

PRE-PRINT VERSION

Gilbert, A, Stanley, D, Penhale, and Gilhooly, M (2013). Elder financial abuse in England: A policy analysis perspective related to social care and banking. *Journal of Adult Protection*

TITLE

Elder Financial Abuse in England: A Policy Analysis Perspective related to Social Care and Banking

AUTHORS

Anthony Gilbert, David Stanley, Bridget Penhale, Mary Gilhooly

Anthony Gilbert is an Associate Professor at the School of Social Sciences and Social Work, University of Plymouth, Plymouth, UK,

David Stanley is foundation holder of Northumbria University's research Chair in Social Care, at the School of Health, Community & Education Studies, University of Northumbria, Newcastle, UK,

Bridget Penhale is a Reader in Mental Health of Older People, at the School of Nursing and Midwifery, University of East Anglia, Norwich, UK,

Mary Gilhooly is Executive Director of the Brunel Institute for Ageing Studies, and Deputy Head of Research, at the School of Health Sciences and Social Care, Brunel University, Uxbridge, UK

ABSTRACT

Purpose – The purpose of this paper was to undertake a review of selected adult safeguarding policy and guidance documentation to establish the level of guidance provided in relation to financial abuse; identify similarities and differences between the guidance given to professionals working in different contexts; and report gaps or inconsistencies in the guidance given.

Design/methodology/approach – Qualitative documentary content analysis was undertaken to identify key issues and themes in documents selected from 25 local authorities in England.

Findings – Little variation was found in the content of the documents, which were all heavily influenced by “No Secrets” guidance. The victim and perpetrator were largely invisible and there is no reference to the possible medium to long-term impact of abuse on individuals. There is no research evidence underpinning the use of the notion of “significant harm” when used in the context of adults. In addition, there is no means of comparing safeguarding decisions across different local authorities to evaluate consistency of decisions and outcomes.

Research limitations/implications – The lack of any mechanisms to compare safeguarding decisions and outcomes across local authority areas is a serious limitation of the way safeguarding works. Also, the failure to address the aftercare and support of victims means they are left to manage the psycho-social consequences.

Practical implications – Safeguarding boards should evaluate the outcomes of interventions in a standardised way to enable comparison. They should also do more to ensure the longer-term wellbeing of victims.

Social implications – The paper raises awareness of elder financial abuse.

Originality/value – This is the only policy review that focuses specifically on financial abuse.

KEYWORDS : Elder financial abuse, Safeguarding policy, Health, Social care, Banking, Elder care

PAPER TYPE: Research paper

ACKNOWLEDGEMENT

This research was funded by the UK Cross Council, New Dynamics of Ageing programme (Economic and Social Research Council administered) [grant number RES-352-25-0026 to Mary Gilhooly (PI)]. The views expressed in this paper are those of the authors and do not necessarily reflect the views of the funding body. The authors would like to thank the coinvestigators who were involved in other phases of the project: Ken Gilhooly, Priscilla Harries, and Catherine Hennessy. They would also like to thank Deborah Cairns, the project’s research fellow. The members of the authors’ Project Management Board – Gary Fitzgerald, Mary Walsh, Alison Toombs, Mary Cox, Gillian Dalley, Gill Fairhurst, and Ruth Cartwright who provided invaluable advice and assistance – also deserve a special thank you. The authors would also like to acknowledge the health and social care sector professionals who participated in this project.

Elder Financial Abuse in England: A Policy Analysis Perspective related to Social Care and Banking

Introduction

Social care policy towards adults is organised around the twin concerns of personalisation and safeguarding (Putting People First, HMG 2007). Promoting choice, autonomy and individual life chances through 'cash for care' mechanisms such as individual budgets and direct payments may introduce risks for specific individuals and particular sections of the community such as elders. Nevertheless, risks are a necessary accompaniment of adulthood and are normally managed through a range of mechanisms. Problems arise when these mechanisms are proven inadequate or in certain circumstances fail to anticipate or identify the risks involved. This is complicated by the fact that some individuals are not viewed as 'at risk' until they have been subject to some form of incident or exploitation. Furthermore, the definition of financial abuse is unclear (Brown, 2003; Crosby *et al.* 2008) while the context of social care is dynamic and subject to changes emerging from an ever-increasing range of sources that impact on different sections of the community in different ways some, as is the case with financial abuse, have a disproportionate effect on elders (Crosby *et al.* 2008).

