:

- adult social care
- service users and carers
- other local authority departments (and representation from district councils in two-tier areas)
- the NHS (trusts and primary care providers)
- the police
- Crown Prosecution Service (CPS)
- Her Majesty's Courts Service (HMCS)
- service providers
- other relevant organisations.

Every local authority should have agreed local procedures in line with the *No Secrets* guidance. These should create a framework that ensures all responsible agencies work together to protect vulnerable adults and to respond consistently and effectively to any safeguarding concerns.

Local partners, including the police, housing and health, should follow local safeguarding procedures and this responsibility should be included in any contractual arrangements with care providers.

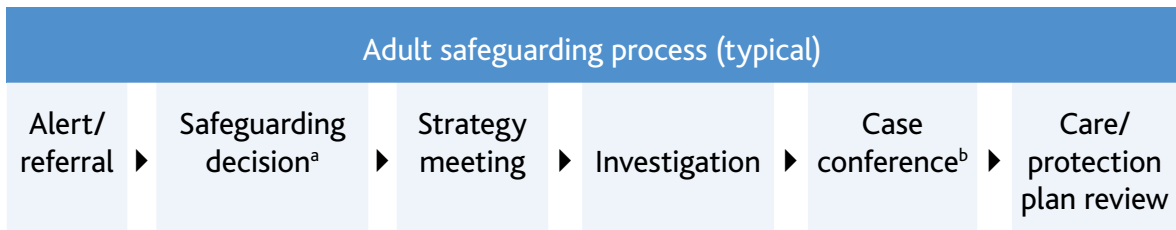
## 3.2 The process

In many communities there is ongoing preventative work around adult safeguarding. However, this chapter looks at a typical adult safeguarding process once a concern has come to light. Throughout this process a continual assessment is made of the adult's needs and the risks the adult faces. At every stage of the process the adult should be involved and consideration should be given as to whether the adult

consents to procedures being invoked. There are certain circumstances where an organisation can override the adult's wishes, for example, where others are at risk, if there is a wider public interest (necessary to prevent crime) or where the adult lacks capacity to make decisions about abuse.

An overview of this process is shown below:

*It should be noted that this process is typical and not strictly linear. Therefore, stages may occur non-sequentially or concurrently. In addition, stages may be repeated until the desired outcome is achieved.*



Notes: <sup>a</sup>Decision on whether to invoke safeguarding procedures.

<sup>b</sup>Decision on whether the allegation is substantiated, further risk assessment, decision for care/protection plan.

### 3.2.1 Alert/referral

#### 3.2.1.1 Alert

If someone (anyone) knows or suspects that a vulnerable person is being abused (including financially), they should report this to an appropriate organisation, such as adult social care, the NHS, care provider, Care Quality Commission (CQC), voluntary organisation or the police.

*The organisation should record the details of the concern raised. At this stage, it should be ascertained as to whether or not the person is at risk or in immediate danger. Consideration should also be given to whether the adult has capacity to understand that they are at risk and, where they have capacity, whether they consent to the alert being raised. If there is a risk of immediate harm, emergency services should be contacted and, in certain circumstances, the person may be relocated to a place of safety.*

#### 3.2.1.2 Referral

Information about all safeguarding concerns should be referred to adult social care within the same working day that the alert was raised. Adult social care should make a record of receipt of these concerns, in their database.

*All core local partners should work to the No Secrets definition of a vulnerable adult.*



Outside of core local partners, the *No Secrets* definition is not commonly used and so there is no expectation, nor a fixed process, by which referrals or alerts should be made, either within public bodies or the private sector. However, within the wider public sector, bodies often have the facility to signpost to organisations that provide consumer advice.

### 3.2.2 Safeguarding decision

By the end of the same working day, adult social care decide whether or not there is a need to invoke safeguarding procedures, based on the nature of the concern/allegation and whether or not the alleged victim could be considered a vulnerable person. Any safeguarding decision should also give consideration to the adult's wishes. Reasons for the decision should be recorded and the result of the decision should be relayed to the alleged victim.

- If safeguarding procedures are not invoked, the alleged victim should receive appropriate signposting advice.
- If safeguarding procedures are invoked, a safeguarding manager should be appointed and a strategy meeting arranged. An initial risk assessment should be made regarding the degree of risk to the alleged victim and appropriate action should be taken immediately – this may involve the creation of an interim care/protection plan.
- If it is suspected that a crime has been committed, the police should be contacted. The case should be discussed and, if agreed necessary, reported as a crime. The impact of this on the risk to the individual must also be considered.
- Preservation of Evidence should be discussed with the police.

### 3.2.3 Safeguarding assessment/strategy meeting

When a strategy meeting is convened, attendees should include the:

- safeguarding manager
- social worker allocated to the case
- police.

Other attendees may include relevant care providers, housing providers, the CQC, local authority deputy/financial assessment officers/income collection team representatives and any other appropriate organisation.

Alleged victims should be central to the process and any decisions should take account of their views. Their attendance at this meeting may, however, not be appropriate.

The strategy meeting will determine whether to investigate and, if an investigation is to proceed, how this will happen, who will lead the investigation, timescales and what is expected of each organisation represented. The investigation plan will be agreed and recorded.

Consideration is also given to any immediate safeguarding measures required for the individual concerned – this may involve the creation of an interim care/protection plan.

#### **3.2.4 Safeguarding investigation**

The investigation takes place as agreed in the strategy meeting. The police take precedence where there is suspicion of a criminal act. At this point, consideration will be given to the requirement for specialist evidence-gathering techniques, such as Achieving Best Evidence, and whether an intermediary may be required.

If the matter involves financial irregularities over a period of time, it may be necessary to assign an investigator who has appropriate experience of financial crime. Where the investigation brings to light evidence of a criminal act, the police will work in partnership with the CPS to determine how best to proceed. At this point, due consideration should be given to the question of whether prosecuting the perpetrator will be in the victim's best interests.

#### **3.2.5 Safeguarding case conference**

A decision is made about whether the allegation, on the balance of probability, has been substantiated or not, or whether it is inconclusive. Decisions regarding police prosecution and workplace disciplinary proceedings are recorded. In light of new information, a new risk assessment should be carried out and recorded.

A care/protection plan is either created or updated to include any new safeguarding measures.

#### **3.2.6 Care/protection plan review**

A meeting may be necessary to ensure that the actions agreed in the care/protection plan have been implemented and to decide whether further action is needed.

Ultimately, the process aims to ensure the continued safety of the individual while maximising their independence.

## 4 Gaps

The previous chapter provided an overview of the current safeguarding process in general and presumed that the process is equally applicable and effective for all forms of adult abuse. This chapter examines potential points of failure within the safeguarding process in general and also within the context of financial crime, where challenges would appear to be even greater.

Within the wider safeguarding environment for financial crime, there is a real danger that those who come to attention and are in need of safeguarding will not enter the system at all. The safeguarding process is not within itself inherently flawed, but it is possible to demonstrate that there is not sufficient appreciation of the needs of those who become victims of financial crime.

### 4.1 Alert/referral

Without recognition of a problem there is no opportunity to provide effective solutions. It is clear that there are challenges pertaining to recognition, both within the core safeguarding environment and society as a whole, and these can lead to alerts and referrals not being made.

Training practices can also have an adverse impact on the ability for core and non-core adult safeguarding organisations to recognise evidence of abuse consistently and to act on it. Practitioners suggest that multiagency training is key to effective adult safeguarding.

#### 4.1.1 Public awareness

Society has become more attuned to issues of abuse, especially within the context of domestic violence and child protection. This is likely to be as a result of changes to statute and initiatives to increase public awareness that have focused on those issues. It should be recognised that work within domestic violence and child protection have been ongoing and progressive for several decades and a cultural change will have developed the public's mindset.



It is likely that such initiatives within domestic violence and child protection have increased referrals. There is potential for a similar awareness campaign on safeguarding adults from financial crime to produce similar outcomes. However, at this point in time, people are unsure when and how to express their safeguarding concerns and as a result may choose to not act.

#### 4.1.2 The wider public sector

Bodies within the wider public sector do not see themselves as an implicit part of the adult safeguarding landscape and, as a result, often lack policies and procedures that are required to enable recognition and referral of vulnerable adults.

An implicit part of the role undertaken by organisations, such as the Consumer Financial Education Body (CFEB, who operate MoneyMadedclear), The OFT (who operate Consumer Direct) and a multitude of third sector bodies, is to provide guidance and advice. It is highly likely that a proportion of the public, with whom they have contact, may demonstrate indicators of safeguarding need.

Currently, there is a lack of two-way connectivity between these bodies and the core safeguarding partners. However, the existence of close partnership working would have the potential to identify need, empower individuals and assist core safeguarding partners with the management of an ever-increasing workload.

#### 4.1.3 Financial institutions

The British Bankers Association (BBA) identified that staff find it difficult to define who should be classified as being at risk, as customers will often not see themselves as vulnerable or are under the perception that they are in full control of their finances.

In addition to the issue of identification, this assessment has determined that there are a number of other barriers to the active participation of financial institutions in adult safeguarding. Within the *No Secrets* consultation, both the BBA and BSA referred specifically to the need for their members to adhere to the principles of data protection when considering how to raise, or respond to, concerns about financial abuse of a potentially vulnerable customer. Both bodies have also cited the duty to maintain client confidentiality as a further barrier to raising safeguarding concerns.

A banker's duty of confidentiality is not absolute and it is governed by case law around *Tournier v National Provincial and Union Bank of England*. This sets out four areas where a bank can legally disclose information about its customer:

1. Where the bank is compelled by law to disclose the information.
2. If the bank has a public duty to disclose the information.
3. If the bank's own interests require disclosure.
4. Where the customer has agreed to the information being disclosed.

Financial institutions must also comply with the Data Protection Act 1998, central to which is the first principle, which is that personal data should be processed fairly

and lawfully. Within the Data Protection Act, an exemption is in place (Section 29) that allows personal data to be processed (shared) for the prevention or detection of crime or the apprehension or prosecution of offenders. It is entirely at the discretion of the financial institution (the controller of the data) to determine whether the use of this exemption is permissible.

Under the Proceeds of Crime Act if an individual knows or suspects they are dealing with the proceeds of criminality, then they should submit a suspicious activity report to SOCA. Financial institutions are required to submit this information as failure to do so is an offence. Section 338(4) of the Proceeds of Crime Act 2002 provides that submitting such a report does not breach any restrictions on disclosing information. These Suspicious Activity Reports (SARs) satisfy the first Tournier principle and the grounds for exemption contained within the Data Protection Act.

BBA and BSA guidance on safeguarding vulnerable customers states that the customer's wishes are paramount and that staff should seek consent before contacting the police or Trading Standards for advice (fourth Tournier principle).

When sought, such consent is often rejected. The reasons for this are varied and complex but frequently revolve around one of the following:

- A desire on the part of the customer to demonstrate independence.
- The involvement of a trusted party.
- A successful deception as the result of prolonged contact with a fraudster.

In the absence of customer consent or clear grounds whereby information could legitimately be shared under Section 29 of the Data Protection Act, there is evidence that concerns about a vulnerable customer are expressed through the SARs regime. While some of these reports will demonstrate a suspicion of money laundering, many do not and they reflect a desire on the part of staff to act in the customer's best interests. However, the SARs regime is designed to provide financial institutions with an opportunity to comply with their statutory obligations around money laundering and is not intended to be used for the identification of vulnerable people. It is up to the receiving police service to determine how such reports are handled and, inevitably, most will place an emphasis specifically on the opportunity to restrain money held by criminals.

