MONASH University
Medicine, Nursing and Health Sciences

GROUP OF EIGHT

For love or money: intergenerational management of older Victorians' assets

Protecting Elders' Assets Study

May 2011

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Acknowledgements

We wish to acknowledge the generous contributions of the following interviewees:

Ms Elizabeth Brophy, Private practice lawyer
Mr Steve Cowell, Manager, State Trustees
Mr Robert Franssen, Accountant, Pakenham Aged Care
Dr Robert Hall, General Practitioner, Wonthaggi
Mr Chris Harrison, Manager, Aged Mental Health Service, St Vincent's Health
Ms Poppy Hearn, Greek Welfare Association
Mr Neil Jenkins, Former owner and operator, Hallam Health Care residential home
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Mr Peter Noble, The Loddon Campaspie Community Legal Service
Ms Tanya Nolan, Advocate, Office of the Public Advocate
Mr Rod Petri, Team Leader, Aged Care Assessment Service, St Vincent's Health
Mr Russell Robertson, Director, O'Farrell Robertson McMahon, Accredited Wills & Estates Specialist
Ms Samantha Ronalds, Case Manager, Home and Community Care services, City of Greater Dandenong
Dr Jenny Schwarz, Geriatrician, Western Hospital
Ms Jenny Skapetis, Greek Welfare Association
Ms Janine Stevenson, Case Manager, Home and Community Care services, City of Greater Dandenong
Contributors who did not wish to be named (two)

The project was funded by State Trustees Limited.

This study of management of older Victorian's assets was conducted on behalf of State Trustees Limited by Eastern Health Clinical School, Monash University, Melbourne.

The report was written by Dr Christopher King, Associate Professor Jo Wainer, Dr Georgia Lowndes, Professor Peteris Darzins and Ms Kei Owada.

The report should be referenced as:
King C, Wainer J, Lowndes G, Darzins P, Owada K (2011) *For love or money: intergenerational management of older Victorians' assets,* Protecting Elders' Assets Study. Monash University, Eastern Health Clinical School, Melbourne.

ISBN: 978-0-9802900-8-0

Published by
Eastern Health Clinical School
Faculty of Medicine, Nursing and Health Sciences
Monash University

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Glossary of general terms

Unless otherwise indicated these definitions are based on: Inquiry into powers of attorney. Final report of the Victorian Parliament Law Reform Committee. August 2010.

Age Pension

The Age Pension is a Centrelink payment which ensures that people who have reached retirement age have adequate income for their retirement.

CALD

Culturally and Linguistically Diverse

Capacity (as in capacity to make decisions)

A person has capacity to make a decision if he or she has:

- the ability to understand the information relevant to making the decision;
- the ability to retain the relevant information;
- the ability to weigh up the relevant information; and
- the ability to communicate the decision in some way.

EPA

Enduring power of attorney.

Enduring Power of Attorney (financial)

A power of attorney made under part XIA of the Instruments Act 1958 (Vic). This power lasts or 'endures' when the principal has impaired decision-making capacity. A representative's powers under an enduring power of attorney (financial) are generally characterised as financial and legal powers.

Power of Attorney

A power of attorney made under section 5A of the Medical Treatment Act 1988 (Vic) which allows the representative to make decisions about the principal's medical treatment.

Guardianship order

An order made by the Victorian Civil and Administrative Tribunal (VCAT) appointing a guardian to make lifestyle and some health care decisions for a person with impaired decision-making capacity.

OPA

The Office of the Public Advocate.

POA

A Power of Attorney. An arrangement by which a principal appoints a representative to take actions and/or make decisions on his or her behalf.

PEAS

Protecting Elders' Assets Study

Represented person

This term refers to a person who is subject to a guardianship or administration order under the Guardianship and Administration Act 1986 (Vic).

Substitute decision-maker

A substitute decision-maker is a person who has legal authority to make decisions on behalf of someone else. Usually the law treats decisions of a substitute decision-maker as if they were made by the person themselves.

Will

A legal document that sets out how a person wishes their property to be distributed when they die.

VCAT

The Victorian Civil and Administrative Tribunal. This is a legal decision-making body, which is similar to a court but less formal. There are a number of different sections of VCAT, called 'lists' and these include the Guardianship List, which hears and decides upon applications made under the Guardianship and Administration Act 1986.

Executive Summary

For love or money: intergenerational management of older Victorians' assets is the fifth report of the Protecting Elders' Assets Study (PEAS) programme conducted since 2009 by researchers from Monash University, funded by State Trustees.

Completed research projects in the Protecting Elders' Assets Study programme have:

- Clarified the definition of financial elder abuse;
- Reviewed international data on financial elder abuse and policy responses;
- Determined that Australian data, and Victorian State data in particular, are inconsistent and held primarily in individual client records, and
- Collated the experiences of older non-English speaking and English-speaking groups and urban and rural groups about financial management and financial elder abuse.

The programme reports are:

1. *Financial abuse of elders: a review of the evidence (2009)*
2. *Prevalence of financial elder abuse in Victoria (2010)*
3. *Staying safe with money: the experience of older English speaking Victorians (2010)*
4. *Diversity and financial elder abuse in Victoria (2011)*
5. *For love or money: intergenerational management of older Victorians' assets (2011)*

This fifth project draws on data from interviews with 15 professionals from the health, legal, community and aged care service sectors to identify best and worst practices in financial management among older Victorians. It identifies patterns of abuse and opportunities for professional responses to avert or minimise the adverse consequences of abuse.

The current generation of older Victorians is called the Lucky Generation because they grew up in a world of greater opportunities than the one their parents endured, and they have set new records for longevity and accumulated wealth (Australian Bureau of Statistics 2009). They should be looking forward to a long, comfortable life free of want. Instead, they find themselves in a financial and legal dilemma. On the one hand they are exhorted to learn and practice risk management strategies in a pay-as-you-go economy to personally finance, plan and manage their own ageing project. On the other hand, they are conscious of normative expectations that parents should replicate some form of quasi-dynastic building behaviour in passing down their assets to the next generation. Where the rational decision to overturn norms that are irrelevant to new realities is not made, the environment for abuse of trust between the generations remains fertile.

The potential for mismanagement of older people's assets is on the rise due to projected growth in numbers of older people over the next three decades, their increasing wealth and the growing number of people with dementia. The current generation of older people are at risk of being represented as a 'social problem'. We need therefore to avoid making financial abuse victims themselves the problem. In many cases 'bad' decision making occurs in the absence of signposts to 'good' decision making. Whilst experts distinguish good from bad decision making, the fact that much decision making happens within the privacy of the family means that discussions over what is 'good' or 'bad' do not take place between experts and families. The consequences of 'bad' decisions are known too late to seek effective remedy if remedy is required. Intervention as a remedy is a topic for research. Assisting older people and their families adjust to changing realities in the relationships between individuals and their assets, and the group, is a goal shared by the professionals interviewed for this research project. Our interviewees estimated that three quarters of families take care of their older members within their capacity and within an environment of mutual love and trust. They suggested however, that 'triggers' for mismanagement are linked to the relative vulnerability of older people.

The first finding is that family structure and family relationships significantly impact on the capacity of older people to make rational financial decisions. Importantly, within an assumption of rational planning and access to professional advice, there is a set of rational principles to be observed and related steps to take. Older people are advised to take these steps to retain independent control of their assets so they can fund their extended old age and be protected if they lose their capacity to manage their financial and legal affairs.

Principles	Steps to take
Focused on the wellbeing of the older person	Communicate openly and transparently with children over plans
Based on confidence and trust	Seek good financial and legal advice
Open discussion of generational expectations	Obtain assessment of cognitive capacity prior to signing any legal documents
Plan for the future	Prepare a will
Supported decision-making leads to substitute decision-making	Appoint Enduring Powers of Attorney Financial and Medical
Accommodation transitions are managed in advance of a crisis	Think through future scenarios, even bad ones and be prepared for contingencies

Life is obviously more complex than this formula suggests. There are many policy, cultural and institutional impediments. However, once best practice is identified it is possible to work towards making it more accessible. This advice is rooted in the belief that individuals have an ethical responsibility to chart their own destiny, advice which is incomprehensible to many of the older people in our previous studies, who maintain that "when you have family you do not need documents". This mainstream model diverges from the experiences and expectations of diverse communities for whom forward planning is either an unrealistic expectation or an alien concept.

The second finding is that there are many missteps that can be made along the pathway, often triggered by opportunities for large financial gains to be made for relatively low risk. The clearest example is the older person's home. This is often the largest and most visible asset that can be separated from its owner. The sense of entitlement felt by family members and others towards older people's assets is outstanding. Impatient children will actively seek to obtain an early inheritance, or will interfere in the parents' management of their assets to protect what they see as their entitlement. One of the most significant triggers for this form of mismanagement is the need to sell the house to cover the costs of residential accommodation bonds which may amount to hundreds of thousands of dollars. Current funding models for residential care could be linked to various forms of financial mismanagement and neglect.

The third finding identifies the range of intentionality towards older people's assets and how it is affected by the opportunities and risks for exploiting vulnerable older people for financial gain. Older Victorians are more vulnerable to mismanagement of their assets when they enter 'old old' age of 80 years and over. Interviewees identified vulnerabilities such as social isolation, estrangement from family, cognitive decline or chronic illness as risk factors for mismanagement of older people's assets by themselves and others. They described forms of mismanagement that ranged from unwise, innocent and incapacitated individual decision making, through unwise assisted decision making, abusive proxy decision making, to absolute predation. Those who fared worst found themselves stripped of all assets and living under state guardianship.

The people who have intentionally or otherwise separated them from their assets may be unaccountable either because their intentions have been unclear or current legislation and legal processes do not provide adequate protection against intentional mismanagement of a vulnerable group's assets, nor provide them with adequate reparations. When challenged, perpetrators often resort to rationalisations that devalue the rights and needs of the older person. The ageist assumptions underlying mismanagement should therefore be of serious concern.

The fourth finding identified best professional practice in identifying and dealing with financial elder abuse. This involves banks, professionals, institutions and community based multi-disciplinary care teams recognising their responsibilities towards older people and developing mechanisms to support their staff in identifying and responding to financial mismanagement. Our interviewees acknowledged the need to scrutinise their own professions for mismanagement. While old people have high levels of trust of professions, the service providers themselves are known to abuse the trust of older people for financial gain. The need for awareness of structural ageism among health, financial and aged care organisations was also noted, to the extent that residential care institutions can be seen as either a sanctuary for the vulnerable, or a site for their systematic abuse.

This project lays the foundations for developing recommendations for government regarding mechanisms for the prevention, detection and management of financial elder abuse.

Recommendations

This work contributes to the understanding of financial mismanagement between older persons and younger generations in Victoria, Australia. Our knowledgeable interviewees have painted a broad-brush picture of how the lynchpin of reciprocity in intergenerational exchanges needs to be strengthened to ensure a smooth transition of assets between generations. As a contribution to policy and institution building, we offer the following recommendations. In great part they support and endorse existing initiatives and their goals.

- The State Government and non-government organisations to broaden and increase access to the high quality, low cost and confidential financial advice service offered by Seniors Rights Victoria.
- Professional bodies for health, financial and legal practitioners to continue promoting education about financial mismanagement in professional development and service development curricula.
- Government and private sector funding agencies to support the conduct of research to identify cultural criteria for key aspects of intergenerational relations including trust, reciprocity, and individuality.
- Government, non-government and private sector organisations to extend support to institutions in recognising and redressing structural impediments to detecting and responding to financial and other forms of abuse of older persons.

Summary of findings

Older people's finances are best managed by the older people themselves provided they are able to do so. This ensures their assets are used to meet their practical requirements. It can also help ensure their desires are met with respect to less tangible matters, such as supporting their children and grandchildren or charities, both in life, and through their wills, after death.

People can plan ahead and put in place mechanisms for protecting themselves should their decision-making become impaired or should they lose decision-making capacity. One such mechanism is the Enduring Power of Attorney (EPA). When applied as intended EPAs permit others to effect the older person's wishes or, if these are not known, to make decisions in accordance with their values. Unfortunately, EPAs can also be used to perpetrate financial elder abuse.

Abuse is aided by some family arrangements that entail divesting the older person of assets so that they qualify for the old age pension.

Putting in place monitoring mechanisms for Enduring Powers of Attorney may result in the adverse unintended consequence of turning people away from making EPAs because they are perceived to be too onerous.