The context of social care is also one dominated by a commitment to multi-agency working. Safeguarding provides a prime example as this web of activity is drawn together under multi-agency procedures based on 'No Secrets' (DH 2000) guidance. The literature notes challenges to multi-agency working arising from the different interests and priorities of organisations and subtle differences in the discourse of such agencies (Atkinson *et al.* 2007). However, as we aim to highlight, in the context of elder financial abuse, such subtle differences disappear into totally different languages underpinned by very different philosophies and priorities; highlighting the potentially contradictory outcomes of government intervention and commercial developments in the banking industry. A case in point was the proposed extension of 'chip and pin' money transfers with the removal of cheque books which is identified as increasing risks for elders (Crosby *et al.* 2008). Nevertheless, as Action on Elder Abuse (2009) point out in their submission to the 'No Secrets' review, this development was taking place without any risk assessment concerning the impact on the opportunity for elder financial abuse.

The policy review reported here was phase III of a wider project that focussed on detecting and preventing elder financial abuse. Financial abuse, particularly that concerning elders, remains a concern in political and policy circles (Brown *et al.* 2003: Help the Aged, 2007; Action on Elder Abuse, 2004). This was acknowledged by the House of Commons Health Select Committee Report (2004) which concluded that this is probably the second most common form of abuse. Further evidence of the prevalence of elder financial abuse in UK community settings was set out in the research funded by Comic Relief and the Department of Health, which reported in 2007. This determined that after neglect, at 1.1%, elder financial abuse, at 0.7%, was the most prevalent form of abuse reported (O'Keeffe *et al.*, 2007). The Select Committee also acknowledged that there was little current research on the nature of elder financial abuse.

This phase of the research project set out to explore the guidance provided for professionals who engaged with elders in social care, health and banking by identifying, examining and comparing key policy documents. We recognise that limiting the review to England can appear to be a rather narrow approach however, our intention was to consider a range of policy documents in depth while also being able to control for potential differences in policy and law emerging from different social and

administrative histories within the United Kingdom. Nevertheless, it is important to recognise that the legislative and policy framework in Scotland has major differences with the rest of the United Kingdom. Particularly as the Adult Support and Protection (Scotland) Act 2007, provides a legal framework for protecting 'Adults at Risk' (Scottish Government, 2007). Furthermore, elder financial abuse is a major international concern as reported by WHO in Europe (Sethi, *et al.*, 2011) and Metlife (2011) in the USA.

Contemporary policy in England towards safeguarding adults has developed incrementally since the turn of the twenty-first century. The general issue of vulnerable adults was taken up by the Lord Chancellor's Office following the consultation 'Who Decides' (1997) and the term 'vulnerable adult' applied to adults in receipt of or expected to be in receipt of 'community services'. This was incorporated into adult protection when the Department of Health published 'No Secrets' (DH 2000) which established the discourse of safeguarding in the broad context of human rights where abuse is the violation of such rights. Consequentially, an act or omission may be unethical but not necessarily illegal while interpretations of financial abuse may differ between professionals, relatives, carers or even the wider public (Crosby *et al.* 2008). In addition, 'No Secrets' as guidance, did not have force in law but relied on a myriad of legislation related to violations of the person i.e. fraud, assault etc. and the willingness of different agencies to cooperate and share information to ensure thresholds for action are met and prosecution ensues. This contrasts with the position in Scotland where definitions of abuse and the requirement on agencies to cooperate with local authority investigations are enshrined in law (Scottish Government, 2007).

In practice, the term 'vulnerable adult' has proved unhelpful and potentially stigmatising of individuals as it seeks to encompass a large number of different people, with varying levels of disability, dependence, ability and support needs, under an umbrella concept. Critics point out that the construct 'vulnerable adult' placed the focus on the individual as the 'vulnerable person' ignoring the situations and circumstances that give rise to that vulnerability. Such views locate the origin of vulnerability with the pathology of the individual (Penhale & Parker, 2008). It also 'captured' individuals who have no wish to be labelled 'vulnerable' and who are or may be adversely affected when this occurs (Health Select Committee Report, 2004, s.11). Scotland has addressed this through the idea of 'Adults at risk' and defining the circumstances that may give rise to that risk (Adult Support and Protection (Scotland) Act 2007), a concept also favoured by the Law Commission (2011). The notion of vulnerable adult was also challenged by the Health Select Committee Inquiry into elder abuse (2004) but their recommendation that the term should be revised and expanded was not accepted by the Government at that time.