In addition to those occasions where concern has been raised via SARs, there is evidence of a number of cases where the police were called in the absence of customer consent. This suggests that the principles governing disclosure are applied inconsistently, as demonstrated by the case study featured in this assessment (see Chapter 5).

Within the assessment's public survey, 81 per cent of the public supported the concept that bank clerks should be able to freely share their safeguarding concerns with safeguarding partners when there is suspicion that a crime has been committed. Public perceptions aside, bank staff often find themselves in the unenviable position of having to balance their responsibilities with respect to data protection/client

confidentiality with the best interests of a customer who may be unreceptive to their attempts to provide protection.

It is evident that clarification is required as to how responsibilities in relation to client confidentiality, data protection and the Proceeds of Crime Act should be interpreted when financial institutions encounter suspected financial abuse. The need for assistance around the identification of vulnerable customers also presents an opportunity for best practice around safeguarding to be extended to the private sector.

Public survey	
Do you think it is acceptable that the people below should be able to freely share their concerns with the police or social services if they believe someone is a victim of crime?	Crime <sup>a</sup>
Bank clerk	81%
Postal worker	70%
Doctor	88%
Shop worker	57%
Post Office clerk	71%
Community healthcare professional	88%

Note: <sup>a</sup>General public sample of the assessment's survey in May/June 2010.

#### 4.1.4 Adult social care

While practitioners within the adult social care environment may be attuned to recognising vulnerable adults, they can lack the awareness and experience of certain types of financial crime, especially more sophisticated forms of fraud. This can lead to victims of financial crime not being provided with appropriate responses and safeguarding concerns not being raised.

It could be argued that the *No Secrets* definition of a vulnerable adult should provide for people to be safeguarded on the basis of an inability to protect themselves from harm or exploitation. For any decision about safeguarding to be properly informed, it is necessary for the social care organisation to go beyond the information contained within the referral. In cases relating to financial crime, this has on occasion involved contacting the vulnerable adult by telephone to ascertain whether they perceive themselves to be vulnerable. Where they do not perceive themselves to be vulnerable, there is evidence that the matter will be considered as closed. In such a case, when challenged, one social worker suggested that:

'The danger is if we spread the net too widely, the amount of referrals will mean that it will be hard to focus on those genuinely requiring protection.'

It could be argued that closing the matter at such an early stage would result in no meaningful assessment of the person's actual circumstances.

#### 4.1.5 Police

Initial police training places an emphasis on the need to protect vulnerable people, but currently lacks a reference to specific needs, characteristics and processes applicable to vulnerable adults.

This assessment found a lack of consistent understanding of financial crime across police services and several examples of victims being turned away at police front desks. This may be due to a lack of understanding of financial crime, or an assumption that the loss of monies or assets is of less importance than other forms of abuse or crime.

This lack of understanding, coupled with training gaps, can lead to police officers not reporting safeguarding concerns about vulnerable adults to their local Public Protection Unit. There is also evidence that police officers are, on occasion, making their own judgements about capacity, in circumstances where referring the adult for an assessment may be more appropriate.

Officers within Public Protection Units are provided with specialist training that covers safeguarding issues and should take the lead in all safeguarding matters. However, when the matter involves financial abuse, these units may not take the lead, instead concentrating on domestic violence and child protection. As a result, vulnerable adults may be dealt with elsewhere and the investigating officer may lack awareness of the safeguarding process, which can have implications for effective partnership working.

#### 4.1.6 The NHS

Reporting from general practitioners (GPs) and mental health services was highlighted as a particular cause for concern in the *No Secrets* consultation (DH/Home Office/CJS, 2009). Despite high levels of contact, GPs appear to generate disproportionately low numbers of referrals. The role of GPs is considered crucial to safeguarding, as they are 'in an ideal position to identify safeguarding concerns with their knowledge of patients, their families and situations' (DH/Home Office/CJS, 2009).

These low volumes of referrals could be due to a lack of ability to identify safeguarding problems, or a concern over breaching confidentiality.

#### 4.1.7 Other functions of local governance

Within safeguarding environments, it is apparent that there can be a lack of awareness of potential sources of support, expertise and information. This is especially important when professionals are dealing with the complexities of financial crime. Specialist police financial crime teams and local authority counter-fraud functions can provide invaluable support to safeguarding partners. Local authority

financial assessment teams are responsible for assessing the ability of service users to pay towards their service charges. Such teams can be used to identify financial abuse proactively, by looking for financial irregularities and performing annual reviews and investigations into client monies.

Once again, cohesive information sharing is essential, as it is suggested that even when such teams do highlight safeguarding concerns, they are not always linked back into the safeguarding process, which may lead to continuation of abuse. Income collection teams within local authorities may also be disconnected from safeguarding functions, despite their potential to identify financial abuse.

## 4.2 Data collection/quality

Where vulnerable adults do come to the attention of a safeguarding partner, there is evidence that such organisations may struggle to reflect accurately the vulnerable person's needs within their contact/case management systems.

It was determined that many organisations do not have a method by which they are able to highlight or flag vulnerability within their systems and that, within certain environments, there is a reluctance to record this information.

Where records are kept, it has also proved difficult to extract information relating to vulnerable adults. Such difficulties make it more problematic to estimate the full scale of the problem of financial abuse of vulnerable adults.

### 4.2.1 Police data collection

Police services within England and Wales were contacted, to better understand the challenges faced relating to the collection of data about vulnerable adults. This assessment attempted to establish the following:

- the percentage of safeguarding referrals relating to financial abuse
- the percentage of financial crimes that are against vulnerable adults.

Difficulties arose due to the fact that, in many cases, an absence of technology limited the straightforward collection of data. Many police services did not have central databases for vulnerable adult referrals and one Public Protection Unit reported to not include financial abuse as a referral category. In addition, police services often reported to not have crime databases with an option to flag or highlight a crime involving a vulnerable adult.

Some police services have a facility to attach 'markers' to incidents in their databases. This means that referral forms can be marked 'financial'. However, given that these are relatively new facilities for police services, there were issues with the volume of unmarked incidents.

### 4.2.2 Data recording by local authority adult social care teams

Safeguarding data from local authorities also lacked consistency.



Before October 2009, local authorities had not been required to submit data on the number, nature and outcomes of safeguarding referrals.

The first standardised collection by the NHS Information Centre was for the period 1 October 2009 to 31 March 2010 and was only voluntary. Some local authorities reported the difficulties faced in populating the spreadsheets, as a result of data quality, mismatches between recording categories and reliance on paper record keeping.

One local authority reported that it did not record the referral source or abuse type if the alert did not cause safeguarding procedures to be invoked. There was also an element of confusion as to whether local authorities distinguished between the definition of an 'alert' and a 'referral' and whether statistics were recorded for only one, or both of these. While the overall picture, with regard to data quality, was not optimal, it should be noted that many local authority Safeguarding Adults Boards do produce informative and comprehensive annual reports.

The lack of an established statutory national data collection in England contrasts with practices in Wales, where all authorities are already submitting annual data. Results for Wales are published in an annual report, available online.

#### 4.2.3 Data recording by the private sector

Within the private sector, concerns were expressed with regard to the flagging of customers as being 'vulnerable'. The first concern revolved around the identification of such people and the second concern pertained to the potential offence that could be caused if the customer discovered that they were labelled 'vulnerable' by the organisation. For example, if a bank refused to provide a certain facility or service and the customer challenged this decision, the customer might consider a reference to 'vulnerability' as a reason for that organisation's decision.

### 4.3 Safeguarding decision

To properly meet the threat of financial crime against vulnerable adults, it is clear that safeguarding cannot be limited only to those people who are assessed as being entitled to social care.

Local authorities are entitled to determine the level of need at which they provide services. Fair Access to Care Services (FACS) guidance offers a framework for decision making in this regard. This should not, however, influence responses to safeguarding referrals, because the local authority has a general duty of care. A response to any safeguarding concern should ensure that the victim is offered appropriate services, support or signposting, regardless of their eligibility for social care.

FACS guidance encourages those carrying out assessments to consider whether, without intervention, people will deteriorate to the level at which they would become eligible for social care services.

For example an older person may begin to make unwise decisions and may not recognise their own vulnerability to financial abuse. The impact of being abused may result in increased vulnerability and consequent eligibility for social care services. In any event, from a financial perspective, it is in the public interest to protect the finances of individuals who may, in the future, be required to pay for social care services.

FACS guidance grades the eligibility framework into bands based on risk to the person's independence:

- If 'abuse or neglect has occurred or will occur', the person is deemed to be in the 'substantial' band.
- If the abuse is 'serious', the person is deemed to be in the 'critical' (top) band.

Since financial crime is a form of abuse, it should be considered within this framework. However, evidence suggests that this is not always the case. One adult safeguarding coordinator suggested that financial abuse is not considered by health and social care to constitute 'significant harm'.

There are indications that people who are referred for safeguarding, with regard to financial abuse, can be seen as falling outside the *No Secrets* definition of a 'vulnerable adult'. Help the Aged and Age Concern (now Age UK) identified that the definition was sometimes interpreted by local authorities as being restricted to those people who received social care services.

Interpreting the definition in this way has the potential to ignore the real needs of a person who has demonstrated an inability to care for themselves or protect themselves from harm or exploitation. For example, in their response to the *No Secrets* consultation, the mental health charity Mind reported that, often people with mental health problems do not meet FACS criteria, yet they need support so that social isolation doesn't result in an increased risk of abuse.

#### 4.4 Strategy meetings

The *No Secrets* consultation (DH/Home Office/CJS, 2009) highlighted that organisations sometimes fail to attend safeguarding strategy meetings.

Responses from adult safeguarding coordinators also suggested that in the context of financial abuse, levels of participation could be variable. Representatives from APAD suggested that particular difficulty was experienced in getting the police to attend strategy meetings. It was perceived that, often, the police would only attend if it was clear that a case would go to the CPS. In addition, the *No Secrets* consultation reports a low attendance at safeguarding meetings by representatives from the NHS, in particular GPs and mental health professionals.

One private care home provider suggested that, occasionally, where issues had arisen, they had encountered situations where they, as the service provider, had been actively excluded. Such exclusion is potentially contrary to the best interests of the

victim as, in many cases, they remain in the care environment while the matter is investigated.

A further problem with a lack of participation is that, on occasion, when partners within adult safeguarding fail to attend, there is a missed opportunity for safeguarding matters to be brought to their attention. Where partnership working is ineffective, or lacks cohesion and trust, there is a danger that decisions may be made without the involvement of all appropriate safeguarding partners.

Where adult social care arranges a strategy meeting and one or more of the partners fail to attend, they may be left with no choice but to make a decision that is less informed than it could be. This may be a particular problem in cases of financial abuse, where specialist knowledge may be required.

Other bodies may, on occasion, be called on to assist with safeguarding matters and, although it could be argued that they have the potential to contribute to the process, they may be reluctant to participate.

Example: the DWP provides guidance to their staff, suggesting that they should 'be wary of attending' meetings which discuss individual cases concerning vulnerable adults. The guidance states that this is due to data protection risks associated with sharing information when there is not a direct request from a particular organisation.

Any reluctance to attend safeguarding meetings, or commit to action, may stem from the fact that there are no statutory requirements.

## 4.5 Safeguarding investigation

### 4.5.1 The investigation

Procedures vary across the 43 Home Office police services of England and Wales and, therefore, investigation processes differ and responsibilities may differ.

Information from local authorities and police services suggest that there is a separation of responsibilities for investigating financial crimes compared with other crimes against vulnerable adults, and an absence of a consistent approach to financial abuse investigation. Cases may be investigated by Public Protection Units, Financial Investigation Units, or by uniformed officers. As a result, it is difficult for investigators to have both the relevant knowledge of fraud and the necessary understanding of safeguarding principles and the possible requirement for special measures for victims.