Forward planning, including the use of carefully crafted EPAs that require decision-making to be made jointly by two or even three attorneys, can protect against financial elder abuse being perpetrated by attorneys. This may be unwieldy in implementation. Further, putting in place mechanisms to protect against abuse by individual attorneys can be interpreted as showing a lack of trust. Such demonstration of potential lack of trust in settings where trust could be expected to be present can be hurtful. Hence, people may choose not to embark on explicit forward financial planning.

There are many other reasons why people eschew forward financial planning. Prominent amongst these are cultural matters where there is a lack of acceptance of formal financial management of "family" finances (regarding the older persons' assets as the property of the family not of the older individuals). Practical difficulties with obtaining trusted independent, confidential, professional advice to effect financial planning is also a contributor, especially in some rural settings and for some non-English speaking groups. The cost of planning is a barrier, especially for older people with few assets and dependence on the old-age pension.

Paradoxically, those people who embark on, and complete, advanced financial planning and who put in place protective mechanisms may be those who need the least help. The awareness they have of their overall situation, which motivates them to plan ahead, together with their ability to make plans and to find and appoint attorneys show their situations are quite different from those people with few personal resources, limited social (including family) support, who may lack the wherewithal to participate in and even to pay the fees required for planning.

Best practice

Our interviewees identified a best practice pathway for older people that includes three steps:

1. First of all obtain professional advice on how to plan and finance your lifestyle transitions over the coming years. The principal consideration is to manage your assets in order to meet all your needs up to your death. Whatever assets remain can be distributed among selected beneficiaries in a will.
2. Then obtain professional advice on how to best use legal structures in order to maintain control over your assets and put them to their intended use, and through instruments such as Enduring Power of Attorney ensure that should you lose capacity to administer your own financial affairs, your welfare is in trusted hands.
3. Finally, find a person who can be trusted to manage your assets in your best interests, and be prepared to pay for it if necessary.

Best practice is focused on the wellbeing of the older person, is based on confidence and trust, includes open discussion of generational expectations, depends on planning for the future, has a continuum of supported decision-making leading to substitute decision-making, accommodation transitions are managed in advance of a crisis, and checks and balances reduce risk by ensuring oversight of decisions.

The frontline service providers who informed this report see many older people who either slide into making poor decisions as their capacity wavers, or whose family slips in their intentions to provide care as circumstances change.

Unintended mismanagement

Like anyone else, older people can make poor decisions. They may do this of their own accord, or may be led astray by others. The latter becomes more likely if they have impaired decision-making, and thus do not appreciate that they are making poor decisions or that they are being taken advantage of. Social isolation that leaves them without the opportunity to readily discuss their affairs with friends and contemporaries is also a risk factor for financial elder abuse.

Older people can lose their ability to manage their finances. This is particularly so if their thinking, memory and judgment deteriorate, and to a lesser extent if they become physically incapacitated. At the extreme of this loss of ability to manage lies a lack of legal decision-making capacity.

Many forms of unintended mismanagement of the assets of older people were identified in this study, along with the mechanisms that support this slide from taking care to taking the assets.

Separation from assets
Usually in return for promises of care.

Capacity and competence
Assessment of capacity can be exploited to take control of assets; when the older person is neither capable nor competent but still in charge, they can leave chaos in their wake. EPAs signed without proof of capacity are open to abuse. However, an EPA signed with proof of capacity can be abused if the donor subsequently loses competency. A review process was discussed.

Triggers for mismanagement
Crises precipitate decisions/actions; older people are vulnerable and unprotected; accountability and restitution rarely available.

Generational expectations
Assets exchanged for care; there is a sense of it being 'family money'; money = love.

Vulnerability
Families may be unaware of residential care bonds until they need to find care, and then they can be rushed/panicked into making poor decisions; rural people have debt on farms; women live longer and the current generation of older women have less financial experience than men; love pressures the giving away of assets/guarantees to family; there may be generations of abuse; and some older people may be too poor to feel they can pay for professional advice.

Culture
Financial mismanagement takes second priority to interpersonal and intergenerational relations management for some cultural groups; family is their main asset and some older people would be helpless without their support, so do not resist melding of assets.

Family structures
Becoming more complex, with divorce, re-marriage, multiple sets of children.

Meaning of assets
Older people may allow the taking of assets by their children within the context of pre-inheritance, or trade off for care and affection; there may be different views of entitlement between the generations. Assets may have non-financial value, such as memories, love, comfort; the more solvent the asset, the more easily it can be misappropriated.

Living alone
Up to 30% of older people live alone, a majority are women, and three quarters own their own home; in 2006, the peak age for people living alone was 55–59 years and in 2031 this is projected to have shifted to 80–84 years.

Love
Children can use love for themselves and grandchildren as levers to get access to parental assets; parents provide shelter and care for troubled adult children, who may then abuse them and expose them to violence, police, drugs, mental illness.

Non-family
Relationships with non-family can be more sustaining than with the family; non-family relationships can slide from friendship to exploitation.

Family farm
Transfer of the farm to the farming child may lead to tensions with other siblings; a child may work for little compensation for years in expectation of inheriting the farm; the need for parents to fund their retirement may require selling the farm which runs against family and farming tradition and the implied contract with child/children.

Intent
Ranges from unintentional, through intentional to criminal intent and responses need to be proportionate to intention; there may be assumed consent.

Rationalisations of mismanagement
Children who take their parent's assets or prevent them from using them feel justified in doing so; justification is easier to maintain when there is no accountability.

Not all financial mismanagement of the assets of older people is as difficult to pin down as the practices identified above. Some of it is deliberate and predatory and relies on the inability of older persons to protect themselves.

Intended mismanagement

Intended mismanagement is carried out when older people are isolated, unprotected and failing in cognitive capacity. It is clearly wrong and may involve coercion of the older person through love or fear or confusion. It may involve professionals abusing their relationship by offering friendship. Financial elder abuse may be motivated by pay-back for previous abuses.

An outstanding finding from interviewees is the sense of entitlement felt by others towards older people's assets. Impatient children will actively seek to obtain an early inheritance, or will interfere in the parents' management of their assets to protect what they see as their entitlement, often to the detriment of the actual owner of the assets. These sentiments extend to non-family and relative strangers who appear to believe they have a right to a childless older person's assets.

The worst abuse was described as strip-mining, the deliberate stripping of all assets and dumping of the older person in pension-only care. This is similar to 'dump and run' in which an older person is put into pension-only care and the family then disappear. The family may also use up assets to avoid residential care fees or remove assets to avoid residential care fees.

The worst types of intended mismanagement involve coercion and exploitation. Family members may invoke professionals to help them gain control of assets. They may make threats of violence that prevent others from acting to protect an older person. At a lesser level, signing withdrawals and cheques may be safe when the older person is competent and unsafe when that changes, but the practice remains.

Mismanagement by service providers was also identified by our interviewees. Many of the providers of services to older people (personal carers, solicitors, church based agencies, trustee companies, doctors) were named as having some members who use their position to gain access to the assets of older people.

Our interviewees were also able to identify ways in which they and the organisations they worked with responded to financial mismanagement, and they suggested ways in which other relevant organisations can respond protectively as well.

Best professional practice

Banks were identified as being in a good position to monitor transactions and identify potentially abusive practices. In order to do this they need protocols and the policy environment to support them (Australian Bankers' Association 2010). It was noted that internet and ATM banking for older people is usually done by trusted others and is wide open to mismanagement.

Detecting and dealing with mismanagement requires access to the private world of the older person and very few professionals have this access. As a result if misuse is detected it is usually after the fact. Centrelink may identify abuse at times of crisis such as entering supported accommodation when an assets test is applied.

The professionals in this study thought that punitive responses were rarely helpful, but that some institutional practices could be modified to support the identification and amelioration of abuse:

- Abuse may become apparent when an older person enters hospital, but hospitals are not set up to deal with it.
- Government policies on residential aged care make large bonds necessary to fund the sector and these provide incentives to strip older people of their assets to avoid payment.
- Living at home may provide a very restricted quality of life, yet is the policy preference of governments.
- Residential care can protect older people from asset stripping by family or others.
- Even long-established migrant groups need specific support as language and cultural skills revert with age.
- Migrant groups may prefer to keep it in the family, but must have access to appropriate alternatives.

Multidisciplinary and multisectoral opportunities for intervention were identified, and examples given. Social workers are well placed to detect and respond to financial elder abuse, but this must involve senior workers as it is complex to manage. Multi-disciplinary Aged Psychiatric Assessment Teams (APAT) are pro-active and have access to older people with cognitive impairment. APAT and several other organisations now have clear procedures for intervention.

There were ethical challenges identified for some sectors, for example solicitors are sometimes asked by their clients to advise how to obtain access to an older person's assets.

The professionals who provided the data for this study noted that the 'Lucky generation' of older people are reluctant to personally engage with an issue that challenges their beliefs and values around intergenerational solidarity and the integrity of the family. In some aspects, the realisation that members of one generation can abuse a relationship based on trust can trigger an existential crisis.

The current generation is the first generation of older people to be considered a 'social problem'. The trap of making the victims the problem must be avoided. We are mindful that people assessed by experts as vulnerable may not feel personally vulnerable. The PEAS research has addressed this issue in *Staying safe with money and Diversity and financial elder abuse.*

In many cases 'bad' decision making occurs in the absence of signposts to 'good' decision making. Whilst experts can distinguish good from bad decision making, the fact that much decision making happens within the privacy of the family means the consequences, many of which eventually become public issues, are known too late to restore the older person to the dignity of sufficient assets to support their extended old age.

Our interviewees acknowledged the need to scrutinise their own professions for mismanagement. While older people demonstrate high levels of trust of professions, service providers are known to abuse the trust of older people for financial gain. The need for awareness of structural ageism among health, financial and aged care organsations was also noted, to the extent that residential care institutions can be seen as either a sanctuary for the vulnerable, or a site for their systematic abuse.

The multi-dimensional problem of financial elder abuse seems to require multiple approaches and strategies spanning various social groups in terms of education, and the activities of professionals, institutions and State and Federal Governments. Doing nothing, ignoring financial elder abuse, is not an option. Clearly governments understand this and are cautiously becoming involved in the development and implementation of approaches that aim to decrease financial elder abuse. While there is one law for all Australians, different protective mechanisms are likely to be required in different Australian cultural groups.

Financial planning may have deep meaning that extends beyond narrow financial matters. Transfers between generations occur at many different levels. Transfers may be non-contemporaneous, such as when assets are transferred in advance of any future benefit, such as the provision of hands-on-physical care. This must be understood in order to motivate society and people as individuals to pay heed to the need to address financial matters properly. The spectre of unwelcome monitoring by the state and interference in or, even, control of private matters is an issue to be addressed. This report on *For love or money* contributes to further developments in education, awareness raising and professional development, and adds to the foundation of evidence building toward policy and programme settings that will help older people stay safe with their money.

1. Introduction

The potential for mismanagement of older people's assets is bound to rise due to a projected growth in numbers of older people in the next three decades, the increased wealth of older Australians and the growing number of people with dementia. In 2005–2006 the mean net worth of households with a reference person aged 65 years and over was $659,000 (Australian Institute of Health and Welfare 2007:44), while the incidence of dementia is projected to rise from 200,000 in 2005 to 730,000 new cases in 2050 (Access Economics 2009). The spectre of asset rich and cognitively poor older people at risk of losing their assets demands examination.

Our research (Wainer, Darzins et al. 2010:14) confirms that vulnerability to financial mismanagement of assets is highest in the 'old old' segment of Australian population aged 80 and over. These data closely approximate those of Procopis (2007)[1].This group is the fastest growing segment of the Australian ageing population. Between 1990 and 2010, the proportion of Australia's population aged 65 years and over increased from 11.1% to 13.6%. In the same period, the proportion of population aged 85 years and over doubled from 0.9% of the population to 1.8% of the total population. Between 2010 and 2015 the proportion of people aged 65 years and over is projected to increase by 2.8% from 13.6% to 16.4% (Australian Bureau of Statistics 2010) while the 85 and older age group is predicted to increase by 4.2% from 1.8% to 6% between 2010 and 2050 (Commonwealth of Australia 2010:31). The For love or money report is focused on understanding the realities behind these numbers. The outcomes will contribute knowledge to help protect this growing segment of vulnerable Victorians against financial mismanagement.

The current generation of older Australians is unique. Mass ageing has brought changes in the social, cultural, political and economic environments over the last 60–70 years. Contemporary older Australians possess considerable financial assets. In an environment of self provision they need the skills of planning and management to ensure these assets are used to meet their needs. According to mortality estimates, an individual male aged 67 in 2010 needs to plan a lifecourse for the next 17.6 years and for a woman 20.4 years (Commonwealth of Australia 2010:7).