There have also been significant changes to the way support is organised with the advent of direct payments, individual budgets and the personalisation agenda. This has been complicated by concerns over costs of care, claims that individuals are forced to sell their homes to finance support, expectations around inheritance and care costs being reclaimed from the individual's estate (Penhale, 2003; Crosby *et al.* 2008). Regardless of changes in social care policy and despite evidence that suggests uneven implementation across local authorities (Crosby *et al.* 2008), 'No Secrets' remains the core guidance relating to adult safeguarding. In 2008 the then government instigated a review of 'No Secrets' which stimulated a range of debate (DH 2008; 2009) and anticipated change; an equivalent review of the Welsh guidance document, 'In Safe Hands' (WAG 2000) was undertaken during the same time period. In response to the consultation in England, stakeholders from professional and voluntary organisations called for better leadership from central government, local government, the NHS, the Care Quality Commission, the Police Service and housing leaders. The Association of Chief Police Officers (ACPO) led an extensive exercise on the 'No Secrets' consultation across the Police Service in England and Wales. They concluded that national leadership on adult safeguarding should lie with Adult Social Care and the Department of Health whilst at local level, responsibility and accountability should sit with

Safeguarding Adult Boards. Concern was also expressed during the consultation about continuing use of the term vulnerable adult.

The response to the consultation also found widespread support for safeguarding legislation. However, the then Labour government was lukewarm to this suggestion and reported responses as 68% for legislation and 32% against. These figures were later contested by a number of stakeholders when it became clear that many of this 32% did not specifically address the issue of legislation because it was outside their remit (DH 2009:121). Government adopted a position that introducing legislation would not necessarily lead to adult safeguarding becoming a priority, arguing that the most effective way forward was for safeguarding to become part of the mainstream agenda. The consultation also noted that only a few prosecutions were reported in relation to safeguarding. However, it is worth noting research by Brown *et al.* (2003) who identified that 10 – 15% of cases dealt with by the Court of Protection included a degree of financial abuse while Stevens and Manthorpe (2005) reported that, of the first 100 referrals to the previous POVA list, twenty-five concerned financial abuse.

Further complexity and potential for financial abuse is linked to the provisions of the Mental Capacity Act (2005) and the provisions for Lasting Powers of Attorney (LPA); both overseen by the Office of the Public Guardian (OPG). Primarily this enables individuals to plan in advance the actions they might want taken on their behalf and nominate a person to represent them at a time when they do not have capacity to take decisions about their property, affairs, and/or personal welfare (Office of the Public Guardian, 2005a; b; 2006a; b). Attorneys can be appointed for LPAs for Property and Affairs and for Personal Welfare and both types of LPA have to be registered with Office of the Public Guardian before the Attorney can legally use them on behalf of the Donor. Nevertheless, in the circumstances of the Property and Affairs LPA and the Welfare LPA, it is the Attorney who assesses capacity (in accordance with the Act). The fact that the LPA is being used due to a lack of decision-making capacity does not have to be reported to or recorded by the OPG. Such an omission fails to attend to potential needs to safeguard the Donors of the LPA at this important stage of their lives, often representing an individual's loss of independence, if not capacity to manage their own affairs. Reported referrals to the Action on Elder Abuse helpline indicate that there is an issue of unregistered Powers of Attorney being used by (primarily) family members to mislead older people into releasing access to their money, property or affairs (AEA, 2007). This is invariably a fraudulent misrepresentation of the status of such documents. It is yet to be demonstrated that the introduction of Lasting Powers of Attorney under the Mental Capacity Act 2005, implemented in 2007, with their requirement to be registered with the Court of Protection, will lead to a reduction in this form of abuse. However, Enduring Powers of Attorney which satisfy the necessary conditions remain valid.

The 'No Secrets' consultation document stated that 'we need to discuss how safeguarding and the management of risks fit in'. In addition, Putting People First (HMG, 2007) makes it clear that a core part of a personalised system is an effective and established way of enabling people to make supported decisions built on appropriate safeguarding arrangements. However, this has not translated into proposals contained within the Government's response to the consultation. Rather, the Independent Safeguarding Authority's Vetting and Barring Scheme was reviewed and revised by the Coalition government in the latter months of 2010. Consequently the scheme emerged much reduced in scope, known as the Disclosure and Barring Service from 2012. Furthermore, there are no plans for Personal Assistants to be required by law to register within England or to require them to have Criminal Records Bureau checks. Since the recommendations of the review of 'In Safe Hands' have been accepted by the Welsh Assembly, the safeguarding framework for adults will be different within that nation and it appears likely that legislation will be forthcoming.