This assessment found that Financial Investigation Units rarely receive safeguarding training, yet Vulnerable Adult Units and Public Protection Units are unlikely to have the training or expertise to investigate financial crime. Responses from several organisations suggest that financial crime is not treated as a priority. In contrast, other crimes against vulnerable adults, or crimes against children, do receive a more positive response from the police.

One police service's Vulnerable Adult Unit reported that investigations could be 'time consuming and take a long time to progress'. They also reported a frequent necessity to obtain Court Orders and the requirement for a lot of time to be spent going through financial statements. In addition, they cited geographical issues, whereby the victim/abuser had resided in numerous locations around the UK while the abuse was taking place. The suggestion was that, 'if this type of work is not outsourced, then VAUs [Vulnerable Adult Units] need more expertise to assist'. However, competing strategic objectives may limit the availability of suitably qualified investigators.

Another police service suggested that, where financial crime involves organised criminals, investigations fail to get off the ground because of the 'international nature of this crime'. Clearly such difficulties will limit the ability and appetite for police services to undertake such investigations. In particular, several Public Protection Units cite difficulties with achieving prosecution. This may be due to these limitations around investigation, as well as challenges in 'Achieving Best Evidence'.

Representatives from NAFAO also commented on the difficulty in achieving prosecution. They report that financial abuse cases that they identify are often not taken on by police. They also suggest that, even when the police do take on cases, there are further difficulties with gaining acceptance from the CPS.

#### 4.5.2 Building a case against the abuser

Several police Public Protection Units described that the limited number of officers trained to 'Achieve Best Evidence' can lead to poorer quality evidence being presented to the CPS, resulting in a case potentially not being prosecuted.

Where it is necessary to involve intermediaries within the interview process, identifying an intermediary with the correct skills can be problematic and it can also involve significant costs to a police service.

A response from a local authority safeguarding team suggested that, 'due to the vulnerability and/or communication difficulties of service users, prosecutions are difficult to achieve'. Another respondent reported that safeguarding investigations often had inconclusive outcomes, due to the lack of evidence, either about whom the abuser was, or whether the individual made a decision to give money away when they had capacity.

Financial assessment officers reported that social workers refer cases of financial abuse to the police, without communicating with finance departments within their local authority and, therefore, the police may miss out on significant amounts of evidence. They reported that, in most cases, they would be able to provide sufficient evidence from financial records, to allow a better chance of prosecution without directly involving the victim (victimless prosecution).

“ I work with vulnerable adults and these crimes are often suspected but are very difficult to prove if the vulnerable adult cannot give an account. (Public survey response) ”

The difficulty in getting a conclusive outcome from safeguarding investigations is also shown through data from adult safeguarding coordinators in England, which show that fewer than 30 per cent concluded financial safeguarding referrals were substantiated. (See 'Adult safeguarding statistics, Appendix A.)

This figure may reflect problems with gathering evidence where the victim may have difficulty with communication and understanding.

#### 4.5.3 Gathering evidence

Varying interpretations of the rules pertaining to data protection can bring financial institutions and adult safeguarding bodies into conflict. Where police officers seek to obtain information, they may do so using an exemption from data protection legislation (Section 29 of the Data Protection Act refers), on the basis of the 'prevention of crime and disorder'; often banks will not accept such requests.

It is important to note that banks assess each request on a case-by-case basis and they need to be satisfied that by not providing the requested personal data they would be likely to prejudice the outcome of a police investigation.

If such a request cannot be accepted, police officers need to obtain time-consuming and costly production orders for accounts that may, or may not, provide evidence to support a successful prosecution of those abusing vulnerable adults. There is a perception that the response to requests under Section 29 of the Data Protection Act lacks consistency.

Over and above the requirements contained within Section 29 disclosures, other organisations may require further justification prior to the release of information. Some organisations perceive that the DWP requires complex processes to be followed and full details of, sometimes sensitive, investigations before they will release information. In addition, some examples of financial abuse will involve a lack of evidence, due to insufficient record keeping.

Care homes should maintain adequate records of residents' financial affairs. However, a local authority fraud team reported that an absence of documentation on financial affairs of residents in certain care homes makes it difficult to gather any evidence of suspected financial abuse.

#### 4.6 Structural gaps

Despite existing protection mechanisms for vulnerable adults, there are circumstances where these are either not used formally, or there are insufficient regulations in place to ensure that these are not abused.

#### 4.6.1 Supervision by the Department for Work and Pensions

In their response to the *No Secrets* consultation, Age UK expressed concern that appointeeship required better monitoring by the DWP. Numerous respondents in this assessment echoed this concern.

A local authority fraud team also provided an example of where the local authority and the police suspected 'fraud by abuse of position' on the part of the care home owners. On this occasion, the DWP declined applications for information disclosure on the basis of a lack of evidence that offences had taken place. This may indicate a lack of understanding between organisations as to the evidential threshold for information sharing.

The DWP currently deals with any safeguarding concerns locally and keeps no centralised record of the number of concerns raised, nor of the outcomes of those concerns. As a result, it has not been possible to obtain any data to substantiate the safeguarding concerns expressed by respondents, or to assess the overall size of the problem.

This also means that the DWP has no method for checking whether a prospective appointee has already been subject to investigation. Therefore, this raises the possibility that unsuitable persons may not be prevented from seeking and obtaining such appointeeships.

However, the DWP is currently developing a post-appointment review process, which will make provision for better monitoring of appointeeship.

One local authority fraud team raised concerns that the DWP had, on occasion, failed to recognise Mental Capacity Assessments performed by the local authority and, as a result, had undertaken a further assessment prior to awarding an appointeeship. They report that this practice was time-consuming, costly and could result in further upheaval for the individual concerned.

There is also scope for benefits to not be paid during the assessment and the delay caused has the potential to lead to abuse going unchecked in the short term.

DWP guidance does state that they are permitted to accept conclusive medical evidence as proof of incapacity. However, given the comments of the local authority it would appear that work is required to ensure that their Mental Capacity Assessments are recognised by the DWP.

#### 4.6.2 The use of deputies and attorneys

In their response to the *No Secrets* consultation, Age UK expressed concern that the supervision of attorneys and deputies may be insufficient. However, it is not a statutory function of the OPG to supervise these arrangements.

A response from one police service suggested that the misuse of Powers of Attorney against vulnerable adults could be problematic, from an investigative and

enforcement perspective. They cited a lack of guidance given to family members who take Powers of Attorney and were concerned that solicitors often did not visit a vulnerable adult to check whether the attorney's details were correct.

The OPG provided figures regarding:

- the number of safeguarding referrals/concerns about the actions of deputies, or registered attorneys.
- the number of investigations commenced, referrals made to the police and applications made to remove deputies and attorneys.

(For further information, see 'Office of the Public Guardian statistics', in Appendix A.)

The number of referrals was low, considering the level of safeguarding concerns raised by practitioners throughout this assessment. This may be due to the fact that abuse is often by unregistered attorneys, or due to a lack of awareness that safeguarding concerns should be reported to the OPG. Of referrals received, 56 per cent proceeded to an investigation by the OPG.

It is important to note that it is outside the OPG's jurisdiction to investigate where safeguarding concerns do not relate to a deputy or registered attorney. Therefore, while allegations against third parties, or those using unregistered attorneys, will not be investigated by the OPG, they are signposted to the local authority.

Where a person does not have someone to act as their deputy, many local authorities can provide this service. Where a local authority is unable to assist directly, they can apply to the Court of Protection who will seek to appoint a deputy from a panel (comprising, for example, solicitors).

In certain circumstances, the Court of Protection, or OPG, may go directly to a panel to appoint a deputy for an adult. Representatives from the APAD have voiced a number of concerns regarding the panel process:

- Perceived delays/reluctance on the part of panel deputies to take on deputyships that will involve low fees. These delays can leave the adult vulnerable to ongoing exploitation.
- The adult incurring significant costs through legal fees to the panel deputy. (There are options for remittance on fees but these only apply to court costs.)

However, the OPG has instigated a new panel process and it is hoped that this will address these concerns and ensure better financial safeguarding.

In their *No Secrets* consultation response, Age UK highlighted problems with delays both in authorising LPAs and in carrying out checks on attorneys with the OPG. They suggested that these time delays could contribute to the possibility that abuse might occur. While carrying out such checks does not prevent safeguarding activities, it could be argued that the need for a proportionate response to concerns might cause safeguarding bodies to delay action until such checks are clarified.

### 4.6.3 Problems with vetting staff

There are procedures in place to ensure that employees are suitable to work with vulnerable adults (see 'Criminal Records Bureau', in Appendix A).

However, where care workers come from abroad, adequate vetting can be difficult to achieve. The Criminal Records Bureau (CRB) does provide some guidance with regard to the matter, suggesting that employers might wish to undertake checks in each worker's country of origin. However, such checks are not required by law and could prove costly where an organisation's staff are transient.

The CRB website also provides links to the appropriate government department in 27 countries. A spot check of arrangements in place within a number of European Union (EU) countries would tend to suggest that requests must be submitted in the respective language. This may potentially pose a significant challenge for many organisations.

While there are private sector organisations that will undertake such checks on behalf of an organisation, this could prove costly where there is a significant turnover of staff.

In addition, while CRB checks can be used to bar identified offenders, there may be many more care workers who continually abuse vulnerable adults but who have never been caught.

Moreover, people who are receiving a direct payment as part of a personal budget may choose to employ care workers directly. In such circumstances, it is essential that practitioners supporting vulnerable adults make them fully aware of the risks of employing people without undertaking suitable background checks and the inherent limitations of current vetting and barring arrangements. (For further information on personal budgets, see Chapter 6.)

### 4.6.4 Safeguarding Adults Boards

The current absence of a statutory requirement for participation in Safeguarding Adults Boards has led to comments that levels of engagement among partners is variable. Safeguarding coordinators raised the issue of inconsistent participation by a number of organisations, including the police, the CPS, HMCS and the DWP.

It should be noted that the Law Commission *Review of adult social care* (2011) recommends that Safeguarding Adults Boards are placed on a statutory footing, and outlines the functions; the government have committed to putting Safeguarding Boards on a statutory footing.



## 5 Missed opportunities

Gaps described in the previous chapter can lead to missed opportunities to safeguard a vulnerable adult, as is evident from the following case study.

### 5.1 Case study of Mrs B

Mrs B was the sole carer of her elderly parent. They shared a five-bedroom property located in an affluent part of a large city. Following the death of that parent, in 2001 the home was sold for £1,600,000. Mrs B then purchased outright a flat a few miles away, worth £525,000.

At some point in the subsequent five years, it would appear that Mrs B fell victim to fraud. It is not possible to be precise about the nature of this fraud, as Mrs B refuses to share much of the detail. However, it is possible to gain some insight by piecing together comments made by Mrs B during subsequent contact with the police, financial organisations and latterly, adult social care.

Comments taken from police logs would tend to suggest that Mrs B received an approach from persons unknown. Within that approach, they presented her with the opportunity to receive a large sum of money in return for a smaller payment.

*Police log entry:* 'I have spoken to the informant. He states that Mrs B has lost around £86,000 so far. She went in to the bank last week in an attempt to borrow £10,000 because she was going to get £1,000,000 tomorrow. She will not accept that she is being scammed and is going to lose everything.'

The above police log entry was generated following a call from Mrs B's bank manager, to local police.

Such frauds are generally described as advance fee frauds and revolve around the premise that the victim must send monies for payment of taxes, etc. In Mrs B's case, a number of payments were marked 'payment of federal taxes'.