The Age Discrimination Act 2004 addresses Australia's obligations under a range of international human rights instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In addition, Australia has obligations under the UN endorsed Principles for Older Persons. These legal rational processes are designed to strengthen the rights of the older citizen, and to some extent substitute corporate trust for interpersonal trust. This involves risk management by old people and their families interacting with expert systems in health, finance, legal and aged care domains.

These new realities do not always mesh with the expectations of a generation that assumed they would exchange, through inheritance, their accumulated assets in return for care and support from their children. These expectations have been disrupted through introduction of a new intergenerational contract (Andrews 2001; Costello and Australian Treasury 2002). Olsberg (2005) for one points to the irony in a social contract that promises a collective share in the fruits of the Australian Dream while ignoring the currents of individualisation within the family. She notes that:

> *What has been perceived as a simple exchange relationship between taxpayers and the state, the social contract, has now been broken. Governments can be substitutes for family security, but only ever poor ones. And at the same time the whole notion of a strong traditional family structure has also disappeared (Olsberg and Winters 2005:84).*

Patterns of inter-generational transfers based on the values of reciprocity and interdependency are giving way to intra-generational self-provision based on exchanging accumulated assets for services in the market place. Older Victorians are now obliged to first provide for themselves before beginning to think about intergenerational obligations. From a policy perspective, these new demands mesh with the fiscal definition of intergenerational relations (Costello and Australian Treasury 2002). However, a 'fiscal intergenerational' argument needs to be balanced with a 'social intergenerational' argument that emphasises the importance of the principle of reciprocity underlying the intergenerational contract.

Here we would like to define assets as having material and non-material status. We premise that exchanges of assets create and maintain social relationships. These exchanges are subtle and complex. For our purposes, material assets such as cash may be exchanged for material assets such as food, or non-material assets such as love. Similarly, non-material assets such as love can be exchanged for other non-material assets such as devotion. Each exchange affirms relationships and shared meanings. The dilemma for older Victorians lies in the necessity of economic exchange with a zero sum on the one hand, and unequal social exchanges on the other.

1 It is also likely that older people are more cognitively impaired and more likely to be in isolated or care situations that prevent financial mismanagement or abuse being observed.

The Federal inquiry into older people and the law (Commonwealth of Australia 2007) noted that although older people are at lower risk of becoming victims of criminal activity than other segments of the population, they do have a higher fear of crime than the general population. This finding indicates that a segment of the Victorian population feels vulnerable to non-specific forms of crime. The specific crimes to which they are in fact vulnerable are fraud and financial crime. From these crimes they can suffer severely:

> *Not only can a comfortable lifestyle collapse, but they may not have the time or the opportunity for financial recovery. A blow to financial security is often a permanent and life-threatening setback, characterised by fear, lack of trust, and is often the onset of acute and chronic anxiety. Loss of assets may ruin a person's otherwise well-planned retirement... the personal, emotional and psychological consequences of fraud for older persons are much more profound than for younger persons (Commonwealth of Australia 2007:12).*

The need to strengthen the capacities of older people to protect themselves against mismanagement of their assets has become an individual rights issue heightened by the need to empower older people to use legal, financial and medical mechanisms to ensure they can meet their needs for accommodation, health care, and aged care in later life.

In a world of shrinking safety nets and increased dependency on the market, old people are increasingly expected to make use of their accumulated assets to help fund their old age (Productivity Commission 2011). To lose control of one's assets through poor management, acting on poor advice, or through intentional acts of other people, can lead to becoming in effect a ward of the state and slipping into the status of 'victim'. Structural ageism certainly does not contribute to addressing 'ageist attitudes' that appear to underlie acts of mismanagement of older persons' assets. As noted in the inquiry into older people and the law (Commonwealth of Australia 2007:3) a need for extraordinary forms of protection of older people elides their status as citizens with rights:

> *...older people are citizens of Australia the same as any others. They are covered by the laws of Australia the same as any other citizens. We do not see that they should be categorised and discriminated against, if you like even if it is positive discrimination, in the sense of categorising them as older people with special needs and interests as if they were less than full citizens.*

In the inquiry into older people and the law report, the Victorian Government confirmed that financial mismanagement is a complex issue and is perpetrated against older people in a range of ways, including:

- Illegal acts;
- Acts which are unfortunate but not illegal;
- Acts that occur because of an older person's diminished capacity to understand the circumstances of the event;
- Acts which are not deliberate nor have malicious intention yet are detrimental to the older person; and
- Failure to act in a timely manner to protect an older person's interests.

These criteria are incorporated in our own data collection framework designed to identify financial management ranging from best practice in managing an older person's assets, to absolute intent to strip the older person of their assets. Coincidentally confirming the complexity and murkiness of our own data to date, the Victorian Government also added (Commonwealth of Australia 2007:14):

> *… it can be difficult to determine whether a direct and exploitative act has occurred or whether the action was an unwise, but legitimate financial decision, or simply negligence. Consequently the perspective of both the older person and the individual involved in perpetrating certain behaviours needs to be considered when responding to alleged cases of financial abuse.*

This *For love or money* project views the management of older Victorians' assets in the context of intergenerational transfers through the lens of professional service providers. Our earlier finding (Wainer, Darzins et al. 2010) that victims of financial mismanagement are mostly in the 75–89 years age range possibly reflects a stronger interaction of ingredients underlying the most serious and seemingly sociopathic instances of elder abuse, since the extreme cases are the most likely to be confirmed. As our expert interviewees noted, these are the clear cut cases that result in prosecution of perpetrators and return of the unlawfully obtained assets to their rightful owner.

The challenge for professionals is to grasp the subtle and complex exchanges of objects between generations that have shared meanings. If exchanges are reciprocal, they confirm trust and have social consequences within the family, but when exchanges are not reciprocal, consequences such as financial mismanagement emerge as public issues.

In order to comply with international covenants, the State of Victoria needs to help older citizens' protect their assets. The effect is to highlight the interdependencies underlying the efforts of adjacent generations simultaneously trying to satisfy their needs for material and personal independence. From this perspective, we can begin to understand competing notions of entitlement to the older family member's assets in Victorian families.

2. Background to the study

Victorians are living longer and have accumulated assets that they need to manage in their retirement. As a measure of their relative financial status, a prospective 1% sample of so-called part-rate age pensioners had their assets re-examined 4.5 years after being granted an Age Pension in 1999–2000. At June 2004, 30% on average had increased their total assets in real terms. Close to 3% had accumulated sufficient wealth to become ineligible for an Age Pension (Lim-Applegate, McLean et al. 2007). In terms of dollars, as noted in our introduction, the mean net worth of households with a reference person aged 65 years and over in 2005-2006 was $659,000 (Australian Institute of Health and Welfare 2007:44).[2]

The Australian Mutual Provident and National Centre for Social and Economic Modelling Income and Wealth Report (2003) notes the wealth available for inheritance by Australia's Baby Boomers is projected to rise from $8.8 billion per annum in 2000 to more than $70 billion in 2030. Parents want, and are increasingly required, to draw down these assets to support themselves in old age, and many also want to support their children and provide them with an inheritance. Children expect to inherit their parents' wealth and understand that any money spent by their parents leaves less for them. They are also aware of competing claims of entitlement to the family fortune from siblings and other relatives. The stakes are high as indicated by rising awareness of intentional financial mismanagement of older people's assets. Debate continues over appropriate policy responses.

Current Victorian policy promotion of advocacy, support, awareness raising and education indicates a preference for ameliorative approaches (Office of Senior Victorians 2009). Tilse et al. (2005) argue that less attention should be paid to the potential abuse by administrators of old people's assets and more on the complexities facing older people and their informal carers in managing the older person's assets. Accordingly, we argue that understanding family expectations around the notion of assets in common can contribute to an understanding of key triggers to financial mismanagement within the family and development of supportive interventions.

Current data suggest professionals are in varying levels of readiness to intervene in cases of mismanagement of Victorians' assets. Tilse et al. (2002) suggest that knowledge of elder law among accountants, solicitors and legal advisors is currently confined to their own areas of specialised interests. Public surveys indicate divergence of attitudes among social groups and professionals on what should be considered mistreatment or exploitation of older persons (Hudson and Carlson 1998; Helmes and Cuevas 2007). Local collaborations among professionals in healthcare, legal, financial and political sectors, with and without community input have given rise to disparate and only locally relevant strategies (Setterlund, Wilson et al. 2003).

A strategy to detect, identify and intervene in individual instances where an older person's rights have been violated or are about to be violated, may be seen by some as a moral crusade by professions. Visions of doors being figuratively broken down in the pursuit of administrators who have deprived a donor of their right to due process and protection from harm, do not sit well with public health or human rights principles. Such initiatives are also fraught with their potential to trigger idealist or paternalistic regulation and control of family finances. Responses and decisions are collectively experienced at only a superficial level. To be effective, they need to resonate with the lived realities of individuals.

Our research has found that the mean age of victims of financial mismanagement is 80, women are more likely than men to be abused, and the perpetrator is most likely to be a son or daughter (Wainer, Darzins et al. 2010). We also found that the majority of older people trust their spouse or children to take care of them if they become unable to manage their own affairs (Wainer, Owada et al. 2010; Wainer, Owada et al. 2011). The confluence of these contradictory trends results in adverse outcomes for some. Conflicting data on older people's trust of family members with financial management suggest some older people may turn to particular members of the family only as a last resort.

Older (particularly non-English speaking) parents increasingly involve their children in these tasks as they age. Our data (Wainer, Owada et al. 2010; Wainer, Owada et al. 2011) indicate a very high expectation among older Australians that their children and other family (75%) will help them with paperwork, banking and paying bills as they grow older. According to our data, older people rely most on their families for financial management advice, followed by financial advisors, banks and accountants (Figure 1).

We know little of how these arrangements have come into being, how they are sustained, if they meet the needs of all parties involved, and if so, how. These details remain in the private sphere of the contemporary family. We may cynically recite the adage "when there's money about the family come calling". However, we do not suggest that the majority of older Australians are at risk of financial mismanagement from their family members. Instead, we observe that the majority of Australian families are engaged in intergenerational exchanges that on surface appear to be reciprocal in nature.

Through analysis of professionals' opinions on financial decision making practices among older Victorians, this project aims to identify principles of best practice in financial management of older Victorians' assets and describe the situations in which different forms of financial mismanagement arise.

2 These findings do not take into account the later effect of the global financial crisis that led to devaluations of assets such as shares, superannuation and private real estate.

3. Analytical framework

For a person in an exchange, what [he] gives may be a cost to [him], just as what [he] gets may be a reward, and [his] behaviour changes less as the difference of the two, profit, tends to a maximum (Homans 1958:our brackets).

We seek to understand the actions of members of generations according to their social, cultural, political and economic situations. Family members and proxies may be motivated by 'duty' to assist an older person to manage his or her assets. Similarly, an older person may be motivated to transfer assets to family members, proxies, or other non-family. Our first point of clarification is to distinguish between abuse where there is an 'implication of trust', and abuse involving relative strangers (Commonwealth of Australia 2007:4). Thus, in our analysis we distinguish between mismanagement that involves intimates and family members on the one hand and opportunistic and potentially criminal mismanagement by perpetrators who are not family members or intimates on the other. This distinction allows us to test two potentially complementary frameworks of understanding.

The lifecourse and intergenerational exchange

To make sense of how generational expectations of asset transfers subsequently influence asset management practices, we draw on a range of ideas about practices of asset management and intergenerational transfers. Adjacent generations do not necessarily share the same beliefs about the conditions under which transfers take place. We view ageing, generations and intergenerational transfers as if on a screen stretching from the end of WWII to the present against a background of changing social, cultural, political and economic conditions.

The significance of generations in maintaining social stability through time was recognised by Mannheim (1952) who argued generations are formed through their collective experiences of the same historical set of cultural and political events rather than just their chronological age. Managing the handover from one generation to the next of power and access to resources can lead to intergenerational conflict (Hareven 1994).

The so-called 'Lucky generation' of Australians born 1925 to 1945 developed norms of interdependency and reciprocity in familial relationships. They are referred to as the Lucky Generation because although they experienced the Great Depression and World War II they had an easier time than their parents. They did not live through World War I or have to make ends meet during the Depression, and as young adults they experienced full employment and prosperity during the post-World War II economic boom. In 2006, the Lucky Generation had the highest proportion of members born overseas. Now aged between 65 and 85, they are typified by conformity, conservatism and adherence to traditional family values. Through their shared experiences of post war economic prosperity and expanding notions of citizenship they achieved material and emotional independence from the preceding generation (Australian Bureau of Statistics 2009).

