



For Love or Money: how older people protect their assets

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Financial mismanagement

'It is so easy to sign the document if you are a gentle person'

- Why it matters
- What it is
- What the oldies are up to
- What actions can be taken





Projected population as at June	2010		2050	
	Age range		Low	Base
0-14	4.2	4.6	6.2	
15-64	15.0	17.8	21.6	
65-84	2.6	6.1	6.3	
85 and over	0.4	1.8	1.8	
Total persons	22.2	30.2	35.9	

Percentage of total population

0-14	19.1	15.1	17.2
15-64	67.4	58.9	60.2
65-84	11.7	20.0	17.6
85 and over	1.8	6.0	5.1

Source: Treasury projections. Commonwealth of Australia (2010). Australia to 2050: future challenges, intergenerational report 2010. Attorney-General/Department. Barton, ACT, Treasurer of the Commonwealth of Australia.p31

Productivity Report: Caring for Older Australians



- Care is provided by partners and daughters
- 44% of older people live on their own (ABS 2005)
- Baby boomers may not want to live with their kids, or their kids to have them, although this differs with cultural group
- Support for carers may increase a diminishing pool

The problem

- There are lots of older people (aged 65 and over)
- Many have substantial assets, mostly their home and superannuation or other investments
- The ability to manage our own affairs is sometimes lessened with age
- Technological change is disorienting and deskilling
- If I cannot manage my affairs, who will ? And how do I know they can they be trusted ?

Vulnerability

Being independent and being at home are valued by people living alone in later life

- Vulnerable because of difficult living situations, limited resources, or a lack of support
- Actively manage their health conditions using various strategies to remain independent
- These strategies may be fragile and jeopardise independence.

What mismanagement looks like

Misuse of funds, forcing or forging signatures, denying access to funds or property, misuse of an Enduring Power of Attorney, overcharging, promise of long term care in return for money, and improper changes to legal documents such as wills or insurance policies

SRV Submission to the Victorian Parliament Law Reform Committee Inquiry into Powers of Attorney 2011

Financial mismanagement

- Sell family home and appropriate some or all of the money
- Put the older person in a nursing home, even if they do not want to go, so their assets can be accessed
- Use money for gambling or other addictions
- Siphon off money when paying bills
- Professionals, including lawyers, guardians, and residential care may take the money.

Definitions of mismanagement of older people's assets

- ‘The illegal or improper exploitation or use of funds or other resources of the older person’ – *World Health Organisation*
- ‘Illegal use, improper use or mismanagement of a person's money, property or financial resources by a person with whom they have a relationship implying trust’ – *With Respect to Age 2009, Victorian Government*

Types of mismanagement

- Intended – the separation of a person from the benefit of their assets for the benefit of another
- Unintended – inadvertent or uninformed mismanagement or neglect which results in a loss
- A social problem with legal, financial and policy implications
- It is difficult for older people to recover from having their money taken

Dementia and risk

Dementia is closely associated with a loss of decision making capacity. Projected increases in cases of dementia will lead to increases in the number of older Victorians needing assistance with decision making, and the need for substitute decision- makers to act on their behalf.

Seniors Rights Victoria Submission to the Victorian Parliament Law Reform Committee Inquiry into Powers of Attorney 2011

How much is there ?

- 0.5-5% of Australians older than 64 have experienced financial mismanagement
- Average prevalence rate for WA 4.6% (ranging between 3.1% and 6.0%)
- 42% of Senior's Rights Victoria helpline calls in Vic, 31% in Qld were for financial mismanagement
- The fastest growing form of elder abuse. Up to 50 per cent of all abuse perpetrated against older people *Queensland Law Society and the Elder Abuse Prevention Unit Queensland 2009*

Protecting Elders' Assets Study

Funded by State Trustees P/L

1. Promote ethical financial management
2. Protect older people from financial exploitation, and mismanagement of their financial assets
3. Inform the development of legislation and policy to protect older people from exploitation through financial abuse
4. Maximise ethical financial management

Who did we talk to ?

Community

- Older than 64
- Urban
 - English speakers
 - Greek
 - Italian
 - Vietnamese
- Rural
 - English speakers

Professionals

- Solicitors
- Office of the Public Advocate
- State Trustees
- Aged Care Assessment
- Geriatricians
- Aged care accommodation

What are the oldies up to ?