The following is a chronological record of events. These events have been pieced together from a variety of sources including police enquiry logs, money-laundering reports, data held by credit reference agencies and other enquiries made by the NFIB.

Now 79 years of age, Mrs B lived alone and appeared to have limited contact with her remaining siblings and family. Starting in 2006, Mrs B began sending money via a money transfer service. The volume of transactions gave the money transfer service cause for concern and so a Suspicious Activity Report (SAR) was raised.

*SAR:* 'Mrs B, an elderly female, between x/x/2007 and x/x/2008, has sent 29 transactions worth £21,431.00 to various receivers in Costa Rica. We are concerned about the volume of these transactions, as they are increasing. We therefore question the legitimacy of these transactions.'

This report was sent to the Serious Organised Crime Agency (SOCA), who administer the SARs regime. They reviewed the content and then passed it to the appropriate police service.

*Missed opportunity 1:* SOCA passed the SAR to the appropriate police service. No action was taken by the receiving police service.

Starting in 2008 and simultaneous to continued use of the money transfer service, Mrs B also began making payments via Bank A, and during 2009/10 she sent over £109,000 to bank accounts located in Costa Rica. Bank A first raised a SAR in December 2008.

*SAR:* "Possible Money Laundering". Suspensions: Because our customer has been sending money to Costa Rica. Mrs B is a pensioner and previously only had her pension. Recently, she has had cash paid in and has also started sending telegraphic transfers to Costa Rica. Source of cash is unknown and completely out with expected activity.'

*Missed opportunity 2:* SOCA passed the SAR to the appropriate police service. No action was taken by the receiving police service.

Bank A then issued three further SARs, as described below.

*SAR, October 2009:* 'Credits to the account followed by international payments. Several colleagues have spoken to customer and they have impression that she is gullible.'

*Missed opportunity 3:* SOCA passed the SAR to the appropriate police service. No action was taken by the receiving police service.

*SAR, November 2009:* 'Referred again due to the number of telegraphic transfers. Cash continues to be lodged on a regular basis. Deposits followed by telegraphic transfers with descriptions "final tax payment" and "urgent attorney fee payment" we disclose again for intelligence purposes.'

*Missed opportunity 4:* Repeat victimisation was not identified through the SARs system, although SOCA did pass the SAR onto the appropriate police service. No action was taken by the receiving police service.

*SAR, April 2010:* 'Customer previously reported – possible victim of boiler room scam. Account continues to receive funds which are funding international transfers reference "Tax payment".'

*Missed opportunity 5:* Repeat victimisation was not identified through the SARs system, although SOCA did pass the SAR onto the appropriate police service. No action was taken by the receiving police service.

In 2008, Mrs B approached a different bank, Bank X, for a £10,000 loan. Bank X then called the police over concerns, both about her comments and the activity on her

account, which was also in receipt of large cash deposits. The police established that she was of the belief that she was the winner of an overseas lottery, and, in seeking to secure the prize, had exhausted her accessible financial resources.

According to Credit Reference Agency records, in the period from mid-2008 through to mid-2009, Mrs B's main credit facilities were shown to have balances that were 80 per cent to 110 per cent of the total credit limit. She was adamant that she was in no way a victim, and despite their best efforts, she refused to concede that she had lost money to a lottery scam.

*Police log entry:* 'Mrs B was informed that she had won a lottery/sweepstake but she had to send money to company in order to avoid taxes or deal with other complications. Mrs B has emptied her accounts, sold all her stock, maximised her credit cards and taken out a loan to try and claim her lottery winnings.'

Attempts were made to contact her family, with a view to getting them to support her. However, she was permanently estranged from close family.

*Police log entry:* 'I have to find some next of kin asap.'

*Police log entry:* 'John Smith of Smith's Solicitors believes that Mrs B has a brother in the North of England, but she does not have contact with them.'

It also emerged that she was receiving funds from a person she suggested was a distant relative, Mrs B indicated that a Mrs F was helping her with her mortgage.

*Police log entry:* 'Upon speaking to Mrs B she informed us that the money was being put in to her account by Mrs F, she indicated that Mrs F is a distant relative. The money would be transferred into her account by Mrs F who would then contact Mrs B, who would then withdraw the money and hand it to a man waiting around the corner.'

Who was Mrs F? As a result of unrelated enquires by SOCA into foreign lottery scams, Mrs F, a wealthy, elderly female, was identified. Mrs F first approached her local police service in February 2008, reporting that she was the victim of a fraud; she did this at the request of her bank manager, but was unable to provide any information. The officer taking the report considered her to be vulnerable and submitted a Vulnerable Persons Form.

In March 2008, her bank manager contacted the police, stating that he had been unable to reach her for some time and indicated that he 'feared for her health and that she was physically and mentally in decline'. Officers made contact and she stated that she had 'fallen out' with the bank manager when he froze her account.

In December 2008, another police service contacted Mrs F's police service to indicate that her name had arisen in connection with a Mrs R, who they believed to be a victim of a foreign lottery. Mrs R stated that she had received funds from Mrs F and then sent them overseas via a money transfer service.



In December 2008, Mrs F was discovered deceased of natural causes, at her own home. Subsequent police enquiries discovered that Mrs F had sent substantial amounts of money to countless individuals, one of whom was Mrs B. It would appear that Mrs F sent over £20,000 to Mrs B, all of which Mrs B then sent, via telegraphic transfer, to Costa Rica.

Despite identifying Mrs B during the course of these enquiries, no action was taken to safeguard her.

*Missed opportunity 6:* A police service, which identified Mrs B during the course of other enquiries, took no action to assure that she was safeguarded.

Despite the best efforts of officers, Mrs B refused to assist the police with their enquiries. Elements such as the identity of Mrs F had not come to light at this time. In view of this, the force determined that further enquiries could not be made and that no offences had taken place.

*Police log entry:* 'Further enquiries into the identity or role of Mrs F cannot be made, as no further details are available. As there are no apparent offences, I request that this report be considered a no crime.'

'Mrs B appeared to be in full command of her faculties and came across as being very strong willed.'

'Screened out.'

*Missed opportunity 7:* At this point, findings were:

- Despite the fact that on the balance of probability, a crime had taken place, none was recorded.
- Mrs B was not considered to be vulnerable by the officer and no referral was made.
- The officer made their own informal assessment of her capacity in isolation from adult social care.

The SARs regime was not used as a source of intelligence.

In 2009, Mrs B secured a £229,000 loan against her property and this allowed her to send at least a further £88,500 to a Costa Rica bank account.

Further SARs were generated, with one institution even indicating that Mrs B had intimated that she was being threatened, stating that, "they'll come and get me, if I don't pay the money".

*Missed opportunity 8:* Repeat victimisation was not identified through the SARs system, although SOCA did pass the SAR on to the appropriate police service. No action was taken by the receiving police service.

In December 2009, Mrs B requested a further loan against her property and the mortgagee raised concerns with the NFIB, that she might be a share purchase fraud victim. Subsequent to which, the NFIB uncovered much of what was described earlier in this case study. Identifying Mrs B's vulnerability was, however, the start of a whole new challenge. The NFIB contacted Bank A and put to them their concerns that Mrs B was a victim of fraud. While Bank A was aware that large sums of her monies were being sent to Costa Rica, it was their view that their only responsibility was to submit a SAR.

A representative of Bank A said... : 'It's her money and who are we to tell her what to do with it?'

The NFIB also contacted Mrs B's local police service's Community Safety Unit, who suggested that it was not within their remit and that they would contact adult social care.

*Missed opportunity 9:* This was not treated as a referral and no safeguarding procedures were invoked.

Some weeks later, adult social care contacted the NFIB for details of their concerns and suggested that their only option was to write to the victim, asking if she wished to meet with them. It was suggested that, as a victim in denial, she was unlikely to respond and, while adult social care were not willing to visit the victim without invitation, they agreed to make telephone contact.

*Missed opportunity 10:* The victim maintained that she was making legitimate investments and that no further action was required, in view of which, adult social care did not invoke safeguarding procedures.

The NFIB pointed out that funds had been sent as recently as January 2010 and that while Mrs B might believe these transactions were legitimate, on the balance of probability, they amounted to a fraud. Given that Mrs B was seeking further funds, it was considered that monies were at risk.

In view of this, adult social care agreed that safeguarding was required. A strategy meeting involving the NFIB, adult social care and the police was held. It was agreed that Mrs B's home police service would undertake a full financial investigation into her affairs.

Sadly, Mrs B suffered a fall in her home and as a result was hospitalised. While in the care of the hospital, she was formally assessed and found to have capacity, although it could not be established if her capacity might be variable.

The NFIB has identified ten distinct missed opportunities within Mrs B's case, each of which represents a point in time where she could have been safeguarded. Even at

the early stage of investigation into Mrs B's affairs, it was clear that the scale of her victimisation was significantly larger than suggested by SARs intelligence. Between May 2006 and November 2008 she sent £198,685 in 213 transactions, via money transfer services alone. Since learning this, the NFIB has blocked any further use, by Mrs B, of the two main money transfer services that she used.

While this is a considerable amount of money, it is important to note that much of Mrs B's significant wealth is still unaccounted for.

## 6 Personal budgets

Increasingly, individuals are being empowered to direct their own care, and this is achieved by shifting control to the individual and enabling them to identify how their needs can be met. As part of this, personal budgets (sometimes referred to as individual budgets) provide people with the opportunity to direct their own care (with the support of others). Where appropriate, individuals may choose to receive some or all of their personal budget through a direct payment.

Direct payments can be spent on any product or service, including traditional social care services, provided that it achieves outcomes specified in the person's care plan. Prior to the introduction of personal budgets, direct payments were available, but the type of service that could be purchased was somewhat restricted.

Expansion of care delivery through personal budgets will inevitably increase the number of people receiving direct payments. This will place more money under the direct control of recipients of care, or trusted third parties and, if not properly managed, could present increased opportunities for fraud and theft.

The 2008 evaluation of the Individual Budgets Pilot Programme in England (Glendinning et al, 2008) reported that frontline workers and care professionals had expressed concern that people would be vulnerable to financial abuse from both family members and care workers as a result of being in receipt of a direct payment. One care coordinator (physical disabilities) commented:

'You know, we've had even close family taking money from people if they've got access to a direct payment or an IB [individual budget] account.'

The report also highlighted concerns about the potential exploitation of vulnerable people by those who would seek to target and groom them, although this was expressed within the context of neglect, physical and emotional abuse.

There has been limited reference to the potential for organised criminals to target and exploit people who are in receipt of a direct payment. However, there is evidence that schemes which lack good risk management and counter-fraud processes have the potential to be systematically exploited.

Example: In the case of Independent Learning Accounts (a government training scheme aimed at improving basic skills, 2001), the National Audit Office found that many bogus companies had been set up to exploit the system (NAO, 2002). Following closure of the scheme, the Department for Education and Skills investigated 133 companies, who were in receipt of £67 million. Of these, 98 were referred to the police.

Safeguarding practitioners and local authority finance departments, consulted as part of this assessment, provided the following examples of misuse of direct payments:

- Person controlling the direct payment account not using the money to pay for the care of the vulnerable adult.

- Family member gaining access to the direct payment account and misappropriating the money so that care costs could not be paid.
- Person controlling the direct payment account engaging in false accounting through the forgery of accounting records/payslips, to allow monies to be misappropriated.
- Care worker claiming money for time they had not worked.
- Care worker, family or friend spending a vulnerable adult's budget inappropriately.

Compared with the total number of people receiving direct funding for care, relatively few cases have come to the attention of practitioners. One local authority reported 15 cases of financial abuse associated with personal budgets during a six-month period in 2010. This represented less than 1 per cent of their personal budgets. The consensus across local authorities was that issues were being under-reported.