Their children, the Baby Boom generation (born from 1946 to 1965) were born into post-war economic prosperity, full employment, the welfare state and access to free higher education. They grew up in the international environment of the Korean War, the Vietnam War and the Cold War. Apparently taking for granted the economic and emotional independence their parents had already won from their own parents, they emphasised their independence through their freedom to create new ways of living. Their characteristics range from experimental, individualistic, free spirited, social cause oriented among those born in the immediate post-war boom, to less optimistic, pragmatic and generally cynical among those born after 1954 (Australian Bureau of Statistics 2009).

Those born from 1965 grew up during the retreat of the welfare state, the introduction of neo-liberal economic and social policies and expectations of self-reliance and self-provision. This generation may be considered 'needy' in relation to their forebears. They suffer career anxiety in a deregulated work market, they have limited access to housing markets and they enjoy little support from family. They are more individualised than their parents. Personal agency and choice are embellished with normative overtones: "In failing to make the right 'choices' individuals have no one to blame but themselves" (Brannen 2006:148).

These significant cultural differences between generations are reflected in their attitudes towards other generations. Whilst the current baby boom generation has shrinking expectations of being supported by their own children and vice versa, they maintain expectations of inheriting their parents' property. However, as exploratory research by Olsberg indicates, these sentiments are not necessarily reciprocated by their parents (Olsberg and Winters 2005). A prolonged dynamic is likely between traditional notions of parental obligations and self reliance. The persistence of this dynamic is understood by Brannen (2006) in terms of generational cultures of transmission.

Brannen argues that families have a 'family habitus' or habituated predispositions (Bourdieu 1990) lived as shared 'commonsense behaviour' that is passed on from one generation to the next. Thus, each family has a story to tell about meanings surrounding the transfer of material and non-material assets between generations. Each generation defines and redefines the familial culture of transmission through the acts of transmission its members make. Nevertheless, in terms of who gives what to whom and in what circumstances, Brannen notes (2006:149):

> *The transfers which family members make and the meanings they give to ideas of giving and receiving within families are shaped in context – at particular life course phases and in particular historical conditions. Moreover accounts about intergenerational relations are also given from the vantage points… as receivers or givers of resources. Thus the aim here has been to make links between a number of levels: the family level in which intergenerational transfers are made (or not); the individual level in which family members give meaning to family obligations in relation to life course needs; and the wider structural or historical level.*

Olsberg (2005) notes that changes in patterns of housing tenure and family relationships in Australia already challenge traditional notions of old age and family obligations. Her research demonstrates that home ownership is seen by older men and women as the conduit to greater possibilities for satisfactory ageing. Whether to sell and spend, or sell and move to a location with better lifestyle opportunities, for many respondents the prevailing attitude was the same: after years of hard work, they have earned the right to enjoy the fruits of their labour in any way they choose. In many cases, people are prepared to use their greatest asset, the family home, to achieve those desires.

There are therefore tensions between generations in terms of their usually shared expectations that older persons will transfer their assets to their children, the sometimes shared expectations that children will reciprocate by providing support and care for their parents, and the relatively new proposition that before meeting their children's expectations of asset transfer, older people must first use their assets to finance their extended old age. These expectations are being overtaken by changes that are driven not only by user pays policy, but cultural changes in the ageing population.

> *There are strong indications that the expectations of Baby Boomers, and of their children the Generation X-ers, that they will inherit the family home of older Australians will not be realised. Desires for independence, flexibility, consumer and lifestyle choices now take precedence for most Australians aged over 50 years. And increasing longevity and user-pays policies for health and residential care will place what might be unexpected and crippling burdens upon the retirement savings and home equity of the war generation and so too on their Baby Boomer children. The long standing notion of 'gerosocial succession' or of an 'intergenerational contract', a set of norms defining expectations and obligations in which the family is expected to provide financial aid and support that can be passed on to second and third generations is now under strain. (Olsberg 2006).*

Probate statistics may indicate a decline in the numbers of bequeathals from older to younger generations, as well as the amounts involved and thereby a rising disinclination or inability to pass on assets. According to Olsberg and others however, the attitudes of many older men and women towards inheritance have definitely shifted from what previously would have been considered 'the right thing to do' in terms of obligations and responsibilities to their children. The data strongly suggest that many older people's attitudes have taken on more of those of their Baby Boomer children; that is "put yourself first". The scale of this cultural shift is documented and discussed by Featherstone in the UK (Featherstone and Hepworth 1995) and Bernard Salt in Australia (Salt 2003). It is an open question whether the younger generation will commit to caring for their parents in old age if the parents have no assets left at the end.

Putting yourself first requires considerable ability to choose among alternatives in constructing an individualistic and unique lifecourse trajectory. To keep abreast of change and complexity, older people must develop and maintain their skills in using the range of legal, medical and financial instruments at their disposal. They need to use these instruments to chart their lives through the multiple connecting mazes of intra- and intergenerational memories, the strengths and weaknesses of cross-generational personal relationships, the reckonings of who deserves what and who does not, and battles over legitimate succession rights.

Material and non-material transfers carry meanings shared by givers and receivers. In families, gifts carry with them sufficient translational value to enact expressions of obligation, love or concern. Therefore, regular intergenerational transfers should be seen as signs of intergenerational solidarity. However, if transfers are not occurring according to generational expectations, it may then be appropriate to ask why it is so. Turner (1998) argues that the appropriate focus for intergenerational relations is not necessarily the parent-child relationship, but non-familial structures of age-related conflict and generational differences in lifestyle and economic power. Ultimately, we refer to this level of analysis to explain the institutional constraints within which people act, but necessarily restrict our analysis to the data we have collected.

New strategies are needed to ensure an orderly succession of generations. Changes in the political, economic and social environments namely, devolution of responsibility from the State to the individual, expectations of self provision and increasing individualisation have shifted the once implicitly understood terms of intergenerational obligations. The new realities need to be made transparent and understandable and safeguarded through system checks and balances and the creation of appropriate rules and conditions. However, this environmental shift is yet poorly understood among families. It also raises questions over the extent to which it is 'familial' in nature, since 'experts' are required to redefine the relations between the generations. For example, below we refer to unintentional mismanagement as a broad grey area populated by lay, popular and professional definitions of what constitutes a normative relationship.

We will discuss below serious hotspots of financial mismanagement across Victoria as well as the distribution of actual and potential cases. Our previous research confirms that the epidemiology of the issue is uncoordinated, therefore we cannot refer to knowledge of the social, cultural, economic or geographical clustering of known cases. However, broader categories identified in this project reflect some environmental factors in rural and urban contexts across Victoria.

Routine activities theory

Financial mismanagement practices have been explained through theories that point either to individual attributes or to environmental characteristics. Psycho-pathological or intra-individual approaches emphasise the characteristics of both 'perpetrator' and 'victim' to explain elder abuse. Routine activities theory provides a sub-framework that may complement our major framework of intergenerational transfers.

While theories of intergenerational transfers situate actors in relation to historically given resources and constraints, routine activities theory directs attention to three constant elements that must be present for a deviant act to occur (Felson and Cohen 1980):

- an available and suitable target;
- a motivated offender; and
- absence of an authority figure to prevent the crime from happening.

This perspective shares its genesis with formal theories of rational choice (Esser 1993). According to this perspective, different motives or preferences will result in different evaluations of the situation, and thus in different behavioural responses to situational changes. Motives, such as calculated financial gain, or caring for a parent are therefore necessary for predicting the effect of such situational or contextual changes. A premise of routine activities theory is that crime is mostly petty and almost mundane. While the value of assets in cases of mismanagement can run into millions of dollars, the principles of routine activities theory regarding the need for oversight by a competent authority and supervision to deter opportunistic mismanagement remain useful.

As Setterlund (2007) notes, the value of routine activities theory lies in developing prevention strategies that focus on everyday activities. Setterlund counsels on the preventive importance of both capable 'guardians' to oversee family-asset management, and the need for improved financial awareness, skills and probity in community living older people, and agencies assisting older people to manage their financial assets.

This approach has difficulties because it relies on rational human conduct to improve the capacities of older people to negotiate a *laissez-faire* economy, and to explain the potential conduct of a perpetrator of a *laissez-faire* crime against older people. In other words, it does not promote sociality among families. Instead it opposes rational actors, one protecting itself against the predations of the other.

Routine activities theory explains actions in relation to opportunities and risk, but, it does not link our analysis into the complex of intergenerational relations in which the questions of who gives what to whom and in what circumstances are played out. Harnessing routine activities theory to an intergenerational framework of analysis increases our ability to tease out differing levels of intentionality underlying mismanagement of assets and distinguish between mismanagement and abuse.

4. Aim

The aim of the PEAS project is to identify best practice in managing older people's assets in the context of intergenerational asset transfers. The project outputs contribute knowledge on the financing of old age and transferring wealth between generations as conflicting objectives. In Victoria, assets may not necessarily flow from older to younger generations as older individuals may be obliged to use up all their assets in providing for their own old age.

Older individuals are compelled to make rational choices among options for resourcing their remaining years, and meet their intergenerational obligations. Typically, trusted familiars, professions, service providers and institutions are drawn upon in making these decisions. Abuse of this process occurs when trusted parties break the bond of trust for personal gain at the expense of the older person.

We therefore assembled cases of management of elders' assets from professionals, service providers and advocates whose clients include older people. The cases chosen by our interviewees illustrate their views on the outcomes of practices along a continuum of intergenerational asset management ranging from exemplary to catastrophic.

Contextual analysis of the collected cases contributed to modelling best practice in intergenerational asset transfer with reference to the legislative and institutional framework of elder abuse prevention.

5. Methods

A qualitative research design was used. A sample of experts was purposively selected based on services identified by State Trustees that provide specific support services for older people. These services were selected on the basis of their location and the variety in the services they provide. Legal services were split between private solicitors and community solicitors. Office of the Public Advocate (OPA), State Trustees, and Home And Community Care (HACC) are state funded. Aged Care Assessment Teams (ACAT), Aged Care Assessment Service (ACAS), and Aged Psychiatric Assessment Teams (APAT) are also usually government funded, although St Vincent's, a not-for-profit health service was also delivering the ACAT and APAT teams with whom we consulted. Geriatricians were working in state funded health settings. We also interviewed the former owner of a private residential care facility.

Expert interviewees were recruited through a network approach. We asked known key persons representing aged care, healthcare, the Greek community, legal, financial and advocacy fields to refer us to practitioners meeting our criteria. The selection criteria for interviewees were:

- Suitable qualifications and length of experience in the field of practice;
- Willingness to discuss cases in depth, and
- Ability to provide analysis of cases in terms of decision making in the context of intergenerational transfers.

Within the constraints of time and resources, we recruited 15 professionals from geriatric medicine, aged care accommodation, community aged care, aged care assessment, private law practice, community law practice, and aged advocacy. Interviewees' details are summarised in Appendix 2. We received an initial agreement to participate from a bank sector representative, but it was subsequently withdrawn due to bank policy on client confidentiality.

A semi-structured interview schedule was used to guide interviews lasting between 40 and 60 minutes. Interviewees were provided with definitions of financial elder abuse that distinguished between intentional abuse and unintentional abuse (see Appendix 3). Both definitions are necessarily formalised. Interviews were audio recorded, transcribed and thematically analysed using Nvivo 9 (QSR International Pty Ltd 2009). Ethical approval for the research was obtained from the Monash University Standing Committee on Ethical Research in Humans.

6. Results

The aim of our data collection was to gather expert opinions on best practice in the management of older people's assets in the context of intergenerational transfers. The emerging themes were grouped into categories of: best practice in asset management, unintended asset mismanagement, intended asset mismanagement, and best professional practice.

Best asset management practice

The main principles of best practice identified by interviewees are set out in this section, with examples demonstrating how older people have optimised opportunities available to them to plan their ageing lifecourse, protect their assets and fulfil their obligations to younger generations.

The older person's wellbeing

Our interviewees counselled against any impulses to sacrifice one's own quality of life and financial security in order to give children a financial 'leg-up' in life. Instead, the individual must make their own wellbeing the highest priority. They advised that older people should concentrate on securing their own safety, security, quality of life and well being through judicious and well considered investment of their accumulated assets. Only after the donor is deceased should any remaining assets be distributed to younger generations. The clear eyed view of experts is that older people should plan carefully to ensure that their assets are used for the purposes for which they are intended.