Notwithstanding this, the Law Commission Review of Adult Social Care Law, which conducted a consultation process during the first part of 2010, contained a set of proposals relating to adult protection/adult safeguarding (Law Commission 2010). Further work was undertaken in 2010-2011 by the Association of Chief Police Officers (CSCI, 2011) to produce guidance on dealing with and managing financial abuse. However, since the General Election and change of government in 2010 progress in early 2011 slowed as the Coalition administration reviewed its position. Nevertheless, following the publication of the Law Commission's report on adult social care (The Law Commission, 2011), which commented that:

'Some also argued that unlawful conduct is too restrictive, particularly in relation to financial abuse where it is almost impossible to prove a financial crime.' (2011: 115); the Minister for Social Care immediately (16 May 2011) announced the Government's commitment to placing Adult Safeguarding Boards onto a statutory basis, with the timescale dependent on parliamentary time and processes. This echoed a similar statement made under the previous administration in spring 2010. In the same announcement (2011) it was confirmed that 'No Secrets' would remain as statutory guidance until at least 2013.

Aims and objectives

The review aimed to identify core policy documents in Social Care, Health and Banking to:

- 1: 'Identify whether there are commonalities in policies and guidelines as to what cues should raise suspicions of elder financial abuse and what should then happen in terms of intervention?'
- 2: 'Highlight gaps, omissions and contradictions in policy guidance to professionals working in different sectors.'

Method

Procedure: In order to understand the extent to which that guidance referenced elder financial abuse, key policy documents and guidance published after 'No Secrets' were accessed. In addition, local authority guidance documents were accessed from areas that matched the fieldwork sites that provided the sample of professionals drawn for phase 1 of the project (Davies *et al.* 2011). The rationale for this was to ensure a degree of compatibility between the study sample and the interpretation and implementation of policy in that area. These were supplemented with further local authority guidance documents in a process designed to ensure saturation. In total, 21 sets of adult safeguarding/adult protection policy, procedural and practice guidance documents, each comprising multiple parts, from 13 London Boroughsⁱⁱ and documentation from three Home Counties were reviewed for explicit reference to elder financial abuse. Documents from Councils in the South West and North East of England, and Wales (1 each) were also accessed. Health service web-sites invariably directed inquiries to the joint local area procedures. Inquiries of individuals in local authority finance departments regarding safeguarding and personalisation identified the CIFPA (2007) guidance. Similarly, from discussions with senior banking personnel we identified and accessed the Banking Conduct of Business Sourcebook (FSA, 2009a) and Payment Services Regulations (FSA, 2009b).

Analysis: Once the relevant documents had been identified, a tool to guide the review was developed. Documents were reviewed using a content analysis approach looking for emergent themes and frequency counts, data were extracted from the documents to provide an account of the policy, guidance and procedural environment (Silverman, 2001; Patton, 2002). The documents were reviewed independently by three members of the project team, who then came together to collate their work. The analysis was further refined through a series of iterative discussions and written exchanges with

members of the Project Management Board, which included national representatives of campaigning organisations for elders i.e. Action on Elder Abuse and Age UK, a specialist advisor from an international clearing bank, Metropolitan Police, third sector and local authorities. A number of these organisations had submitted evidence to or were directly involved in the process of reviewing 'No Secrets'.

Findings

We examined 21 sets of safeguarding documents obtained from the local authorities and NHS Trusts from corresponding geographical areas. Multi-agency policy and procedures were readily available from the public web-sites for all the local authorities sampled. Obtaining adequate policy documentation from the banking industry proved to be more problematic than initially anticipated. Commercial sensitivity meant that there was an understandable reluctance on their part to confirm that particular policies existed and, where their existence was acknowledged, policy documents relating to the prevention of fraud and other financial irregularities were restricted as 'commercial in confidence' and thus not generally available to the team.

Nevertheless, discussion with key personnel and limited viewing of documents suggested that policy differed between the individual banks as financial institutions. It was also implied that there was no overt recognition of the notion of elder financial abuse in operational policy but rather that banks operated within a general policy of ensuring high levels of financial diligence towards clients' accounts as well as a duty of care as set out in the Banking Conduct of Business Sourcebook (2009) and Payment Services Regulations (2009). Where there was any topic relevance the emphasis appeared to be on processes for dispute resolution within a market environment. However, it has to be emphasised that this is a highly technical and complex set of documents which require a detailed knowledge of the sector, and would not be suitable as general guidance for health and social care professionals.

Analysis of the local authority policy and procedures documents reviewed revealed, perhaps unsurprisingly, that the actual policies were not very different one from another and were strongly influenced in both form and content by the 'No Secrets' guidance. Any variation tended to be in presentation, namely the title, length and general layout rather than substance. Earlier documents tended to refer to the protection of vulnerable adults whilst later ones (or those that had been recently internally reviewed and updated) used the term safeguarding in response to the advice from the Association of Directors of Social Services (ADSS, 2005). Additionally, documents that had been produced after 'Our Health, Our Care, Our Say' (2005) had been issued also introduced the notion of 'well-being'. All of the documents accessed concerned adults served by Adult Social Care, rather than having a specific focus on older people and elder abuse.