A number of respondents also referred to current audit arrangements around the direct funding of care as being 'light touch' and that there was a danger that 'you only find what you look for'. Such an environment might cause exploitation to go unchallenged until it causes genuine hardship or is identified as neglect. At this point, additional public money might be required to further fund the individual's care.

The London Public Sector Counter Fraud Partnership's annual survey (2007/8) has highlighted direct funding of care as an emerging issue. Direct payments were listed as an area of 'high risk' for local government finance, between 2006/07 and 2007/08.

Local authorities are being encouraged to increase the number of adults in receipt of direct payments. This expansion has the potential to increase:

- the number of people employed without CRB checks
- the likelihood that weaknesses within the system will come to the attention of organised criminals
- the demands faced by already under-resourced audit departments.

*Independence, choice and risk: A guide to best practice* (DH, 2007) makes clear that:

Ultimately, the local authority has a statutory duty of care and a responsibility not to agree to support a care plan if there are serious concerns that it will not meet an individual's needs or if it places an individual in a dangerous situation.

The Chartered Institute of Public Finance and Accountancy (CIPFA) have produced guidance on direct payments and individual budgets, for local authorities. While the document makes a number of recommendations regarding risk management and financial monitoring, it does not mention fraud, abuse or exploitation.

Ultimately, the success or failure of a care plan involving a direct payment is dependent on the quality of the initial assessment as to the suitability of such an arrangement for an individual. Financial monitoring within itself has the potential to detect abuse, but not necessarily to prevent it. Glendinning et al (2008) found that where a direct payment was involved within the Individual Budgets Pilot Programme, practitioners did not always understand their responsibilities surrounding the extent



to which direct payments should be monitored. They concluded that safeguarding procedures should be adapted to address potential risks associated with individual budgets, to include:

- reviewing and resourcing adult safeguarding policies and capacity
- regular reviews of how individual budgets (personal budgets) were being spent against the outcomes achieved
- incorporating risk assessments into support plans
- better guidance for care managers and better information for individual budget holders.

Risk Enablement Panels, where risk is assessed and responsibility for decision-making is shared, were thought to be of great value in the prevention of abuse.

Other prevention strategies, to safeguard recipients of direct payments, include:

- incorporating individual budgets into adult protection training
- developing audit trails
- improving complaints procedures for people being cared for by family members
- 'beefing up' advocacy services to support people in decision-making, multiagency training and public awareness training to ensure people were aware of what counted as abuse
- preparing a guide for social workers about 'co-working issues, protection and risk management' (Glendinning et al, 2008).

This assessment recognises that adults in receipt of care frequently express a wish to take greater control of their care. It is the view of this assessment that direct payments within personal budgets do not represent an unacceptable risk when combined with an assessment and monitoring process that demonstrates an appropriate appreciation for the potential threat posed by financial crime.

## 7 Conclusion

### 7.1 Safeguarding is everyone's business

Financial crime poses a significant threat to vulnerable adults, but current processes, perceptions and working practices are not safeguarding vulnerable adults adequately against financial crime.

**OFT research published in 2006 estimates that annually victims lose £3.5 billion to mass marketed scams (fraud) alone. This represents £70/year for each UK adult.**

Additionally and in comparison to this, the Home Office estimates the social and economic cost of theft (excluding vehicle crime and robbery) to be around £2 billion.

**1.78 million people are in receipt of social care (NHS Information Centre, 2010a), not all of whom are vulnerable.**

In addition to which, this assessment highlights that there are many more people who demonstrate an inability to protect themselves from financial exploitation but are unknown to the social care system. And, even if financial crime losses by vulnerable adults represent a small percentage of the multi-billion pound total of financial crime losses, it would amount to a significant cost to the UK economy.

Such estimates cannot capture fully the human cost of such crime and do not demonstrate, nor predict, all costs likely to have an impact the social care system, in dealing with the aftermath of victimisation.

The diversity of financial crime makes it particularly difficult to find and deliver a single solution for safeguarding vulnerable adults.

Financial crime against vulnerable adults involves losses from as little as £10, through to millions of pounds. This manifests itself through a plethora of situations and a variety of perpetrator types, crime types and methods.

Crimes perpetrated by people acting in a position of trust are some of the most disturbing as their occurrence demonstrates a perception that it is acceptable to take money and assets from the most vulnerable. Typical examples:

- family members/close friends failing to pass on allowances or taking control of assets
- care workers committing theft
- professionals taking advantage of their position.

Vulnerable adults are also targeted by organised criminals, who prey on victims' reduced ability to protect themselves. In this respect, there is potential for chronic victimisation, especially in relation to mass-marketing frauds, such as fraudulent lotteries.

It is already recognised that crime in general has a greater impact upon those who exhibit vulnerabilities. The same is true of financial crime. Financial crime can cause suffering to the same degree as physical abuse, leaving vulnerable adults depressed, isolated and with declining mental and physical health. Falling prey to such crime can cause an adult, who previously did not meet the threshold of eligibility for social care to deteriorate more quickly and, in extreme cases, may lead to premature death.

**When vulnerable victims of financial crime interface with safeguarding bodies, the lack of a coordinated response and provision of appropriate support create the potential for multiple points of failure.**

It is clear that there are some consistent themes around recognition, the impact and perception of harm. It should no longer be acceptable that financial crime is all too frequently considered not to constitute 'significant harm'.

**This leads to such financial crime being incorrectly assessed as being a relatively low priority compared with other forms of abuse.**

This is exacerbated by a lack of understanding and experience by professionals, of methods used by criminals to commit financial crime. Compared to other forms of crime, financial crime may be overlooked by the criminal justice system, thereby compounding the failure further. Current mechanisms for protecting vulnerable adults from financial crime exhibit a range of gaps. At the point of recognition, organisations may fail to identify that a crime has taken place and/or even that the victim is vulnerable. And, even when a level of recognition for either factor is achieved, the individual or organisation may not have the confidence (or will choose not) to share their safeguarding concerns, especially where that body perceives confidentiality/data protection to be a hurdle.

Even when such matters are brought to the attention of adult social care, there is no certainty that a meaningful assessment of the adult's circumstances will take place.

**The social care element of the No Secrets definition has the potential to limit the response of adult social care. This detracts from their implicit duty of care to safeguard those adults who are unable to protect themselves from harm or exploitation in the form of financial crime.**

At the point of a strategy meeting, organisations can fail to attend, or may show reluctance in sharing information.

**This failure to deliver effective partnership working can result in a lack of appropriate direction, a lack of consideration of all factors and can hinder any investigation.**

Limitations within particular bodies can also affect outcomes adversely.

Example: The police service can lack the resources/knowledge to investigate fraud effectively.

Factors outside the control of such bodies also have an impact.

**Demographic changes to the structure of society, in the form of an increasing elderly population, the changing nature of families and new methods of delivering social care will exacerbate the potential threat to vulnerable adults.**

When the threat of financial crime is matched against the gaps within safeguarding, vulnerable adults are left open to financial exploitation.

**Clearly, there is much work to be done to improve safeguarding vulnerable adults from financial crime.**

This assessment puts forward the following recommendations for next steps.

## 7.2 Recommendations for next steps

1. This assessment should be published and made widely available to raise awareness of the threat that financial crime poses to vulnerable adults and to help organisations to consider ways of improving their safeguarding arrangements at a local level.
2. Any improvements made should reflect the key principles set out by the government in relation to safeguarding vulnerable adults (see [www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_126748](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_126748)).
  - > Empowerment: presumption of person-led decisions and informed consent.
  - > Protection: support and representation for those in greatest need.
  - > Prevention: it is better to take action before harm occurs.
  - > Proportionality – proportionate and least intrusive response appropriate to the risk presented.
  - > Partnership: local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
  - > Accountability: accountability and transparency in delivering safeguarding.
3. Following the government's commitment to put Safeguarding Adults Boards on a statutory footing, consideration should be given to their role in addressing the threat of financial crime against vulnerable adults and ensuring existing barriers to addressing the threat are overcome and removed.
4. Toolkits for practitioners (including the police, adult services and financial sector workers) should be developed to support staff in improving the safeguarding response to protect those who demonstrate an inability to protect themselves from the harm of financial crime. The toolkits should cover preventative measures and guidance on how best to signpost victims, or potential victims, to the appropriate support and advice.
5. Findings from this assessment should inform the 'Safeguarding and investigating the abuse of vulnerable adults' guidance that is currently being developed by the National Policing Improvement Agency (NPIA) and the ACPO vulnerable adults portfolio, as well as future training packages for police and safeguarding partners.

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## Appendix A: Data sources, methodology and frameworks for protection

### Stages of methodology

In response to the *No Secrets* consultation and increasing concern about financial crime and abuse against vulnerable adults, this assessment project was set up to consider the extent of the problem and to highlight a range of recommendations to combat and reduce the threat. It was allocated a period of six months in which to gather information to give an overview of the problem.

It was possible to review key research and gather limited evidence through small-scale surveys.

Follow-up communications, with a range of organisations having an interest in financial abuse, have strengthened the evidence gathered.

In the absence of reliable national data on this issue, the project was able, through these initial investigations, to establish a baseline of what is known nationally on the subject and to make recommendations to improve responses to financial abuse and crime in the future.

There were three stages to the assessment.

#### Stage One: Review of existing literature

Stage One involved reviewing existing literature on the subject of financial crime against vulnerable adults.

#### Stage Two: Data gathering

Stage Two involved the gathering of data, both qualitative and quantitative, to ascertain the size of the threat of financial crime and abuse against vulnerable adults in England. It also included enquiries into the levels of adherence to processes that should occur under *No Secrets*, and the extent to which procedures are followed by various agencies, in the case of a financial crime.

Statistics were taken largely from the 2009/10 financial year. However, this was not always possible and data time periods were documented in each instance.

#### Surveys

Surveys around prevalence, types, perceptions and data-recording of financial abuse were sent to:

- care providers
- umbrella organisations representing groups who use social care services
- local authority finance offices

- social workers
- safeguarding coordinators
- Public Protection Units
- the public.

(For details on the methodology for this, refer to 'Maven Public Survey' on page 53.)

### **Adult safeguarding statistics**

(For details on the methodology for gathering and processing these statistics, see Adult safeguarding statistics.)

### **Targeted contact**

Regarding the extent of the problem of financial crime against vulnerable adults, information and data were requested from a number of bodies, which are listed below:

- Action on Elder Abuse
- Age UK
- Association of Chief Police Officers (ACPO)
- Association of Directors of Adult Social Services (ADASS)
- Association of Public Authority Deputies (APAD)
- Audit Commission
- AVIVA Life and Pensions
- British Bankers Association (BBA)
- Building Societies Association (BSA)
- BUPA Care Homes
- Care Quality Commission (CQC)
- Consumer Financial Education Body (CFEB), 'Moneymadeclear'
- CIFAS, UK's Fraud Prevention Service
- Crown Prosecution Service (CPS)
- Department of Health
- Department for Work and Pensions (DWP)
- Home Office
- Information Commissioners Officer (ICO)
- Local Government Association (LGA)
- Local Government – Adult Social Care
- Local Government – Trading Standards
- Local Government – Finance Functions
- Mind
- National Association of Financial Assessment Officers (NAFAO)
- National Fraud Authority (NFA)
- National Health Service (NHS)
- Office of the Public Guardian (OPG)
- Office of Fair Trading (OFT), 'Consumer Direct'
- Police Service
- Post Office
- Public (including victims of abuse and their carers)



- Public Concern at Work
- Royal Mail
- SCOPE
- Serious Organised Crime Agency (SOCA)
- Social Care Institute for Excellence (SCIE)
- Solicitors Regulation Authority (SRA)
- Think Jessica Campaign
- Trading Standards Institute (TSI)
- Victim Support

A range of care providers and umbrella organisations representing groups who use social care services.