These considerations extend to person-centred financial management where the affairs of the donor are managed by an appointed administrator. Best practice exists:

> *Where management is active, in which (usually in this context) a formally appointed administrator is motivated by the interests of the client and can communicate decisions in ways that the client can best understand. Generally by family, accountant or appointed private administrator where they meet regularly with the client, explain decisions in ways the person can understand and provide a transparent statement of accounts annually. Where the person's needs are addressed in a caring and respectful manner… Where process is clear and transparent, capacity of the giver to fully understand is established and all parties are in accord, and events do not occur at a time of severe stress and are appropriately documented and witnessed. Due diligence is extremely important – to the extent that a client lacking insight is nevertheless provided with appropriate information.*

However, the objective of managing assets in the best interests of the older person can be unintentionally thwarted by overzealous administrators:

> *I see the funds as being there to benefit the client not beneficiaries of their estate. What is the point of the trustee sitting on a $100,000 nest egg for an 87 year old person in residential care who does not have money to buy new slippers, dentures, glasses or hearing aids? Needs of the person come first. Who is advocating for them? How often does the trustee visit the client? How do they assess the client's needs? Many trustees never see the client. Depersonalised transactions lead to higher rates of abuse.*

By the same token, any collective family decision making in relation to management of the older person's assets that puts the interests of other people ahead of the older person should be considered potentially abusive.

Risk, confidence and trust

Intergenerational transfers have historically relied on trust and reciprocity. Our interviewees tell us however that transfers made on the basis of assumed intergenerational obligations in many cases tragically backfire to the extent that parents are left without assets. Interviewees strongly recommended taking a very hard headed and realistic look at one's situation and closely assessing the available options.

Practicing risk management is bound up with confidence and trust in negotiating everyday life, but risks in financial mismanagement are not the same as dangers in financial mismanagement. Danger exists in circumstances of risk and is relevant to defining risk, but risk only becomes danger when the underpinnings of risk management (faith and trust) give way. Giddens (1990:34) defines trust as *"confidence in the reliability of a person or system, regarding a given set of outcomes or events, where that confidence expresses a faith in the probity or love of another, or in the correctness of abstract principles (technical knowledge)".*

Risk and trust are therefore intertwined, and trust is "normally serving to reduce or minimise the dangers to which particular types of activity are subject" (Giddens 1990:34-35). Danger arises for older persons when the bonds of trust are broken. It is usually other people breaking the bonds and many vulnerable old people endure living with the other person in a situation of powerlessness as a result of misplaced trust.

For our interviewees, broken trust is at the centre of mismanagement issues and as argued above, represents a danger to the health and welfare of the old person.

> *It can be insidious with situations developing where care is used as a bargaining chip where the abuser says "if you give me money I will look after you". It produces powerlessness and dependency for the old person. Consequences include stress and psychological effects.*

In the experience of one interviewee, too frequently suicide becomes the only means of escaping such situations. From a rights perspective, regardless of the context, abuse of trust violates independence, dignity, and other core values protecting the status of the individual.

According to our interviewees, the greatest protection against abuse is a protective family value system. Families with 'good values' can set up systems of support such as family trusts whereby children pay council rates, cut the lawns and otherwise take care of their parents and in return the will distributes assets equally among them. Conversely, families with questionable values can create bad outcomes. However, many families apparently do not test their assumed values.

We might assume trust lies within the family and perhaps diminishes outside that sphere. However, we have noted trust can also be placed in expert systems. The holder of an EPA such as a formal trustee is able to work informally with a donor if they have a relationship of mutual trust, but developing a trusting relationship between a community worker and an older client may take time and mutual disclosure. On the other hand, interviewees emphatically confirmed that older clients have very high levels of trust in professionals.

Generational expectations

Interviewees frequently observed children of clients demonstrating ownership and entitlement towards their parents' assets. Their expectations of inheriting their parents' wealth were both motivation and justification for interfering with their parents' financial affairs. This sense of ownership and entitlement among family members may engender highly charged emotional disputes over the parents' money. It can also compel children to compete over which has the closest relationship with the parents and therefore greater entitlement. The parents are treated "almost like a trophy".

The strength of the attitude 'what belongs to my parents belongs to me' seems to vary according to the assets at stake. Interviewees considered this attitude more common among people from English speaking backgrounds than Culturally and Linguistically Diverse (CALD) people. It was also observed less frequently in the Western suburbs of Melbourne and rural locations, where the assets at stake are typically property and bank accounts. In the Eastern suburbs where older persons regularly have estates worth in excess of two million dollars, the stakes are high and claims of entitlement more intense.

Our interviewees noted a relatively low uptake of Enduring Powers of Attorney (EPA) among non-English speaking groups and offered a range of explanations that included lack of knowledge, lack of relevance, and mutuality in asset management and generational succession[3]. In an environment of large extended families in recent migrant groups, EPAs and formal financial arrangements are often not in place. The following example of best practice in Greek communities demonstrates how responsibilities for caring for older relatives can be dutifully executed:

3 Our previous study *Diversity and financial elder abuse* also identified that use of EPAs varied with ethnic group, with English speakers the most likely to appoint an EPA.

An older Greek speaking husband and wife with limited English are independent and have no children. Both have health issues and the husband also has cognitive impairment. Closest relative is a grandnephew who has EPA financial. He does not have a close relationship with the couple, but took on responsibility for them because he was 'next in line'. His considerations were that they needed to stay together and they needed to stay at home. He costed private nursing care at $100,000 per annum. The couple have assets that would cover the projected expenses. As the EPA, he wants to use their money to meet these objectives. However, they did not want strangers entering their home and did not want to pay for them. Instead they decided to go into an independent living unit attached to a residential care facility together. The grandnephew agreed to spend their money in accordance with their wishes.

Due diligence

Exercise of due diligence by all involved in assisting to manage an older person' affairs was extremely important for our interviewees. Due diligence creates a process that is clear and transparent, the capacity of the donor to fully understand is established, all parties are in accord, and events do not occur at a time of severe stress and are appropriately documented and witnessed. Ethical conduct should be demanded of all concerned, as well as professionals involved. Considerations should also extend to providing a person who lacks insight with appropriate information. However, while the majority of interviewees reported what they believed to be unethical treatment of older people by their family members, the constraints of their working environment could suppress their ability to remedy the perceived mistreatment.

The residential care facility interviewee measured the quality of diligence within families when negotiating suitable independent living accommodation for parents. If they are duly diligent, they will approach the task in the same way as they would if buying a car. They will enquire and plan in advance. *"Good families put the proprietor through the third degree."* They ask if the establishment has legal worth, if it is legitimate, is it financially stable, will it be still operating in five years? There is always one apprehensive family member – usually a daughter, who asks the nasty hard questions.

The case below demonstrates the due diligence and rigour our interviewees expect of all stakeholders working with the older person in conceiving and executing a lifecourse plan

The community legal service was contacted by a woman in her 50s and living in regional Victoria about her mother who lived in NSW. The mother wanted to live with her daughter's family. They wanted to divide the daughter's house into a private area for the mother, but did not want separate titles. They had sought advice regarding investment and needed clarification of conditions regarding asset management, the possible consequences of mother having to move out due to ill health, the relationship breaking down and other contingencies. The legal advice they were given was to enter a family care agreement.

Our interviewee was impressed by the cooperative decision making and planning abilities of the family members who he suggested demonstrated some learning principles for planning:

- do it in advance;
- plan;
- think through future scenarios, even bad ones;
- be prepared for contingencies and
- seek legal advice.

Supported decision making

Informed and resourced older Victorians have easy access to good financial and legal advice to obtain the best deal for their money in purchasing their lifestyle and future care options. They can make these decisions independently of any intergenerational interdependencies. Those in the lower financial brackets have tended to put their trust in the fairness of the system and 'pay what they have to pay'. One interviewee noted however, that over time even people in the lower financial brackets are becoming much better informed and discretionary in how they approach aged care accommodation products. *"So as a general rule people are getting smarter."*

For projects as large as planning for the remainder of one's life, our interviewees encouraged older people to obtain expert medical, financial and legal advice. However, they also recognised the need for financial and legal advisors to be educated to place a higher onus on ensuring that all aspects of a client's affairs are considered, particularly in relation to disposing of their home. In addition, they reflected on the relatively low level of expert service usage among the general older population and some groups in particular. This low level of use of professionals is also a finding of the two previous reports Staying safe with money and Diversity and financial elder abuse.

Interviewees expressed the belief that people are motivated to have family arrangements that are mutually beneficial and professional service providers need to respect their older clients' autonomy in decision making. If a client's proposed decisions seem unwise, the professional needs to tell the client in ways they can understand of the issues and consequences of proceeding with their expressed intention.

Supported decision making is implied in current service arrangements, but is not concretely manifest. Where management is properly active, an administrator is formally appointed. Generally this is a family member, accountant or appointed private administrator who is motivated by the interests of the client and can address their needs in a caring and respectful manner.

Early arrangement of trustees

The appointment of trustees where their need was foreseen was a highly praised planning strategy, as highlighted by the angst experienced by families and service providers when trustees are not in place when they are needed. The benefits of appointing a trustee in advance may not be obvious to Victorians who take their independence for granted. They are most appreciated and enjoyed by people who have a sustained working relationship with the myriad of professional support services, as illustrated by the following example:

She had a mental illness and her partner had an intellectual disability and both their adult children living with them had intellectual disabilities. They had both worked all their adult lives and were at retirement age. State Trustees had been appointed through referral by other service providers to act on their behalf and assist with financial management. An otherwise potentially challenging scenario was avoided and cooperation with community services was made much easier. With good planning, mental illness and cognitive disability aren't as challenging as they would be otherwise. The family were willing to engage in this process.

Accommodation transitions

While living at home for as long as possible is a policy principle and the preferred option for many older people, making a planned transition to and accommodation options that best meet the needs of the older person is a preferred strategy, particularly where living at home represents increased risk of vulnerability to exploitation. Planning for this transition often involves selling the old person's house to finance the sizable expenses involved in accommodation, residential care, health and other services. Down sizing, equity conversion or extraction, are acceptable ways of capitalising assets as the commonly used expression 'OWLS' (Oldies Withdrawing Loot Sensibly) implies (Olsberg and Winters 2005). People may have expensive homes, but no income or be dependent on a pension. A lot is at stake therefore and extreme caution must be exercised to ensure transactions converting one's house into new accommodation options have the desired outcome.

Interviewees reported that despite many years of experience with the 'granny flat', Victorians display high levels of ignorance and naivety in arranging for a parent to sell their property and move in with their children. This arrangement can be quite short sighted and wasteful of assets. Half are unsuccessful, and everyone involved loses money. The length of time that an older person lives in a granny flat can be quite short and a family can be left with a building of considerably depreciated value that had been built with the parent's money. "A new granny flat valued at $70,000 may be sold for only $20,000 after the old person moves out – a loss of $50,000, often within a short period of time and it's usually the older person who loses the most." Interviewees' advice again, was to plan, think through future scenarios, even bad ones, seek good legal advice, and be prepared for contingencies.

Memories of the horrors of institutionalised aged care passed down from generation to generation motivate old people to seek out alternatives to the 'nursing home' at any cost. Unfortunately, while the physical conditions in care facilities have improved vastly over the last 40 years, public perceptions of the dangers of aged care facilities continue to be reinforced through media reports of abuse by facility staff and substandard conditions. Older people will continue to take the alternative pathway of entering into private care agreements with family members, friends or neighbours that involve exchanges of companionship and security, care and support for a stake in the older person's house.

Interviewees cited cases where older persons have transferred the title of their house to a relative in return for promised care only to realise the care was not forthcoming. However, they expressed a larger opinion that such family agreements are largely successful alternatives to residential care since the arrangement has a number of win-win components in terms of maintaining the quality of familial relationships and honouring the expectations of intergenerational asset transfer, since the family will inherit the house on the death of the parent.

An emerging trend of living alone was described by McDonald (1988) in the late 1980s. Today, lone person households are the fastest growing household type in Australia (Figure 2). From 1961 to 2001, lone person households grew from 10.2% to 24.6% as a proportion of all households. Some of the growth was due to changing demographics including population ageing, while changing values, changing patterns of partnering and shifting policies in areas such as aged care also encouraged elderly people to live independently in their own homes.

The number of people in lone person households is projected to grow by an average of 2.2% per year, from 1.9 million in 2006 to 3.2 million in 2031 (Australian Bureau of Statistics 2010a). Almost two – thirds of this increase is projected to be among people aged 60 years and over. In 2006, the peak age for people living alone was 55–59 years. In 2031, this is projected to have shifted to 80–84 years. At older ages (60 years and over), women are projected to drive the growth in lone person households, with a projected growth rate of 2.8% per year. There will be 1.1 million older women (aged 60 years and over) living alone in 2031, up from 0.6 million in 2006, and representing more than three-fifths of the number of older people living alone (Australian Bureau of Statistics 2010a).