All but one of the authorities policies included named health organisations (primary care trusts; acute and mental health care trusts) as party to those policies and their procedures. The documents stated that they had been jointly written and developed and applied to all partner agencies who were signatories to the documents. Health care providers invariably provided links to the corresponding local authority multi-agency procedures. Some local authorities had procedures jointly produced with other authorities, whilst others acknowledged that they had adopted documentation from neighbouring boroughs.

The majority of the documents presented financial abuse as something that occurs secondary to other forms of abuse and as often revealed only through the identification of the 'primary' abuse. In the case of a criminal act (actual or potential), advice that the police must be involved is consistent across the

documents and supported by further guidance concerning documenting evidence and the exchange of information with the police. However, situating financial abuse in this way implies that financial abuse is a less serious form of abuse, which is in line with thinking at the point 'No Secrets' was published. Nevertheless, it might be expected that documents published after the House of Commons Select Committee on Health report on Elder Abuse (2004), which noted evidence of the potentially high prevalence of financial abuse, would have taken this into account and revised the advice concerning elder financial abuse. This was not the case.

Decision making in relation to suspected financial abuse takes place at a number of levels and relies on the knowledge and diligence of practitioners involved in everyday situations with older people. The key mechanism embedded within adult safeguarding procedures is the decision process that significant harm has occurred to the threshold level for further action. However, the concept of 'significant harm' in the context of adult safeguarding is very poorly set out in policy and procedural documents and in the supporting academic and professional literature. The Law Commission (2011: 115) also noted the contentious status of the concept:

'Many argued that if significant is used then it must be defined precisely because it is too subjective. However, this view was not universal. Many were doubtful whether a precise definition of significant could ever be constructed given the wide range of circumstances it would need to cover.'

Rather, it is first identified in legislation related to children but is then expanded to take account of the specific position of adults within the Lord Chancellor's work relating to mental capacity and decision making (Lord Chancellor's Department, 1997). Critically, little attention has been given to defining significant harm in relation to adults, namely characteristics, relevant factors, evidence, consequences etc. and there is virtually no research exploring the topic. Therefore, decisions about significant harm take place in the absence of an evidence base to support such decisions. Moreover, there is no baseline against which comparisons of decisions about significant harm can be undertaken across Multi-Agency Safeguarding Boards to enable the evaluation of subsequent actions and identification of inhibiting factors (Health and Social Care Information Centre, 2011). In terms of financial abuse this is an important issue because adult safeguarding agencies may not acknowledge or recognise the psychological as well as practical impacts of theft or fraud on an older person and may not therefore initiate adult protection intervention. Indeed, the victim and perpetrator are largely invisible in what are to all extent and purposes agency protection procedures; this appears to be a serious omission. The Crown Prosecution Service (2008a; b) does go some way toward recognising and addressing this issue in relation to older people.

The advent of the 'Personalisation Agenda' has brought mechanisms such as Individual Budgets and Direct payments and self-directed support to the core of adult social care and alongside this come a range of anxieties and challenges to the monitoring and regulation of the system. Suspected abuse in respect of financial irregularities arising from individual budgets or direct payments would be referred to the Adult Safeguarding process in the normal way. However, it is worth noting that the Chartered Institute of Public Finance and Accounting (CIPFA) in conjunction with 'In Control' and supported by Department of Health produced guidance for local authorities on this topic (CIPFA 2007). This guidance places the management of individual budgets in a risk analysis framework where the local authority remains responsible for ensuring money is spent appropriately. Reviews should focus on outcomes and whether individual budgets have been used effectively. Furthermore, the guidance makes no direct reference to financial abuse and therefore contains no reference about what to do when financial abuse is suspected. Equally, there is no mention of 'No Secrets' or safeguarding, which raises questions about how well different policies and guidance cross reference each other in order to provide a 'joined

up' approach. One might expect a lack of coherence between the policy in different sectors such as banking and adult social care but a lack of coherence within local authority processes is a concern.