### Stage Three

The third stage involved:

- Developing recommendations.
- Launching an awareness campaign.
- Identification of opportunities for enforcement and operational work.

With the support of many of those bodies consulted at Stage Two, a national awareness campaign was launched on 21 June 2010. Posters, aimed at increasing public awareness of fraud and how people are targeted, as well as levels of reporting, were produced and distributed to public places across the country. Alongside this campaign, briefing notes and guidance were sent to police services, adult social care, the NHS, various financial institutions and other organisations who might have had contact with vulnerable adults from a financial perspective.

These briefing notes outlined the various indicators of financial abuse and provided information on how to report financial crime and safeguard vulnerable adults.

Due to timescale limitations, the assessment has not evaluated the volume of responses to this campaign.

### Adult safeguarding statistics

The number of referrals into the safeguarding process for financial abuse against vulnerable adults gives a figure for the minimum size of the problem, that is, those known to the safeguarding process.

The safeguarding statistics request, sent out for this report, was based on a sample return from one local authority, and was slightly different from the Abuse of Vulnerable Adults collection (NHS Information Centre, 2010b). By the time the difference in the return was highlighted, spreadsheets for this report had already been distributed.

At the time of writing the report, the Abuse of Vulnerable Adults return data had not been published.

Responses were received from 34 local authorities in England, for the financial year 2009/10, and percentage results were averaged across those responses.

Safeguarding statistics for Wales were for the financial year 2008/09. Welsh authorities work to the *In safe hands* framework (NAW, 2000) for adult safeguarding, which was developed following wide consultation throughout Wales and incorporates advice from a multiagency advisory group. The framework was developed in close liaison with the Department of Health, who developed the *No Secrets* guidance for England.

**CONNED &  
CHEATED.  
IT'S JUST  
NOT RIGHT.**

**Vulnerable adults are targeted for their money & assets. Spot the signs...**

- Difficulty paying bills or maintaining a lifestyle that they normally could afford
- Unusual bank activity, including large payments or the sudden withdrawal of significant amounts of cash
- The sudden appearance of new 'friends' or family members who seem to show an unusual interest in the person's affairs

1. SPOT IT    2. CALL US    3. STOP IT

If you have been a victim of Fraud or know someone who has contact your local Police or Call Action Fraud on **0300 123 2040**

 **action fraud**  
report and support 

## Maven Public Survey

The Maven Marketing Research Company surveyed a nationally representative sample of the population (1,910 people), as well as a 'booster group' of 621 vulnerable adults.

Vulnerable adults were defined as:

Anyone in receipt of community care services, or anyone who considers themselves to be disabled.

The survey was conducted in May and June 2010, using an online panel sample. Questions were asked on:

- Their experience of financial crime against themselves or a vulnerable adult.
- Their financial losses.
- Their views on organisations sharing information.

The table below shows that vulnerable adults were more likely to have fallen victim to financial crime than the wider population, based on rates of victimisation found in the public survey.

Example: A vulnerable adult was found to be 1.2 more times likely to have fallen victim to theft than the wider population.

Rates for a vulnerable adult falling victim to financial crime, compared to the wider population based on rates of victimisation found in the public survey<sup>a</sup>

Crime description	Multiplication factor for vulnerable adults
Theft	1.2
Investment fraud	1.4
Non-investment fraud	1.4
Advance fee fraud	1.7
Inappropriate gifts or loans: making a gift or loan to someone on the basis of a story that later turns out not to be true	2.0
Abuse of position of trust: financial loss because of the actions of a professional person	1.9
A financial loss because of a family member/friend coercing money from an adult	3.1
Identity theft	1.2

Note: <sup>a</sup> 'Vulnerable adults' sample compared with 'general public' samples, surveyed in May/June 2010.

## Police incidents and crimes

### Police incidents

When a police service receives a report from a victim, witness or third party, details of the event are recorded as an 'incident'. These 'incidents' can be considered to be either crime-related or non-crime-related.

### Crime-related incidents

Crime-related incidents describe an incident that, on balance of probabilities, would amount to a 'notifiable' crime. Not all crime-related incidents will give rise to a recorded crime (notifiable offence).

Example: A crime will not be recorded where:

- The victim cannot be traced.
- The victim declines to confirm the crime.
- The incident is being handled by another police service.

### Crimes: notifiable offences

Where circumstances reported within a crime-related incident amount to a crime, as defined by law, and there is no credible evidence to the contrary, it will be recorded as a crime.

## Office of the Public Guardian statistics

In September 2009, the Office of the Public Guardian (OPG) had a record of 30,000 deputyships, over 60,000 registered Lasting Powers of Attorney (LPAs) and over 200,000 registered Enduring Powers of Attorney (EPAs).

The OPG provided figures regarding the number of safeguarding concerns/referrals about the actions of deputies or registered attorneys. These figures were surprisingly low, considering the impression from other agencies about the size of the problem. This may be due to the fact that abuse is often by unregistered attorneys, or due to lack of awareness that safeguarding concerns should be reported to the OPG. Figures for OPG referrals about safeguarding concerns were as follows:

- 717 in the 2008/09 financial year.
- 936 in the 2009/10 financial year.
- 52 per cent in 2008/09 and 56 per cent in 2009/10 resulted in an investigation. Referrals proceed to an investigation in all cases where the Public Guardian has jurisdiction under the Mental Capacity Act (MCA) to investigate – where safeguarding concerns are about the actions of a deputy appointed by the Court of Protection or an attorney acting under a registered Power of Attorney (EPA or LPA).
- 33 referrals were made by the OPG to the police, since October 2007. These are made where an investigator believes that a criminal offence has been committed.

- In the 2008/09 financial year, 80 applications were made to the Court of Protection, to remove deputies/attorneys.

The OPG also has 479 deputyships, which are subject to close supervision. This can be because of safeguarding concerns about how they are acting, but can also be because they are acting in difficult circumstances.

## Department for Work and Pensions statistics

A representative from the Department for Work and Pensions (DWP) provided the following approximate figures on the number of third parties receiving benefits for adults (from 2008):

- 112,000 attorneys (excluding LPAs)
- 5,608 deputies
- 550,000 appointees.

## Frameworks for protection

This assessment identified existing frameworks and framework entities. These are listed and described below and the reference/source information used for this assessment is as indicated.

### Appointee

An appointee is someone appointed under social security regulations, to claim and collect social security benefits on behalf of a person who lacks capacity to manage their own benefits. (Information source: OPG, *Safeguarding vulnerable adults policy*.)

### Deputy

A deputy is someone appointed by the Court of Protection with ongoing legal authority, as prescribed by the Court, to make decisions on behalf of someone who lacks capacity to make particular decisions.

(For further information, see 'Court of Protection', on page 57.)

A deputy may be appointed to make decisions in relation to property and affairs (financial) or welfare (including healthcare), or both. A deputy may be a professional, such as a solicitor, local authority or lay person (family members or friends of the person lacking capacity). (Information source: OPG, *Safeguarding vulnerable adults policy*.)

## Enduring Power of Attorney

A Power of Attorney, created under the Enduring Powers of Attorney (EPA) Act 1985, to deal with the donor's property and financial affairs.

The MCA 2005 replaced the EPA Act 1985, but existing EPAs continue to operate under Schedule 4 of the Act. The MCA gives the attorney a legal responsibility to apply to the Public Guardian (its chief executive) to register the EPA when the donor is, or is becoming, mentally incapable.

An EPA can be used prior to registration, with the consent of the donor. (Information sources: OPG, *Safeguarding vulnerable adults policy*; OPG representative.)

## Lasting Power of Attorney

A Power of Attorney, created under the MCA, to make decisions about the donor's (person who requires it) personal welfare (including healthcare) and/or to deal with the donor's property and affairs. (Information sources: OPG, *Safeguarding vulnerable adults policy*; OPG representative.)

Welfare, and finance LPA are separate documents.

- An LPA must be registered by the Public Guardian (its chief executive) before it can be used.
- A finance LPA can be used after registration, whether the donor has capacity or not.
- A welfare LPA can only be used where the donor has lost capacity.

## Local authority deputy

Where a person lacking capacity does not have someone to act as their deputy, or if there is a safeguarding issue, an application is made by the local authority to act as deputy.

A representative from the OPG reported that local authority deputies are currently appointed to manage the money of approximately 8,000 people. (Information source: Association of Public Authority Deputies [APAD] representative.)

## Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of health and adult social care in England. All providers of regulated health and adult social care activities must be registered with the CQC and meet the registration requirements, including a requirement to safeguard people who use services from abuse (including theft, misuse or appropriation of money or property). (Information sources: [www.cqc.org.uk](http://www.cqc.org.uk); CQC representative.)

The CQC can take independent enforcement action where a provider of a regulated activity is not meeting the registration requirements.

Following the end of Comprehensive Area Assessments, ministers agreed that the CQC would cease its annual performance assessment of local authority adult social care commissioning. Instead, the CQC will work with the sector to create a sector-led approach to supporting quality improvement in line with the government's move towards greater localism.

The role of the CQC across safeguarding activity is limited. While the CQC should always be made aware of any concern about safeguarding adults within a regulated service, CQC's guidance states that it is only necessary to attend adult safeguarding meetings if:

- One or more registered people are directly implicated.
- Urgent or complex regulatory action under the Health and Social Care Act 2008 is indicated.
- Any form of enforcement action has commenced or is under consideration in relation to the service involved.

### Community Safety Partnerships

The local authority has a lead on Community Safety Partnerships (CSPs) that is separate from local safeguarding leads within adult social care. CSPs ensure effective partnership on community safety and are part of the Local Strategic Partnership (LSP). (Information source: [www.communities.gov.uk](http://www.communities.gov.uk))

### Consumer Direct

Consumer Direct is the government-funded telephone and online service, offering information and advice on consumer issues. (Information source: [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk))

### Court of Protection

The Court of Protection has the power to make decisions about whether someone has capacity to make a particular decision. It also appoints deputies and, wherever necessary, removes deputies or attorneys who fail to carry out their duties. (Information source: Crown Prosecution Service [CPS], *Guidance on prosecuting crimes against older people*.)

### Criminal Records Bureau

The Criminal Records Bureau (CRB) helps organisations wanting to access police and, in relevant cases, other information held by the Independent Safeguarding Authority (ISA). Checks provided by the CRB enable organisations to ensure that candidates for jobs are not unsuitable for certain work, such as that which involves vulnerable adults. (Information sources: OPG, *Safeguarding vulnerable adults policy*; CPS, *Guidance on prosecuting crimes against older people*.)

## Department for Work and Pensions

The DWP appoints appointees and is responsible for revoking appointeeship, if appropriate. (Information source: [www.dwp.gov.uk](http://www.dwp.gov.uk))

## Financial Services Authority and Consumer Financial Education Body

The Financial Services Authority (FSA) is the financial services regulator set up by the government to regulate financial services. It keeps a register of all businesses it regulates and the public is protected by complaints and compensation schemes when dealing with these firms. (Information source: [www.fsa.gov.uk](http://www.fsa.gov.uk))

The Consumer Financial Education Body (CFEB) is an independent body, established by the FSA, and is responsible for helping consumers understand financial matters and to manage their finances better. It is developing resources to support those who may be more vulnerable due to their life situation, for example, those with mental health problems, learning disabilities, or those who lack mental capacity. (Information source: [www.cfebuk.org.uk](http://www.cfebuk.org.uk))

## Health and social care providers

Health and social care providers are obliged to work within the overall framework of *No Secrets* guidance, to identify and refer cases of abuse to adult social care.