In 2001, a substantial proportion of older people who lived alone owned their home outright (73% of those aged over 65). Most of the remainder were renting (de Vaus 2004:104). For some people, living alone will be a preferred lifestyle arrangement while for others it is an unwelcome situation that has occurred due to a lack of alternatives. Table 1 (Appendix 1) shows the higher proportions of people aged 65+ living alone who are from Australian, NZ, UK or northern European backgrounds, suggesting multi-generational living may not be one of the core values of Anglo European culture. Lone living may reflect social isolation or it may reflect welcome independence and autonomy (de Vaus 2004:100). Each situation carries with it a range of risks that must be managed in different ways and requiring different types and levels of resources.

Residential care living options can reduce many risks of living alone. Members of an older person's social network may already be in independent living so moving into the same complex can improve their levels of social support and security. Over time older people can make the transition to residential care, but forced relocation is a traumatic event that impacts on health and welfare. Although short in supply in Victoria, integrated care facilities that manage clients' transitions from independent living to low and high levels of care as well as palliative care are seen as a better option by our interviewees.

Families need to prepare for care by accumulating sufficient resources to trade down for care which may include an accommodation bond that can be upwards of $400,000. The need to sell the old person's house precipitates a range of responses from other family members suggesting they do not distinguish between the 'family home' and the older person's asset.

> *"A man had to go into a hostel and needed to sell his house to raise sufficient funds to cover the bond, but his children wanted to try for a higher price. He persisted and sold the house at the price he wanted and was able to pay the bond. His family got the bond back when he died about a year later."*

There are also costs involved in relation to moving into residential care at the 'wrong' time. Additional fees are involved if the older person is admitted when they only require low level care. If the need is for high level care, fees are covered by the State. These requirements introduce perversity into the decision making process, since families will be motivated to retain their older family member at home until they can be certified as needing high level care in order to avoid the higher fees. It is not uncommon for the carer to keep on caring because they do not want the family home to be sold to cover the cost of admission to care, which several interviewees considered neglectful of the older person's health and welfare.

In situations where the value of the parent's home is insufficient to cover an accommodation bond and living expenses, children may end up borrowing money to supplement the value of the house, or supplementing the value of the pension to cover the parent's expenses. Our interviewees believe that in the main 75% of families are doing the best they can to care for their parents. Their success mainly depends on their capacity. In cases with the best outcome, the need for admission is not immediate and the family has sufficient resources.

Unintended outcomes occur when the need for a parent to enter into residential care is urgent and the family does not have sufficient resources to cover admission, and particularly if their finances are intermingled with those of their parents. However, expert advice is that the crisis can be avoided and the expenses can be reduced by forward planning. If people organise their finances, they would not have to pay such a large residential care bond. The family, working with financial advisers can restructure things so the family gets more support sooner. A government-run equity release scheme is a highly promising alternative recently recommended by the Productivity Commission (Productivity Commission 2011) that would take financial pressure off families.

Checks and balances

The value of the EPA as a legal protection against mismanagement was discussed often. Powers of attorney allow an older person as the 'principal' to choose another person ('representative') to make decisions on his or her behalf in relation to their financial, health and lifestyle needs in the event they become unable to make decisions for themselves. The Instruments Act (Parliament of Victoria 1958) provides for enduring powers of attorney (financial). These allow a principal to appoint one or more representatives 'to do anything on behalf of the donor that the donor can lawfully authorise an attorney to do'.

The principal can place restrictions on the representative's powers. The types of powers that may be granted are similar to those under a general (non-enduring) power of attorney; however, the representative's powers continue even when the principal has impaired decision-making capacity and is unable to make decisions for himself or herself. The principal can specify a date, event or occasion when the representative's powers commence. If the principal does not specify any particular commencement date or occasion, the powers start when the document is executed. This provides some form of protection in the event that their cognitive capacity is deemed by an expert to make them incompetent to sign any legal documents. Of course, it also renders them vulnerable to a myriad of well-meaning and more opportunistic manipulations by others.

This aspect of future planning appears to create the most problems for older Australians. Most calls to The Office of Public Advocate telephone advice line are about EPAs. As noted in other reports in this research programme, EPAs are not as widely known and understood as wills, but their use is increasing across the socio-economic range, including amongst some non-English speaking migrant communities. Interviewees estimated that while 15–20% of clients aged 70–90 have EPAs[4], 70% of clients aged 35–65 are taking up EPAs. The latter are apparently being encouraged by financial planners as a matter of course to organise their estates and consider EPAs.

Our solicitor interviewee however advises his clients to obtain a doctor's report supporting their capacity to make informed decisions prior to signing an EPA. This move rules out any challenges being made to the veracity of the document (although it does not prevent the EPA being abused subsequently). He additionally applies tests based on best evidence.

The client must understand:

- the nature of a EPA and what it involves;
- the nature and extent of their assets that they are putting at risk;
- that the stewardship of the attorney will not be audited (ie. there will be no oversight of their actions); and
- that the POA can be revoked while they have capacity, but if they lose capacity the POA can only be revoked through an order by VCAT.

If the client clearly does not have capacity, this solicitor makes an application to VCAT on behalf of the accompanying family member to appoint an administrator.

Sole signatories to EPAs were considered by interviewees to be a bad idea. Where one child or carer is the only person in daily contact with the older person, abuse can occur over time without knowledge of the other family members. This applies in particular to unsupervised EPAs. It was suggested that having co-signatories greatly diminishes the possibility of attorneys being tempted by large amounts of money since awareness of being monitored and the need to have all transactions scrutinised inhibit acting against the best interests of the donor. One interviewee also further cautioned against having co-signatories also being co-habitants, or members of the same economic decision making unit.

Long distance compulsory co-signatory arrangements can have positive benefits by keeping all parties informed. This not only discourages dishonesty by the main carer, but also protects them from misinformed accusations. Incidentally, it also promotes inclusiveness among family members in caring for parents. Advice varied on the ideal number of co-signatories. One interviewee would like legislation to favour two out of three based on the reasoning that conspiracies are unlikely to arise from having at least two co-signatories, whereas supporters of three signatories observed that *"two children can collude, but a third can lessen collusion by a third"*.

4 This is a much lower estimate than that revealed in the two previous PEAS reports, which indicate that 70% of English speaking and more than half of non-English speaking respondents had appointed an EPA, and that this percentage increases with age.

Under current legislation, in the case of three EPA signatories, all three attorneys must sign legal documents, or any one of the three must sign, but not two out of three. In the absence of good communication, even this safeguard can fail. It is not uncommon in spatially separated families for the more distant relations to fail to appreciate the severity of the impacts of the older person's deficits on the one son or daughter who is providing the bulk of care. This may lead to recriminations and conflicts in the family over how well the parent is being cared for, as illustrated in the case below.

> *The mother's will had been made to favour all three children equally. A daughter and son had EPA. The daughter regularly discussed management issues and decisions with her mother. The mother's health deteriorated and she became demented and was placed in a nursing home. The daughter continued to manage her mother's affairs, but had not recorded financial transactions over five years. She took over her mother's decision making in relation to dispensing gifts to relatives, but questions arose among siblings about who was making the decisions after the gifting became unbalanced in favour of the daughter.*

Following the Federal inquiry into older people and the law and the Victorian Law Reform Commission inquiry into guardianship laws this situation of requiring either all or one signatory to act on an EPA is likely to change. Also, use of electronic communications can facilitate joint decision making over distances and keep all parties informed of the status of arrangements. Documents can be received for scrutiny and signing and then scanned and returned as email attachments. The overwhelming majority of clients opt for co-signatories on the same EPA, but only after being made aware of the risks of not doing so.

> *An older woman had four children and was estranged from three of them. She transferred title of property to her favoured child and retained life interest in the house. She did so by selling the house to the child below market price in return for lifelong residence. On bank advice, the process was not documented. Other family members were not informed of the transaction and became suspicious of their sibling.*

These cases demonstrate what can happen if decisions made by the parent lead to creation of the impression among their children that one of them is dipping into the parent's assets. For our interviewees then, responsibilities lie within the family to ensure that asset management decisions are transparent and communicated to all stakeholders, regardless of their level of involvement. These responsibilities technically lie with carers and administrators, whose burdens may not be understood or appreciated by the rest of the family.

The fact that the powers exercised by EPAs etc occur below the radar does not meet community expectations about openness and discussion. If mum goes to the solicitor to organise a POA without telling all of her children, it is her private business. On the other hand, if she tells all her family 'I intend to appoint Sally as POA and I want you all to respect that choice', it would go a long way to helping meet those expectations.

The examples above instance people trying to do their best to help, yet being criticised for their efforts. Interviewees talked of the need to invest more in education for people who are completing documents as well as those who are taking on responsibility for managing their parents' affairs. However, good communication also appears to be an important ingredient of smooth management.

The inquiry into older people and the law (Commonwealth of Australia 2007:20) cites opinion that the EPA is the most abused legal document in America, and Australia. Our interviewees' concerns over the capacity of attorneys to use an EPA correctly appear to add weight to this opinion. Despite acknowledging the current limitations of the EPA, interviewees nevertheless stressed the importance of early preparation of an EPA and other legal documents, with the expectation that known problems would be addressed in the near future. A number of interviewees suggested establishment of a register for EPAs that could be similar to private administration orders through VCAT. These administration orders are audited by State Trustees. The requirement that an account statement be submitted annually might encourage people to think about their responsibilities, the workload and the opportunities to cheat.

The principles of routine activities theory were rehearsed by a GP interviewee who suggested that for a system to work properly, everyone involved needs to be accountable. For example, an annual return for financial transactions needs to be carried out within an EPA. "If I am doing something for the family, I need someone within the family to keep an eye on me". This view was endorsed by a geriatrician who recommended that setting up an EPA should be a transparent process that involves the entire family and is ideally subjected to review every 3–5 years. Further, that the older person should maintain control over the process until unable to do so.

EPAs are more likely to be made by highly educated, wealthier and English speaking groups living in the Eastern suburbs of Melbourne. The costs of seeking legal advice or preparing an EPA may be prohibitive: $150 for a standard EPA, $300 for guardianship plus EPA financial and medical. Some charitable organisations help people make EPAs. However, as several interviewees noted, having assets sufficient to justify seeking expert assistance in managing them is a new experience for many families.

Unintended asset mismanagement

Our interviewees expressed the belief that Victorians are not well informed of the need for sound asset management, especially in planning for old age. In this section, interviewees identify the key processes contributing to unintentional financial mismanagement.

Our distinction between intended and unintended forms of financial mismanagement rests on motive. People can set out with intentions of doing the right thing, but because they are guided more by common sense than informed by concrete knowledge they find it hard to remain objective. In the space between absolute good intent and absolute bad intent, the presence of opportunity presents the first step down a slippery slope from unintended to intended financial mismanagement of an older person's assets.
Well intending people get out of their depth and make bad decisions that lead to financial distress for themselves and others — none of which they intended.

Separation from assets

Becoming separated from one's assets as the result of unwise decision making can lead to a diminished lifestyle, entrapment or destitution. Historically, 'successful' ageing and generational succession have been tied to control over economic resources in the patriarchal family (Foner 1984). The 'intergenerational contract' involved passing down resources in return for support from the next generation. In contemporary societies, the expectation that handing over assets to the second generation will automatically result in receiving care may be misplaced.

> *A widowed lady with declining health was invited by her son and his wife to come and live with them in a suburb quite some distance from her home. She reluctantly moved in with them in the belief she would be cared for. Instead she was confined to one room in the house and the son and his wife would go to work every day. The woman had proven capacity. She had sold her property to finance the move and had transferred substantial funds to her son. However, she felt that she had completely lost control of her finances and felt trapped.*

Unlike her former life where she was in touch with friends, local GP and other services, and reasonably active, she was totally isolated in her new surroundings. Her son and his wife may have believed they were doing the right thing, but the mother has lost her financial independence and her health and wellbeing had been put under severe stress.

Within many CALD communities, where the tradition of multigenerational cohabitation may be stronger, parents live in close proximity to their children and expect to live with them in their old age. For many, this expectation is not realised due to significant cultural differences between generations.

> *An older CALD couple sold their house, moved into their son's household and contributed the proceeds of the sale of their house to paying off his mortgage. Later, the daughter-in-law argued that the household budget does not meet the needs of the parents. The other family members may have considered the value of the parents' contribution to be far in advance of the additional costs they incurred for the family, but the parents are essentially held prisoners. They understood that they had effectively bought a place for life in their son's family. However, they have no money and nowhere to go and are unlikely to retrieve the full amount of money they had handed over to their daughter-in-law.*

A legal service interviewee advises having a care arrangement in place that states what happens if a parent relocates and the new situation does not work out, or ensuring that any equity transferred from the parent to the child's house is documented and retrievable. These two cases demonstrate how losing control of assets can lead to losing control over one's life.