Another key mechanism within safeguarding is the decision that abuse constitutes a criminal act, as current safeguarding processes must defer to the criminal justice system. There are two key documents relating to this aspect and relevant to this research, both of these were published by the Crown Prosecution Service: 'Crimes against older people – CPS prosecution policy' (CPS, 2008a) and 'Guidance on prosecuting crimes against older people' (CPS, 2008b). The former acknowledges financial abuse as a crime, which may be targeted at older people because perpetrators may perceive them as vulnerable or easy to steal from. However, this recognition gains rather scarce coverage as there are just four brief references to elder financial abuse in the 52 page document. Nevertheless, it also recognises (citing the UK Prevalence Study 2007) that offences, including those relating to financial abuse, may be under-reported. It also cites, *inter alia*, Hidden Voices: Older People's Experience of Abuse (Action on Elder Abuse 2004), and details some of the possible reasons for such under-reporting. The prosecution guidance document deals with older people as victims and witnesses, not as offenders. It does not refer explicitly to financial abuse and is more concerned with due process and how this should be achieved. However there are four references to finance as: an example of offending behaviour relating to improper pressure being applied; in citing the definition from 'No Secrets'; as an instance of committing fraud under the Fraud Act 2006 by abuse of position; and as a case example within its sentencing digest.

Discussion

There is ample evidence that each local authority area has well stated policy and procedures to identify and manage situations where abuse of adults is alleged to have occurred. Changes in the way support is delivered, such as personalisation and individual budgets, and changes in society more generally, for example increased use of on-line and electronic forms of banking, suggest that with each advance new opportunities for abuse arise and new methods for abusing emerge. Whilst elder financial abuse was considered as virtually peripheral in 2000 when 'No Secrets' was published, it had shifted to becoming a more central concern only four years later when the Select Committee (2004) estimated that financial abuse was probably the second most frequent form of abuse. However, it is apparent from this review that multi-agency procedures, even those revised since 2004, have only limited focus on financial abuse in general and none specifically on elder financial abuse with the consequence that it continues to feature as being of secondary importance to other forms of abuse. It is also the case that there is a dearth of information on the different forms that financial abuse and exploitation might take and how to respond when this occurs. Even more recent documents fail to provide guidance on triggers that correspond with recent changes in context such as the introduction of Lasting Powers of Attorney.

Another outcome of the policy review is the relative invisibility of the abused and the abuser in both the guidance and individual organisational policies and procedures at local levels. There is reference to providing support to the victim and the perpetrator but little by way of elaboration about what this might constitute. It is also the case that the way that provision of support is discussed implies that this is a short-term measure, with no recognition of the medium to long term effects of being the victim of financial abuse. There is anecdotal evidence from AEA for example, of after-effects that mirror those seen in other post-traumatic situations namely: anxiety, depression, loss of confidence and a fear of other people; and this is an issue which is addressed in some detail by an American study (Nerenberg, 2008) which discusses the impacts of financial abuse in the context of post traumatic stress disorder. What seems evident from the structure of the individual area policies analysed in this study is that they appear as much designed to manage the risk to the organisations involved as they are to address any

risks to the individual. In relation to this, the language and structure of the documents is not easily accessible for a lay person, and the documents make little reference to the welfare, particularly in the longer-term, of those affected by the event (Sethi, *et al.*, 2011; Metlife, 2011).

Lack of an evidence base for decisions about 'significant harm' also provides a serious gap in the way that policy and procedures are implemented and monitored. There is a danger that the mere recovery of funds or substitution for the loss is held to resolve the problem without recognition of the potential for long-term harm. The Law Society (2011) has identified the contested nature of the term and whether it should be tightly or loosely defined. Nevertheless, the lack of an evidence base to guide decisions about 'significant harm' means that there appears little basis for evaluating decision-making in particular areas, or for identifying the issues that influence decisions, namely the way that agency concerns may inhibit safeguarding investigations being implemented. Crosby *et al.* (2008: 7) argue there is evidence to suggest that the implementation of No Secrets has been patchy:

'There are indications that No Secrets, the guidance for multi-agency working to protect vulnerable adults (2000), has not been rigorously implemented and is poorly enforced, so it is not providing adequate protection for vulnerable older people.'

This means that there is also effectively no basis for making comparisons across localities.

The final area for discussion is the lack of coherence between safeguarding policy and procedures and the banking industry. New ways of managing money such as chip and pin services, electronic management of accounts and so forth enable greater choice and flexibility in the way individuals manage money. Electronic payments can also ensure that payments to and from accounts takes place efficiently and with little delay and for many people this means that essential bills are paid promptly and without worrying about missing the payment. However, in the case of elder financial abuse many of these developments remove from the process any personal knowledge of the older person by the bank personnel, which may create particular difficulties for elders such as having to remember pin numbers, access e-mail or use electronic banking. Such difficulties may invite increased opportunities for elder financial abuse as many older people have to rely on the assistance of others to access their accounts. It also means that they may not be able to comply with customer responsibilities such as keeping the PIN number secure, which invites an overtone of victim blaming. It is unlikely that advances in banking will be discontinued in the light of the increased vulnerability of older people and others. Nevertheless, closer working with banking services around developments to limit opportunities for abuse would be beneficial.