## Independent mental capacity advocate

This is someone who provides support and representation for a person who lacks capacity to make specific decisions, where that person has no one else to support them. (Information source: OPG, *Safeguarding vulnerable adults policy*.)

## Independent Safeguarding Authority

The ISA is responsible for maintaining the vulnerable adults' (and children's) barred lists. (Information source: [www.isa-gov.org.uk](http://www.isa-gov.org.uk))

## Local authority audit offices and financial assessment officers

Financial assessment officers assess service users' ability to pay towards their service charges. Audit offices deal with financial abuse within local authority-run services, such as care homes. (Information source: National Association of Financial Assessment Officers [NAFAO] representative.)



## Mental Capacity Act

The MCA 2005 for England and Wales provides a framework to empower and protect people who may lack capacity to make some decisions for themselves.

**Capacity is the ability to make a decision about a particular matter at the time the decision needs to be made.**

The MCA makes it clear as to who can take decisions in which situations and how they should go about this. It also allows people to plan ahead for a time when they may lack capacity. It covers major decisions, including those about a person's property and affairs, where they lack capacity to make those decisions themselves. It works on the principle that every adult has the right to make their own decisions and must be assumed to have capacity to make them, unless it is proved otherwise.

Anything done, or any decision made, on behalf of a person who lacks capacity must be done in their best interests and be least restrictive of their basic rights and freedoms.

The MCA defines responsibilities of the new Court of Protection and OPG and also creates an independent mental capacity advocate (IMCA) service, as well as LPAs and deputies.

For further information, refer to: 'Lasting Power of Attorney', on page 56 and 'Deputy', on page 55.

A Power of Attorney, created under the EPA Act 1985, appoints an attorney to deal with the donor's property and financial affairs. The MCA 2005 replaced the EPA Act 1985, but existing EPAs continue to operate under Schedule 4 of the Act.

For further information, refer to 'Enduring Power of Attorney', on page 56.

The MCA also introduces the fact that a person is guilty of an offence if they ill-treat or wilfully neglect the person they care for or represent. (Information source: [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk))

## Office of Fair Trading/Consumer Direct

The Office of Fair Trading (OFT) encourages businesses to comply with competition and consumer law and to improve their trading practices through self-regulation. They have a number of enforcement tools to help stop offenders. The OFT helps consumers to resolve problems with suppliers, through Consumer Direct. (Information source: [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk))

## Office of the Public Guardian

The Office of the Public Guardian's (OPG) main statutory duties are to:

- Register Powers of Attorney.
- Supervise deputies appointed by the Court of Protection.
- Investigate allegations or safeguarding concerns and report these to the Court of Protection, when required.

The OPG has certain deputyships that are subject to close supervision. This can be because of safeguarding concerns about how they are acting, but can also be because they are acting in difficult circumstances. (Information sources: [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk); OPG representative.)

## Police

The police and adult social care work together with other agencies, under agreed local procedures and in line with *No Secrets* guidance.

The police deal with cases involving vulnerable adults through Public Protection Units, Vulnerable Adult Units or Community Safety Units. These are specialist units, in local police services, that commonly manage and investigate crimes involving adult abuse, child abuse, domestic abuse, sex offenders, dangerous offenders and vulnerable and intimidated victims.

## Public Concern at Work

Public Concern at Work (PCaW) is a charitable, independent organisation that offers support to whistleblowers. Whistleblowing is when an employee raises concerns about ethically questionable, dangerous or illegal activities by their employer, which affect others.

It is also a legal advice centre and information received is protected under the Public Interest Disclosure Act 1998. They advise on public interest and whistleblowing concerns surrounding fraud, abuse in care, risks to consumers and significant regulatory breaches. (Information source: CPS, *Guidance on prosecuting crimes against older people*.)

## Adult social care

Adult social care has lead responsibility in the safeguarding process. They assess risk and make decisions about whether safeguarding procedures must be invoked, based on whether or not the person is considered to be vulnerable.

## Trading Standards

Trading Standards is a local authority department. It deals with diverse issues under a wide variety of Acts, Orders and Codes of Practice, as set out by central government, the Food Standards Agency and the OFT. In broadest terms, Trading Standards

departments exist to safeguard the economic well-being and health of the population they serve. (Information source: [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk))

## Police definitions of vulnerability

### *National Call Handling Standards*

Within the *National Call Handling Standards*, a vulnerable person is defined as a person:

... able to be easily physically, emotionally, or mentally hurt, influenced or attacked. Examples might include age, mental disorder, mental impairment of intelligence or social functioning, physical disability, physical disorder. (Information source: Home Office, *National Crime Recording Standards*.)

### Victims Code (Criminal Justice System)

Vulnerability also features within the Victims Code and is defined as:

... a person under the age of 17 at the time of the offence; or it is considered by the service provider that the quality of evidence given by the victim is likely to be diminished by reason of any circumstances such as a mental disorder (within the meaning of the Mental Health Act 1983), otherwise has a significant impairment of intelligence and social functioning or has a physical disability or is suffering from a physical disorder. (Information source: CJS, *The code of practice for victims of crime*.)

## Appendix B: Glossary

Abuse of position of trust	Where a victim incurs a financial loss as a result of the actions of someone in a position of trust. For example, a person who abuses a Power of Attorney to withdraw funds for their own benefit.
Achieving Best Evidence	This is guidance for best practice in protecting vulnerable and intimidated witnesses and enhancing the quality of evidence they provide. It describes good practice in interviewing witnesses and taking statements for court, using special measures, such as video-recorded interviews, live televised links for giving evidence in the courtroom and examination of a witness through an intermediary.
ACPO (Association of Chief Police Officers)	Leads and coordinates the direction and development of the police service in England, Wales and Northern Ireland.
ADASS (Association of Directors of Adult Social Services)	Represents all directors of adult social services in England.
Adult social care	Local authority department responsible for adult social care, including safeguarding services.
Advance fee payment	Where a consumer is approached with a proposition that requires payment of a fee in advance (for example, a payment to secure a lottery prize).
Alert	An alert is raised by someone, to an organisation, when they suspect that a vulnerable person is being abused. Different local authorities interpret the definitions of alerts and referrals in subtly different ways.
APAD (Association of Public Authority Deputies)	Represents local authority deputies. Where a person lacking capacity does not have someone to act as the person's deputy, or if there is a safeguarding issue, an application is made by the local authority to act as local authority deputy.
Appointee	Someone appointed under social security regulations, to claim and collect social security benefits on behalf of a person who lacks capacity to manage their own benefits.
Attorney	Also known as a donee, this is someone appointed under either a Lasting Power of Attorney (LPA), or an Enduring Power of Attorney (EPA), who has the legal right to make decisions within the scope of their authority on behalf of the person (the donor) who made the Power of Attorney.
Blackmail	Definition from the Police National Legal Database (PNLD): A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces.
Capacity	The ability to make a decision about a particular matter at the time the decision needs to be made. The legal definition of a person who lacks capacity is set out in Section 2 of the Mental Capacity Act (MCA) 2005.
CFEB (Consumer Financial Education Body)	An independent body, established by the Financial Services Authority (FSA), responsible for helping consumers understand financial matters and to manage their finances better.

CIFAS	The UK's Fraud Prevention Service, specialising in the field of application, identity, first party and staff fraud. Collects fraud data and provides Best Practice guidance, training and networking opportunities for its members, such as credit grantors, insurance companies and so on.
CIPFA (Chartered Institute of Public Finance and Accountancy)	The professional body for people in public finance. Its members work throughout the public services, in national audit agencies, in major accountancy firms and in other bodies, where public money needs to be effectively and efficiently managed.
Community Safety Unit	The police deal with cases involving vulnerable adults through Community Safety Units. Some police services use a Vulnerable Adult Unit or incorporate this into their Public Protection Unit.
Consumer Direct	Government-funded telephone and online service, offering information and advice on consumer issues.
Court of Protection	Specialist court for all issues relating to people who lack capacity to make specific decisions.
CQC (Care Quality Commission)	Independent regulator responsible for the registration of health and social care services in England. In addition to their regulatory function, they are responsible, as part of a wider group, for the performance assessment of local authorities' social care services.
CRB (Criminal Records Bureau)	Enables organisations in the public, private and voluntary sectors to make better informed, safer recruitment decisions through access to its disclosure service. Individuals working closely with children or vulnerable adults are eligible for an enhanced CRB check that provides details of all information recorded against an applicant on the Police National Computer (PNC) as well as relevant information held in local police records.
Cross-Government Safeguarding Adults Officials Board	A group of lead civil servants, from the Department of Health, Home Office, Ministry of Justice and Department for Communities, and Local Government. The group provides advice and support to an Inter-Ministerial Group, set up to develop and coordinate government policy on safeguarding adults.
CSP (Community Safety Partnership)	Ensures effective partnership on community safety and includes a number of agencies, such as the police, the NHS and the local authority.
Data Protection Act 1998	A law controlling the handling of, and access to, personal information, such as medical records, files held by public bodies and financial information held by credit reference agencies.
Deputy	Someone appointed by the Court of Protection, with ongoing legal authority, as prescribed by the court, to make decisions on behalf of someone who lacks capacity to make particular decisions. A deputy may be appointed to make decisions in relation to property and affairs (financial), or welfare (including healthcare), or both. A deputy may be a professional, such as a solicitor, local authorities or lay person (family members, friends of the person lacking capacity).

Direct payment	Cash payments given to service users in lieu of community care services they have been assessed as needing, intended to give users greater choice in their care.
Disclosure obstruction, false or misleading statements	Making a false statement in an application for registration of a document for Lasting Power of Attorney (LPA), or regarding actual, or impending, incapacity of the donor.
DWP (Department for Work and Pensions)	Appoints appointees and is responsible for revoking appointeeship, if appropriate.
Empowerment	Encourages an individual to make decisions and take control of their own life. Empowerment is a process that builds a person's self-esteem and confidence in their ability to make decisions.
EPA (Enduring Power of Attorney)	A Power of Attorney, created under the EPA Act 1985, appointing an attorney to deal with the donor's property and financial affairs. The Mental Capacity Act (MCA) 2005 replaced the EPA Act 1985, but existing EPAs continue to operate under Schedule 4 of the Act. The MCA gives the attorney a legal responsibility to apply to the Public Guardian (OPG chief executive) to register the EPA when the donor is, or is becoming, mentally incapable. An EPA can be used prior to registration, with the consent of the donor.
Financial assessment officer	An officer who works for the local authority, assessing service users' ability to pay towards their service charges.
Forgery	Definition from the Police National Legal Database (PNLD): Forgery is the making of an instrument purporting to be that which it is not, it is not the making of an instrument which purports to be what it really is, but which contains false statements. Telling a lie does not become a forgery because it is reduced into writing.
Fraud by abuse of position	Where a person occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, and dishonestly abuses that position, intending to make gain for themselves or cause loss to someone else. The Law Commission explained the meaning of 'position' as being between a professional person and a client, as well as between family members.
Fraud by failing to disclose information	Where a person dishonestly fails to disclose information to another person where there is a legal duty to disclose the information, and intends to make a gain for themselves or to cause loss to someone else. For example, failure of a solicitor to share vital information with a client, within the context of their work relationship.
Fraud by false representation	Where a person dishonestly makes a false (untrue or misleading) representation, and intends to make a gain for themselves or to cause loss to someone else.