Capacity and competence to make decisions

Demonstrated capacity and competence are essential to maintaining control over one's assets and making valid legal decisions. Diminished capacity, particularly from declining cognitive capacity has been identified as a serious risk factor for financial mismanagement. PEAS data show that between 33% and 69% (Mean: 49%) of victims of financial mismanagement had a dementia (Wainer, Darzins et al. 2010). Even with the best laid plans, an older person's assets are at risk when cognitive deterioration or mental illness impairs their judgement and ability to make informed decisions.

Any requirement of evidence that someone is legally competent to make decisions regarding their own assets requires an assessment of their cognitive capacity. It was noted however that as soon as competent people lose capacity, the choices they have already made somehow become invalid. For example, most competent people, given the choice between living longer at home with the risk of falling and breaking a bone and living in a nursing home with reduced risk, will choose living at home, yet once they lose capacity others are likely to choose the option of reducing their risk rather than keeping them at home. Assessment of capacity is a formal process that can be exploited to separate older persons from control of their assets, or to confirm their continuing capacity to manage their own affairs.

> *A daughter applied to the court for someone to take over management of her mother's affairs because she claimed her mother was no longer competent to manage her own affairs. It transpired that the daughter was concerned over the risk to her inheritance of her mother's new friend with whom she had developed strong emotional ties.*

Our interviewees noted that instances of children challenging a parent's competence as if they have a primary right to the parent's assets are common.

Older people themselves are not necessarily passive victims of other's actions. They engage in making decisions, with or without formally assessed capacity to do so, that influence the health and welfare of themselves and those around them. This consideration is consistent with the principle of empowerment contained in the Victorian Government Elder Abuse Prevention Strategy (Office of Senior Victorians 2007). It also applies to older people being perpetrators of financial mismanagement where the victims are their own family members. A free agent nevertheless, but possessing neither capacity nor competence to make legal or financial decisions can leave behind them a wake of destruction.

> *A Maltese male married to an Australian woman has two children from his previous marriage. When they married they pooled their two properties. His sons stood to inherit sizable assets. He developed dementia and became very suspicious of everyone around him. He withdrew $80,000 from the bank over three years, but the money is unaccounted for. He then went to a solicitor and changed his will to exclude his wife. It is unlikely that he had insight into what he was doing at the time. Now he cannot change it back.*

This case raises questions about the extent to which people should be protected from making bad decisions. Objectively, the solicitor may be seen to have not exercised due diligence or duty of care towards his client, but even though he had been involved with the man's family for some time, perhaps was not aware the man had dementia.

The advice from an interviewee who is a legal practitioner was to take preventive measures including recommending the client obtains a doctor's report supporting their capacity to make informed decisions prior to signing any legal documents including an EPA. This move rules out any challenges being made to the veracity of the document. Legal professionals can apply four tests for capacity in preparing an EPA:

- The client must understand the nature of an EPA and what it involves;
- The client must understand the nature and extent of their assets that they are putting at risk;
- The client must understand that the stewardship of the attorney will not be audited. ie. there will be no oversight of their actions; and
- The client must know that the EPA can be revoked while they have capacity, but if they lose capacity the EPA can only be revoked through an order by VCAT.

If a client clearly does not have capacity, the lawyer should make an application to VCAT on behalf of the accompanying family member to appoint an administrator. This approach was devised by an individual solicitor. It is not a professional protocol.

Interviewees criticised the process of confirming capacity in relation to EPAs as offering limited protection against mismanagement. Even if people follow the advice above to prove their capacity prior to signing an EPA, EPAs are not subject to audit requirements and thus offer limited protection against bad decision making and exploitation of older people. In addition, there are no safeguards in place to confirm capacity among older people when signing a transfer of house title, for example, and financial transactions are not conditional on demonstrating capacity and competence. Older people are assumed to be competent, as are all other adults, and this assumption may put them at risk of making bad decisions, or being pressured to do so. Despite this there was no suggestion from our respondents that the assumption of competence should be reversed.

Generational decisions

According to the strong advice offered by our interviewees to older people never to become separated from one's assets, the following case involved an objectively bad decision to transfer assets between generations in the lifetime of the older person. However, complex transfers that involve material and non-material exchanges between generations demand considerable understanding of the context. The unfortunate outcomes raise some interesting philosophical questions:

> *A childless widow in Melbourne makes her will leaving all her property to a nephew living in Bendigo of whom she is very fond. She moves to Bendigo and buys property. The nephew informs the local solicitor his aunt wants to transfer her property to him before her death. The solicitor suggests the aunt seek independent advice. She does so and maintains her intention to transfer her property. The transfer goes ahead; she continues to live in her house. The nephew pays rates and insurance – she derives some advantage. The aunt then develops a dementia and forgets about the transaction. She discusses the status of her assets with a friend who finds out the property is no longer registered in her name. She believes her nephew had forged her signature.*

The solicitor had misgivings about cooperating with this woman because he could foresee where the fallout might land. However, he also commented that professionals do need to reflect on whether they are making prejudiced judgements about older clients, making the point that a 40 year old making the same decision would not have been questioned. The choices of this woman were 'generational decisions' that should be respected, despite foreseeing an unhappy ending. In the above case, the only real mismanagement was carried out by the aunt's friend. Protection should be tempered with maintaining dignity by providing appropriate support.

Vulnerability

Our current knowledge of mismanagement of elder's assets is confined to cases detected and dealt with by services that have functions that include protection of vulnerable groups. Our understanding of the issue is therefore framed by the scope of protective provisions for vulnerable groups that include old people. Physical frailty, cognitive deficits, social isolation and dependency are considered predisposing to abuse. They imply a loss of power on the part of the older person that creates opportunities for exploitation and necessitates protection. These are labels that are applied from the 'objective' viewpoint of privileged observers.

We also do not know if certain groups do not come to the attention of protective agencies, and hence of any mismanagement within these groups. In other words, our knowledge of mismanagement of older people's assets appears confined to groups with a direct stake in circumscribing the phenomenon. The findings of *Staying safe with money* and *Diversity and financial elder abuse* are some of the few to draw on the experiences of older people themselves, although by definition they were not frail, isolated or incompetent themselves. They were able to identify vulnerability to financial abuse as arising from illness, death of a spouse, dementia, physical frailty and poor eyesight, misplaced trust, not asking for assistance and the difficulties of managing new technology (Wainer et al 2010:28).

According to our interviewees, most known cases of financial mismanagement occur at the lower end of the socioeconomic scale, possibly because they more often involve the older person's house — an asset that is difficult to transform into a liquid asset without leaving a paper trail of evidence. We were assured however that mismanagement also occurs at the higher end of the socioeconomic scale, and involves larger assets. Some cases of mismanagement discussed by interviewees involved very large assets and were only detected because the perpetrators became greedy and became engrossed in what one interviewee terms 'strip mining' which is discussed below.

Rurality is an indicator of relative financial vulnerability. *"Towns and rural centres in central Victoria have been identified as being among the most disadvantaged in Victoria, and older people are among those facing difficulties"* (Gibson, Davis et al. 2008:6). Further, older people in rural areas in general face particular economic disadvantage. Many older Australians obtain their wealth from owning their house and being debt free, but *"the increase in farm debt and concomitant financial hardship for ageing farmers and their families along with the decline in the value of farm properties and housing in many rural areas stands in stark contrast to the general picture of relative wealth of older Australians"* (Gibson, Davis et al. 2008:6). The problems arising from credit in this context are exacerbated by the historical withdrawal of banks along with other essential services from across rural Victoria (Tilse, Rosenman et al. 2006; Gibson, Davis et al. 2008).

Older Australian women are more vulnerable than men. They live longer than men by seven years on average. A woman aged 65 now can expect to live another 21.5 years (Australian Institute of Health and Welfare 2011). These cohorts of women are doubly disadvantaged in many cases. As part of the Lucky Generation they are less likely than men or women in later generations to have contributed financially to their families or to have superannuation. They are also less likely to have the necessary experience and skills of financial management. Depending on their children for assistance in decision making decreases their authority in the family and increases their vulnerability.

Low income and CALD families have less access to formal planning, financial and legal services than English speakers. Those receiving Centrelink services have access to these services, although our interviewees believe CALD clients are more reticent about using them. This belief is not consistent with findings from our *Diversity and financial elder abuse* study, in which non-English speakers were more likely to engage with Centrelink than English speakers, including for financial advice. Interviewees observed practices among CALD families that objectively were seen as abusive, but were considered normal by CALD families:

> *A CALD couple was identified in which the wife had advancing Alzheimer's dementia as well as psychiatric overlays and clearly was not coping. The family moved in with them. The woman kept asking to go home (back to Europe). ACAS had assessed her as needing residential care. The family suggested relatives in the home country were willing to care for her. The family sold her assets as well as all her personal effects to finance her travel and cover the costs to the relatives of caring for her and divided the balance among them. She was sent unaccompanied to Europe but returned four months later, also unaccompanied. Apparently her relatives found her too difficult to care for. Her family did not want to know her. She was admitted with a psychiatric condition. She was left totally stateless and not even entitled to a pension because she did not have Australian citizenship. In the end the children did pay for her care.*

Although interviewees did not have sufficient information to confirm their impressions, they observed instances of mismanagement that probably had their genesis in the past. Financial mismanagement usually does not occur in isolation from other types of abuse that may span several generations of a family history. There are occasional 'accidents' such as investing in or securitising a loan (ie with the family home) on the son/daughter/partner's business which subsequently founders. Often however a pattern of abuse is found that would predate these events anyway. One example was of an 82 year old woman who moved into residential care. Her family took all her assets and spent them on holidays, cars and other non-necessities. There was a strong possibility that this woman had been abused in the past.

People with personality disorders may also be considered vulnerable because of difficulty learning from mistakes and modifying their behaviour, while some have problems empathising with others. This can make them more vulnerable, for example, by returning to abusive and or maladaptive patterns of behaviour or conversely of seeking out others who would be vulnerable to being abused by them.

From our discussions with interviewees, since we do not know all the knowable situations in which mismanagement of older people's assets occur, and it is clear there is no absolute definition of mismanagement, we are limited to discussing vulnerability in relative terms.

Culture

Our analytical framework describes a cultural lag created by the shift from intergenerational exchanges based on norms of reciprocity and obligation to norms of self provision and independence. Whilst traditional norms remain aligned between generations for many Australians, it seems clear that they are widening more rapidly in some cultural groups than in others.

Whilst our research shows that 'mainstream' English speaking Australians are increasingly likely to have wills and EPAs, they still tend to manage their financial affairs within the family. However, they rely more on formal services in administration of their affairs than CALD groups who may rely more on family, which our interviewees considered on the whole protective. However, family bonds can potentially increase the possibility of isolated cases of asset mismanagement occurring either through unintended mismanagement of complex procedures, or deliberate acts.

Interviewees' CALD clients varied according to their geographical area of operation and if their practice was private or public. The clients of private professionals located in the Melbourne CBD were from predominantly English speaking backgrounds, some Europeans, but no Asian clients, whereas in the disadvantaged City of Greater Dandenong, with 160 nationalities, the majority of public service clients are of CALD backgrounds.

CALD groups differ in their degree of disclosure of financial mismanagement. Some groups keep things within the family, even when asset mismanagement is damaging the family. They may be afraid of others knowing, and suffering the shame and embarrassment that follows. These fears are deeper in groups in which filial piety and respect for older persons remain highly held values in observation and practice.

Our interviewees said that in their experience CALD groups also differ among themselves in terms of their access to services. CALD immigrants who started from humble beginnings and worked hard to give their children a better life may have disadvantaged themselves in terms of access to services and life planning resources. They may receive information about forward planning, but it may not be acted on due to interpretation difficulties, or indeed unfamiliarity with the notion of planning for the future. Many depend on their children for translation. One case demonstrates how this dependency can become an effective tool in the hands of a determined child.