Conclusions and Recommendations

Policy makers and practitioners in the health, social care and banking sectors have a considerable challenge to face if they are to ensure that opportunities for elder financial abuse are anticipated and reduced, if not entirely removed. There are advantages to having overarching policy guidance and the consistency of approach seen in the range of locally produced local authority guidance reviewed and testimony to the role 'No Secrets' has played in establishing constant guidance. Nevertheless, specialisation in the policy guidance is required if the processes of responding to and preventing elder financial abuse are to be refined. An essential part of this will be to engage with the banking industry. Evidence from key banking personnel suggests that policy differed between individual banks as financial institutions, and that the implementation of operational and data protection policies at bank branch level tended to take any personal knowledge of the older person by counter staff out of the process. However, discussions with representatives of the sector and the police suggest that there is a clear commitment to ensuring safe, secure and accessible banking.

A second recommendation concerns the need to consider those affected by elder financial abuse. Currently, there is little policy guidance over how the victims of abuse, which in certain circumstances may include the perpetrator, can be supported in the medium and longer term. This is particularly the case in respect of the psychological impact(s) on individuals where there is evidence of post-traumatic responses such as anxiety, depression and loss of confidence. It is also a truism that the seriousness/severity of the abuse in terms of financial significance may not be a good correlate of the impact on the individual. However, there is some evidence in other forms of abuse to support the claim that the more serious the abuse the greater the impact on the individual (Sethi, *et al.*, 2011; Metlife, 2011).

The final recommendation is to echo previous calls for further research and evaluation in relation to safeguarding in general and elder financial abuse specifically. Greater understanding of the triggers for identifying elder financial abuse is necessary. Clarity about the way health and social care professionals and banking professionals and the police make decisions about what constitutes abuse, what is meant by significant harm, how thresholds established and what are the most appropriate forms of response is also much needed. It is also necessary to establish some basis for evaluating the responses of agencies and making comparisons with national baselines to ensure consistency. The lack of an evidence base over what constitutes 'significant harm' and the absence of mechanisms to compare and evaluate safeguarding performance are both areas of concern. The current preference of the UK government for local solutions is unlikely to help resolve either of these issues.

References

- Action on Elder Abuse (2004) *Hidden Voices: Older People's Experience of Abuse*. London: Action on Elder Abuse
- Action on Elder Abuse (2007) Briefing paper: *The cost of living: growing up is free, growing old is expensive*. London: Action on Elder Abuse
- Action on Elder Abuse (2009) Response to the Consultation on the Review of No Secrets. London: Action on Elder Abuse
- ADSS (2005). *Safeguarding Adults: A National Framework of Standards for Good Practice and Outcomes in Adult Protection Work*. Association of Directors of Social Services
- Atkinson, M., Jones, M. & Lamont, E. (2007) *Multiagency Working and its implications for Practice: A review of the literature*. Reading: CfBT Education Trust.
- Banking Code Standards Board (2008) *The Banking and Business Code*. London: BCSB
- Brown, H., Burns, S. & Wilson, B. (2003) Suspected Financial Abuse in Cases Administered by the PGO. *Journal of Adult Protection* 5(2): 26 – 37.
- Brown, H. (2003) Policy Overview: What is Financial Abuse? *Journal of Adult Protection* 5(2): 3 – 10.
- CIPFA (2007) *Direct Payments and Individual Budgets: Managing the Finances*, Chartered Institute of Public Finance and Accounting [CIPFA] in conjunction with 'In Control' supported by Department of Health.
- Crosby, G., Clark, A., Hayes, R., Jones, K & Lievesley, N. (2008) *The Financial Abuse of Older People: A review from the literature carried out by the Centre for Policy on Ageing on behalf of help the Aged*. London: Help the Aged