FSA (Financial Services Authority)	Financial services regulator, set up by the government, to regulate financial services. It keeps a register of all businesses it regulates and the public is protected by complaints and compensation schemes when dealing with these firms.
Health and social care provider	Relates to any organisation that provides a health or social care service.
HMCS (Her Majesty's Courts Service)	Provides administration and support for the Court of Appeal, the High Court, the Crown Court, Magistrates' Courts, County Courts and the Probate Service. Its remit is to deliver justice effectively and efficiently to the public.
Identity theft	Where a victim's name is used to obtain goods or services without their knowledge. For example, a family member uses the victim's details to open a new credit account.
IMCA (independent mental capacity advocate)	Someone who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no one else to support them.
Inappropriate gifts or loans	Where a victim makes a gift, or loans money, to someone, on the basis of an agreement or story that is later found not to be truthful.
Income collection team	Responsible for monitoring and collecting money owed to the local authority by users of their services.
Individual budget	Piloted during 2006/07 and intended to bring together those resources from different funding streams (including local authority social care and housing-related support services), for which an individual is eligible, into a single sum that could be spent flexibly, according to the priorities and preferences of that person. Subsequent to the pilot, the term 'individual budget' has been used interchangeably with the term 'personal budget', although the latter relates only to single funding streams.
Investment fraud	Where an investment in shares, goods or land that, subsequently, is found to not to exist or which proves to be worth significantly less than promised.
Intermediary	Someone who the court approves to communicate to the witness the questions that the court, the defence and the prosecution teams ask, and to communicate answers that the witness gives in response. They can also provide communication assistance in the investigation stage – approval for admission of evidence so taken is then sought retrospectively.
ISA (Independent Safeguarding Authority)	Maintains the children's and vulnerable adults' barred lists. Since October 2009, there has been a duty on employers to make a referral to the ISA if they have removed someone from a regulated post working with children or vulnerable adults due to a risk of harm. If the ISA believes there is evidence that an individual poses a risk of harm to a vulnerable group, they will consider them for inclusion on a barred list.

LGA (Local Government Association)	A voluntary membership body, its 422 member authorities cover every part of England and Wales. Members include county councils, metropolitan district councils, English unitary authorities, London boroughs and shire district councils, along with fire authorities, police authorities, national park authorities and passenger transport authorities.
Local authority audit offices	Deal with financial abuse within local authority-run services, such as care homes.
Local authority deputy	Where a person lacking capacity does not have someone to act as their deputy, or if there is a safeguarding issue, an application is made to the local authority to act as deputy.
Local Government Act	Section 2 of the Local Government Act 2000 (the '2000 Act') allows principal local authorities in England and Wales to do anything they consider likely to promote the economic, social and environmental well-being of their area unless explicitly prohibited elsewhere in legislation.
LPA (Lasting Power of Attorney)	A Power of Attorney created under the Mental Capacity Act (MCA), appointing an attorney or attorneys to make decisions about the donor's personal welfare (including healthcare) and/or deal with the donor's property and affairs. An LPA must be registered by the Public Guardian before it can be used. A finance LPA can be used after registration, whether the donor has capacity or not.
Mass-marketing fraud	The Office of Fair Trading (OFT) (2006) has attempted to produce a definition of mass marketing fraud as: A misleading or deceptive business practice where you receive an unsolicited or uninvited contact (for example by e-mail, letter, phone, or ad) and false promises are made to con you out of money.
MCA (Mental Capacity Act)	The MCA 2005 governs decision-making on behalf of adults, where: <ul style="list-style-type: none"> <li>• they lose mental capacity at some point in their lives (for example, as a result of dementia or brain injury), or</li> <li>• the incapacitating condition has been present since birth.</li> </ul> It covers decisions made on behalf of the incapacitated individual, who is on personal welfare (such as medical treatment), financial matters and legal matters. It allows decision-making on behalf of incapacitated persons, by attorneys or court-appointed deputies.
Moneymadeclear	Provides people with free and impartial information and guidance on a range of issues, including budgeting, saving and borrowing, savings, protection and retirement planning.
NAFAO (National Association of Financial Assessment Officers)	Represents financial assessment officers, who assess service users' ability to pay towards their service charges.



NFA (National Fraud Authority)	The NFA's role is to take forward the government's response to fraud, building on the <i>2006 Fraud Review</i> . The NFA works with private, public and third sector organisations, to increase protection for the UK economy from the harm caused by fraud, and to create a more hostile environment for fraudsters, both at home and abroad.
NFIB (National Fraud Intelligence Bureau)	Collects, collates and analyses fraud reports and other data and then disseminates intelligence and viable leads for investigation to police services. It aims to create an improved picture of the nature of fraud offending across the UK.
NHS Information Centre	England's central source of health and social care information, including National Statistics.
Non-investment fraud	Where money is paid to a company, or individual, for goods or services and the promised service or item is then not received. For example, time share/holiday clubs, miracle health cures, door-to-door sales.
NPIA (National Police Improvement Agency)	Responsible for providing critical national services, building capability across the police service and providing professional expertise to police forces and authorities.
OCG (Organised Crime Group)	Criminals that work together for the duration of a particular criminal activity or activities.
OFT (Office of Fair Trading)	Encourages businesses to comply with competition and consumer law and to improve their trading practices through self-regulation. They have a number of enforcement tools to help stop offenders. Helps consumers to resolve problems with suppliers, through Consumer Direct.
Operation Archway	Provides a national intelligence reporting system for mass share-marketing, or boiler room fraud – a crime where investors are cold-called by bogus stockbrokers and persuaded to either buy worthless or non-existent shares, or to buy genuine shares at vastly inflated prices.
OPG (Office of the Public Guardian)	An agency of the Ministry of Justice, the OPG is an officer established under Section 57 of the Mental Capacity Act (MCA) 2005. The OPG supports the Public Guardian, to support and promote decision-making for those who lack capacity or wish to plan for their future. It registers Powers of Attorney, and supervises deputies appointed by the Court of Protection, to make decisions on behalf of someone who lacks capacity.
OPSI (Office of Public Sector Information)	Provides a wide range of services to the public, information industry, government and the wider public sector, relating to finding, using, sharing and trading information.
Payment card fraud	Where monies are taken, via a payment card (credit/debit card), by persons known or unknown.

PCaW (Public Concern at Work)	A charitable, independent organisation, that offers support to whistleblowers. Whistleblowing is when an employee raises concerns about ethically questionable, dangerous or illegal activities in the workplace, which affect others. They advise on public interest and whistleblowing concerns surrounding fraud, abuse in care, risks to consumers and significant regulatory breaches.
Personal budget	A budget from the local authority to an individual, which may be delivered entirely, or in part, through a direct payment. The budget can be spent on any product or service, including traditional social care services, provided that it achieves the outcomes specified in the person's care plan.
Phishing	A form of technology-enabled crime, which involves the sending of communications that purport to be from a trusted party, such as a bank, the intention of the criminal being to persuade a person that they should reveal sensitive information, such as usernames and passwords.
Police	For the purpose of this assessment, 'police' refers to Home Office forces within England and Wales.
Preservation of evidence	<p>Cases of physical abuse will frequently have an associated scene, especially where the victim is left in immediate need of assistance. In such cases, reasonable efforts should be made to preserve the scene with a view to collecting evidence in the form of forensics and so on.</p> <p>Cases of financial abuse will rarely be associated with a single scene, but this does not mean that appropriate efforts should not be made to collect and preserve evidence. This could involve seizure of financial records, and in some instances, there may be fingerprint evidence on these records. Consideration should also be given to other sources of evidence, such as CCTV within banks.</p>
Public Interest Disclosure Act (1998)	An Act to protect individuals who make certain disclosures of information in the public interest, to allow such individuals to bring action in respect of victimisation, and for connected purposes (Office of Public Sector Information).
Public Protection Unit	The police deal with cases involving vulnerable adults through Public Protection Units. Some police services have a specific Vulnerable Adults Unit or incorporate this into their Community Safety Unit.
Referral	Made to adult social care by any organisation regarding safeguarding concerns that a vulnerable adult is being abused. Different local authorities interpret definitions of alerts and referrals in subtly different ways.
Registered LPA (Lasting Power of Attorney)/ EPA (Enduring Power of Attorney)	Refer to entries for: LPA (Lasting Power of Attorney) EPA (Enduring Power of Attorney)

Rogue traders	According to the OFT (2004): Purport to be trades people offering repairs, services and maintenance to homes and gardens, but with the intention of obtaining money and no real intention of providing anything in return. They will often carry out inferior work (sometimes no work at all) and charge exorbitant fees.
Safeguarding Adults Board	A multiagency board that local authorities establish to improve safeguarding practices for vulnerable adults. Their work may include determining policy, coordinating activity between agencies, facilitating joint training and monitoring and reviewing progress in safeguarding practices.
Safeguarding adults manager	Responsible for coordinating all safeguarding activity by organisations in response to an allegation of abuse.
Safeguarding coordinator	May advise and support the adult safeguarding partnership, as well as collating information from referrals.
Share purchase fraud (boiler room)	Where an investment in shares is subsequently found to not exist or proves to be worth significantly less than promised.
Social services	The local authority social services department is now split between adult social care and children's services. Within this assessment, the term 'adult social care' is used. Refer to the entry for 'Adult social care'.
Solicitor General's Office	The Solicitor General supports the Attorney General across the range of their responsibilities and is one of the Law Officers of the Crown. The Attorney General fulfils the role of chief legal adviser to the government and superintends principal prosecuting authorities within England and Wales.
SRA (Solicitors Regulation Authority)	Independent regulatory body of the Law Society of England and Wales and the independent regulator of solicitors and solicitor practices. They operate in accordance with the regulatory objectives of the Legal Services Act.
Think Jessica	An anti-mail-fraud campaign, which aims to raise awareness and reduce victimisation.
Theft	Where a victim has something of value taken by a person known or unknown and it is clear that they do not intend to return it.
Theft from the person	If a person in a safeguarding position 'makes gain for himself' simply through stealing money or property, the Home Office offence category would be straight theft, rather than fraud by abuse of position.
Trading Standards	A local authority department, it deals with diverse issues under a wide variety of Acts, Orders and Codes of Practice, as set out by central government, the Food Standards Agency and the Office of Fair Trading (OFT).
Vulnerable Adults Unit	The police deal with cases involving vulnerable adults through Vulnerable Adult Units. Some police services incorporate this into their Public Protection Unit or their Community Safety Unit.

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### List of useful websites

Care Quality Commission (CQC): [www.cqc.org.uk](http://www.cqc.org.uk)

Communities and Local Government: [www.communities.gov.uk](http://www.communities.gov.uk)

Consumer Direct: [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk)

Consumer Financial Education Body (CFEB): [www.cfebuk.org.uk](http://www.cfebuk.org.uk)

Department for Work and Pensions (DWP): [www.dwp.gov.uk](http://www.dwp.gov.uk)

Financial Services Authority (FSA): [www.fsa.gov.uk](http://www.fsa.gov.uk)

Independent Safeguarding Authority (ISA): [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

Office of the Public Guardian (OPG): [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk)

Office of Public Sector Information (OPSI): [www.opsi.gov.uk](http://www.opsi.gov.uk)

Serious Fraud Office: [www.sfo.gov.uk](http://www.sfo.gov.uk)

Trading Standards Institute: [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk)

## Assessment: Financial crime against vulnerable adults

This eagerly awaited assessment commissioned by the Association of Chief Police Officers (ACPO) Economic Crime Portfolio has been produced to highlight the current and potential future threats to vulnerable adults in relation to economic crime. It covers the wide spectrum of financial abuse and exploitation against vulnerable people by family members, care workers and unscrupulous individuals within our society.

This publication is available in an alternative format on request.

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