- Most have Wills and Enduring Powers of Attorney (financial)
- All have thought about how to manage if they become incompetent
- Most will rely on family
- All have heard of financial elder abuse

Most have Will and EPA

Question	English speakers n=410	Greek n=20	Italian n=14	Vietnamese n=28
Have a will	96%	94%	100%	20%
Have an EPA	69%	63%	50%	19%
spouse	22%	0	0	22%
child	61%	100%	86%	78%
other family	12%	0	14%	0
professional	5%	0	0	0

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Variable	English	Rural	Greek	Italian	Vietnamese
Provided examples of elder abuse	✓	✓	✓	✓	X
Provided examples of financial mismanagement	✓	✓	✓	✓	✓
Know mismanagement committed within families	✓	✓	✓	✓	✓
Have wills and EPA	✓	✓	✓	✓	X
Concerned about credit cards	X	✓	✓	X	X
Use Internet	X	X	✓	✓	X
Different values from younger generation	✓	✓	✓	✓	✓
Rely on Age Pension	X	X	✓	X	✓
Vulnerability from dementia, illness, death	✓	✓	✓	✓	X
Rely on children	✓ & X	X	✓ & X	✓	✓
Use professionals	✓	✓	X	✓	X
Confident in family, no other plans for the future	X	X	X	✓	✓
Plan for the future	✓	✓	X	X	X
Want training to access resources	✓	✓	X	X	X
	Confident, with help	Self reliant	Used to hardship	Confident in their kids	Stays within the family



	Urban English speaking	Rural English speaking	Greek	Italian	Vietnamese
Family agree on future plans	++++	++++	+++++	+++++	++++
Will rely on children for future money management	+++	++++	+++++	+++++	+++++
Will use professionals for future money management	+	+	-	-	-
Use accountant, lawyer, financial advisor	++	++	++	+	+
Will access community resources (senior citizens and migrant centres) for skills	+	++	+++	++	++
Will use computer and internet training to improve skills	+	-	+	++	++

Risk factors

- Social isolation
- Estrangement from family
- Complex family forms
 - step parenting
- Cognitive decline
- Illness
 - Chronic
 - Catastrophic



Who is having their money taken ?

- More than one third were vulnerable because of dementia
- Most likely to happen to women
- Average age 80 to 81 years
- Nearly a third older than 84
- Powers of attorney are being used to deprive older people of their assets.
- Sons and, to a lesser extent, daughters most likely to take money.

How common is it to be tricked ?

	English n=338	Rural n=13	Greek n=19	Italian n=8	Vietnamese n=21
Common	18%	15%	47%	37%	0
Occasional	42%	54%	21%	50%	81%
Uncommon	40%	31%	32%	13%	19%



Those on lowest incomes (\$20-30,000) rate financial mismanagement as more serious and more common than those on highest incomes.



Range of malpractice

- Unwise, innocent and incapacitated
 - By the older person
 - By a trusted care giver
- Unwise assisted decision-making
 - Difficulty managing complexity
 - Getting it wrong
- Abusive proxy decision-making
- Absolute predation

Unintended

- Assets given away in return for care
 - money = love
 - ‘family’ money
 - vulnerable child (drugs, gambling, mental illness)
- Still in charge but neither capable nor competent
 - older women have less experience of managing money, yet outlive spouses
- Family relationships may be more important than financial independence

Intended

- Coercion through love, fear, confusion or violence
- May involve professionals
- Payback for prior felt injury
- Sense of entitlement
 - children
 - friends/neighbours of childless older people
 - use or hide assets to avoid fees
- Strip-mining, dump and run

Better practice

Managing the money and financial security in old age were important to our respondents. They were aware of the risks of diminished capacity.

- Provide clear pathways to good practice
- Avoid making older people the problem
- Social workers and aged care assessment teams can access the private world of the family and identify misuse
- Hospital staff may identify malpractice and need protocols to manage it

Study participants wanted...

- a clear, widely known pathway to sound and affordable advice from people with guaranteed integrity
- oversight of powers of attorney
- easy access to a reporting mechanism
- affordable and accessible help when things go wrong
- restrictions on door-to-door and telephone sales.

Staying safe with money

1. Obtain professional advice
2. Plan in advance
3. Obtain assessment of capacity before signing key documents, such as will or EPA
4. Think it through
5. Consider bad outcomes
6. Prepare for contingencies
7. Negotiate with family in advance

Policy interventions

1. Improve skills of health professionals, police, residential care workers, legal professionals and financial institution staff
2. Information about financial management options readily available for older people
3. Community awareness campaigns
4. Encourage Enduring Powers of Attorney, with 2 to sign



- 1. A review of the evidence 2009*
- 2. Prevalence of financial elder abuse 2010*
- 3. Staying safe with money 2010*
- 4. Diversity and financial elder abuse 2011*
- 5. For love or money 2011*

Available from State Trustees @
<http://www.statetrustees.com.au>