- Crown Prosecution Service (2008a), '*Crimes against older people – CPS prosecution policy*'. London: CPS.
- Crown Prosecution Service (2008b) *Guidance on prosecuting crimes against older people*, London: CPS.
- CSCI (2011) *Assessment: Financial crime against vulnerable adults. For the Association of Chief Police Officers/Home Office/Department of Health*. London: Social Care Institute for Excellence.
- Davies, M., Harries, P., Cairns, D., Stanley, D., Gilhooly, M., Gilhooly, K., Nottley, E., Gilbert, A., Penhale, B & Hennessy, C. (2011) Factors used in the detection of elder financial abuse: a judgement and decision making study of social workers and their managers. *International Social Work*, 54(3): 404 - 420.
- Department of Health (DH) (2000) *No Secrets: Guidance on the development and implementation of Multi-Agency policies and procedures for the protection of vulnerable adults from abuse*. London: TSO.
- Department of Health (DH) (2008) *Safeguarding Adults: A Consultation on the review of the 'No Secrets' guidelines* London: TSO.
- Department of Health (DH) (2009) *Safeguarding Adults: report of the consultation on the review of 'No Secrets'*. London: TSO.
- Department of Health (DH) (2011) *Statement of Government policy on Adult Safeguarding* London: TSO (Gateway reference 16072)
- Financial Services Agency (2009a) *Banking Conduct of Business Sourcebook*. London: FSA
- Financial Services Agency (2009b) *Payment Services Regulations*. London: FSA
- Health and Social Care Information Centre (2011) *Annual Report*. London: TSO.
- Help the Aged (2007) *The Financial Abuse of Older People*, London: Help the Aged
- HM Government (2007) *Putting People First: A shared vision and commitment for the transformation of adult social care*. London: The Stationery Office
- House of Commons Health Committee (2004) *Second Report of Session 2003-04: Elder Abuse, Volume 1*. London: The Stationery Office
- <http://www.cps.gov.uk/publications/prosecution/index.html> [accessed 18/12/2010]
- Law Commission (2010) *Adult Social Care: consultation paper 192*, London: Law Commission
- Law Commission (2011) *Adult Social Care*. London: The Stationery Office
- Lord Chancellor's Department (1997) *Who decides? Making Decisions on behalf of Mentally Incapacitated Adults*, London: The Stationery Office
- Metlife (2011) *The Metlife Study of Elder Financial Abuse: Crimes of occasion, Desperation, and Predation against America's Elders*. Metlife Mature Market Institute/National Committee for Prevention of Elder Abuse/Virginia Polytechnic Institute and State University. Westport CT: Metlife Mature Market Institute.
- Nerenberg, L (2008) *Elder Abuse Prevention: Emerging Trends and Promising Strategies*. Springer: NY, NY
- O'Keeffe M., Hills, A., Doyle, M., McCreddie, C., Scholes, S., Constantine, R., Tinker, A., Manthorpe, J., Biggs, S. and Erens, B. (2007) *UK Study of Abuse and Neglect of Older People: Prevalence Survey Report*. London: Department of Health
- Office of the Public Guardian (2005a) *About your health, welfare or finance: who decides when you can't?* London: OPG.
- Office of the Public Guardian (2005b) *Making Decisions* Booklets, London: OPG
- Office of the Public Guardian (2006a) *Mental Capacity Act (2005) Code of Practice*, London: OPG.
- Office of the Public Guardian (2006b) *Being an Attorney under a Lasting Power of Attorney*, London: OPG (Available from: <http://www.publicguardian.gov.uk/decisions/being-attorney-lpa.htm> accessed: 19 Oct 2009)

- Patton, M.Q. (3rd 2002) *Qualitative research and evaluation methods*. Thousand Oaks, Sage.
- Penhale, B. (2003) Financial Abuse and charging for care: The views of Social Work and legal professionals. *Journal of Adult Protection* 5(2): 11 – 20.
- Penhale B and Parker J (2008) *Working with Vulnerable Adults*, London: Routledge.
- SCIE Report 39 (2011) *Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse*. London: Social Care Institute for Excellence with the Pan London Adult Safeguarding Editorial Board
- Scottish Government (2007) *Adult Support and Protection (Scotland) Act*: Holyrood: Edinburgh
- Sethi, D., Wood, S., Mitis, F., Bellis, M., Penhale, B., Marmolejo, I, I., Lowenstein, A., Manthorpe, G. & Ulvestad Kärki, F. (2011) *European report on preventing elder maltreatment*. Denmark: World Health Organisation.
- Silverman, D. (2001) *Interpreting Qualitative Data: Methods for analysing talk, text and interaction* (2nd Edition). London: Sage.
- Stevens, M. and Manthorpe, J. (2005) *POVA Referrals: the first 100*. London: Social Care Workforce Research Unit/Kings College London
- Wales Advisory Group (2000) *In Safe Hands. Implementing adult protection procedures in Wales* National Assembly for Wales / Home Office
-

Notes

1. This paper is based on the working paper: Stanley et al. (2011). The views expressed in this paper are those of the authors and do not necessarily represent the views of the ESRC or the New Dynamics of Ageing Programme.
2. Following completion of the fieldwork, in 2011 a pan-London multi-agency framework “Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse” was launched (see SCIE Report 39, 2011).