> *A CALD rural living couple received interpreting support from a neighbour. They had a nice house. The father was admitted to the dementia wing of a hostel. The daughter tried to get the demented father to sign the papers to sell the house. The facility staff detected this and barred the daughter from visiting and involved State Trustees. Part of the process involved interpreting. When the couple were at home the neighbour interpreted. In the hostel setting the daughter was interpreting and could have said anything.*

Some older people in CALD families find themselves in hopeless situations where they fear rejection from their predatory children if they act to protect themselves:

> *An Italian client lost her husband about a year ago. She lives in quite a large property and spends a significant amount of money each month on gambling. Her family took her to VCAT to prevent her from selling the family home. They cited gambling as a disability that rendered her unable to make decisions and needing their financial guardianship. VCAT*

overruled their application on evidence she could control her spending and make current decisions because she did not have a cognitive impairment or disability. The family has been fractured due to the VCAT episode. Even though she felt betrayed by her children in taking her to VCAT, she feels that appointing an independent trustee to help with her finances will betray her children.

For groups that entered Australia as political refugees, the notion of a future that can be planned may remain quite alien, whereas more recent economic immigrants from Asia and India are educated and skilled in accessing Australian institutions.

Interviewees also reported differing notions of what constitutes mistreatment of older persons among CALD communities, as well as expectations underlying asset transfers. Older CALD clients were nevertheless described as being motivated to help their family members. They loan them money, and if they could not pay them back they will be unhappy, but do not consider the issue to be intentional mismanagement —"it's the way the family operates". For these groups the main value and their main asset is their family. Financial mismanagement takes second priority to interpersonal and intergenerational relations management. This experience is consistent with findings from the Diversity and financial elder abuse study.

Cultural stereotyping should be avoided however. Japan for example is usually considered an exemplar of respect for old age, seniority and filial piety, whereas research reveals a strong ambivalence towards older persons on the part of younger people (Koyano 1989). Our interviewees interestingly observed that the values of first generation CALD immigrants are sometimes more 'traditional' than those of their home country counterparts, whereas their own children are more 'Australianised'. These gaps in generational cultures are potentially problematic when underlying expectations are not articulated.

Regardless of their backgrounds, intentional and unintentional asset mismanagement appears to occur across all cultural groups in Victoria, although the interpretation of what it means may vary. A challenge lies in accommodating the diversity of values within a dominant paradigm of individualism and human rights.

Family structure and dynamics

From research on the family over the last 40 years, Olsberg *2005:87–8)* confirms that the family can no longer be assumed to be the locus of shared values and intergenerational solidarity:

[A] shift in the norms and values of the Australian family [is occurring] as what we might call 'post modern' family structures increasingly replace previous nuclear families – divorce and serial marriages create blended families, single parent families, childless couples, same sex couples and transformations within traditional ethnic families. This is evident in the shift from roots-based family and personal values which emphasise production and reproduction to the increasingly prevalent values of consumption and lifestyle. This may be viewed as a rejection of the 'sacreds' of previous generations where home and family were the primary source of personal identity.

From this perspective, the contemporary family resembles more a shifting framework for satisfying the needs of disparate individuals rather than an institution in which intergenerational relations are patterned. In this context, interpersonal relationships may be relatively weak, but so too may be notions of entitlement and ownership of parent's assets. For the Lucky Generation, the nuclear family was the norm. Now in their late 70s and 80s, they are less likely to be living close to their own children than their parents were, and to be living a more individualised lifestyle. Interpersonal familial relationships may be played out in unusual ways in the contemporary family:

A woman is aware that her daughter is removing expensive paintings from her house on the pretext of having a sentimental attachment to them, but continues to 'drip feed' her because she knows she will eventually inherit her assets in any case.

The mother is hurt emotionally by her daughter's deceits, but reasons that her daughter may be suffering financially, so she allows the deceit to continue unchallenged. Why the daughter chose a covert means of acquiring her inheritance in advance, instead of discussing it rationally and openly, again flags the complexity of emotional co-dependencies underlying what appears from the outside to be an abuse of the parent-child relationship.

For love

Some ageing parents are under pressure (from relatives) to endure family tensions resulting from substance abuse, gambling, mental illness, other disabilities and crime among their estranged grandchildren, or more commonly adult children who have returned to the family home. Interviewees describe these situations as tipping points or triggers for financial distress for parents who are also physically frail. The parents are forced to support the child and will lose eligibility for services as a consequence of having a family member living with them. They are exposed to the child's troubled life including conflicts with their estranged family, criminal activities, police visits, intervention orders and other intrusions.

Cases were recounted where drug addicted grandsons had bullied grandmothers to provide them with money to support their habit. When the grandparent has been unable to comply, they have been literally robbed of goods that can be exchanged for drugs or money. Older people are left feeling unable to act or afraid of taking action against a family member. As well as feeling powerless, they may be motivated out of embarrassment or shame to protect the weak member of the family. While love and loyalty to family lead parents and grandparents to support dependent children, professionals are more likely to see the situation in terms of the need to protect vulnerable older people and assign responsibility to the children, despite their reduced capacities:

> *I have seen numerous cases of the older parents paying for/supporting adult children, this is most likely to occur where gambling and alcohol and other drug abuse is a feature, or where the adult child has significant mental or physical impairment. Often older carers are torn between love and or guilt for their child and distress and shame at behaviour which is not socially or culturally acceptable. This often leads to the older person becoming dislocated from their social and family supports, being more isolated and increasingly vulnerable. Thoughts of suicide are common in these scenarios if something cannot be done to manage the stressors. Awareness [among the children] of perpetrating financial abuse in this situation may be unclear, but at the end of the day they cannot be unaware that they are sponging off their parents and when it turns from sponging to dipping heavily into the coffers, I think they have some culpability.*

Non-family relationships

Interviewees recounted cases of older people developing relationships with non-family that they considered stronger and more meaningful to them than those with their own children. Accordingly, they may favour these intimates over their own children in their dispensations, or threaten their children's sense of entitlement to their assets. They may also enter into arrangements with relative strangers that are mutually beneficial and trusting. Such cases highlight the extent to which the formal expectations of inheritance by family members are undermined by the strength of interpersonal non-family relationships.

> *The daughters of a legally blind woman applied to the court for someone to take over management of her mother's affairs because they claimed their mother was no longer competent to manage her own affairs. It transpired that the mother had become friends with a young male Irish student whom she had invited to live in her house. Despite being quite wealthy she was receiving basic Meals on Wheels and her house needed repairs. On investigation, it seems the young man had upgraded her meals and organised repairs and repainting of her house, all of which she could well afford. He introduced her to Magnum ice creams which she loved, took her to the opera, and even accompanied her to Ireland to visit his family. She was no longer isolated and the young student had enhanced her quality and enjoyment of life. The woman was almost blind, but she had trusted neighbours who would read her mail to her. The student did not have access to these things. The daughters were so jealous of this friendship that they refused for her grandchildren to see her and applied to the courts trying to prove she was incompetent. The lady was assessed and found to have capacity. This episode was devastating to this old lady. It was all because her daughters were worried that they were going to lose her assets in her will.*

An open mind is very important when approaching situations similar to those described here because people will tell very convincing stories. When the daughter first told of the situation it seemed that the young student was taking advantage of the vulnerabilities of this woman. On investigation by the OPA, it seemed clear that he had enhanced her life and made her a much happier person. The OPA interviewee commented that the provisions he made for her could and should have been made by anyone concerned for a mother. Her daughters seemed interested only with protecting what they thought was a potential loss.

To 'act in the best interests' of a person is to help the person to regain the ability to manage their affairs, or to act in accordance with their wishes as far as possible. In cases where the 'victim' appears to be dependent on the 'perpetrator', a question is raised about whether the personal wishes of the older person override protection of their financial interests. For example, a relative stranger becomes friends with a socially isolated old man and keeps him company, while living in his house rent free. The old man pays for the food and sometimes provides money. To intervene 'in the best interests' of the old man would be to deprive him of the company that he values ahead of his material assets. If the relationship is 'family-like' is the old man at any more risk than if he were living with kin? Even if the relationship is not 'family-like' it appears difficult to judge what is in the best interests of an older person whose decision making could be strongly influenced by their assessment of their family experiences.

In another example a homeless man with $1M in assets and a chronic psychiatric condition is befriended by a woman who gives him intimacy and shelter in return for access to his assets, which she squanders. While the family of this homeless man may object to this man's alternative arrangement for intergenerational asset transfer, no laws have been broken, and the old man articulates his preference for passing his assets to a person who he believes cares for him considerably more than his own family members.

As families become more complex and ageing lifestyles more diverse, intimate relationships formed by older people are increasingly likely to be with non-family. Accordingly, applying the principle of the 'best interest' of the older person, issues around appointment of attorneys and nomination of beneficiaries in wills are more likely to be based on the personal discretion of competent older persons than on their sense of obligation to children, particularly when their children evidently do not represent the 'best interests' of the parent.

Another example of non-familial asset transfer was of a widowed woman aged 76 who lived alone on her farm that requires ongoing maintenance that she cannot perform herself. She enters into a formalised relationship with neighbours with whom she is good friends whereby they enjoy the benefits of free grazing rights on her property for their cattle and in return they maintain the property and bring her meals. This arrangement grows to the extent she becomes part of their extended family and she formalises an EPA with the neighbours as primary carers. Her estranged children, who happen to be accountants, challenge the arrangement arguing they should have the EPA. The neighbours withdraw from the situation, but the woman argues they should retain the EPA. The case went to VCAT. The woman's capacity to make a directive was assessed and she was found competent. The children were told to withdraw. The woman had successfully argued that the neighbours could be more trusted to act in her best interests than her own children.

Meanings of assets

Assets are not simply objects of monetary value. They have other meanings in terms of lifestyle, memories, family relations and other values that do not have exchange value. For example, Cherry Russel shows how the meanings of 'home' and 'house' as a locus of family, or as an economic asset shift dynamically for both men and women over the lifecourse (Russell 1999). Understanding the meanings that different people attach to assets is important in understanding their actions. What may appear to the observer as a misguided decision may make perfect sense to the person making the decision.

A mother on fixed income in her 60s lives in a public housing unit that she leases. If she were to lose the lease, she would not only have difficulties in being rehoused, but great difficulty surviving in the private market. She is also pseudo or defacto carer for her grandchildren, a relationship that would be at risk if she loses housing, and which she values. She is asset poor, but the asset has high lifestyle significance.

The more solvent the assets, the more accessible they are and the higher the risks of their misuse. As noted however, houses are the least solvent of assets. Often they are also the most bound up in meanings for stakeholders. The question of who in the family inherits the house becomes tied up in feelings about who is the most loved and deserving in the eyes of the parents.

The family farm

Rural settings imply succession scenarios built around the destiny of the family farm. In rural settings the farm is predominantly an intergenerational asset with strong expectations that it will be passed down from one generation to the next. With reference to our discussion on the meaning of assets, the meaning of the family farm goes beyond a business. It is the focus of how a family defines itself. In farming families, decisions about inheritance are made with these expectations at the forefront of considerations. The family farm as the major family asset will therefore pass to the child who the parent judges to be most likely to best manage the farm and pass it on to their own children.

Declining fortunes among Victoria's farming families and the need for older farmers to access funds to finance their old age is leading to decision making at the core of which is the need to perpetuate the family farm. One example was advice from a solicitor to pass on the family farm to the next generation, leaving the parent able to claim eligibility for the old age pension. In this case, the father (patriarch) puts the farm into trust for the youngest farming son to the disbenefit of non-farming siblings. The father died shortly afterwards. The son inherits the farm, but he develops a huge conflict involving assault with his mother who retains equity in the property.

In this case family tradition got in the way of sensible decision making. The son was reportedly ill-equipped to manage a farm or family, but the father willed it to him because he was the youngest and the neediest of his children. An alternative and more rational approach would have been to wind up the farm and use the assets to the benefit of his entire family. In other cases, a sense of entitlement to the family farm can drive abusive behaviours of the perpetrator and simultaneously help them justify their actions to themselves.

The widow of a farmer lives on the property with four of her children. She had willed equal shares in the property to all her children. One son believes he alone should inherit the farm because he carries on the farming tradition, and he bullies his siblings into leaving. The mother begins to develop dementia. The son, who now lives alone with his mother, maintains the property. She in return buys all their food with her pension and prepares meals for him. Over time he persuades her to change the will in his favour. Apparently, at the time the solicitor believes the mother has capacity. The mother's dementia progresses and she goes into care. A daughter has EPA and is helped by siblings to manage the mother's daily needs and finances. The son makes no contributions to his mother's care and nursing home fees. The mother eventually passes away and the son inherits the property, but is ostracised by his siblings.

Intent

Interviewees saw intent as central to determining if mismanagement has occurred. They distinguished between differing levels of mismanagement on the basis of the intent of the parties involved.

Some people are obviously criminality intent, some people aren't and slip into compromised behaviour and some people innocently step into the minefield, and different responses are required along that continuum.

The worst cases of mismanagement demonstrating 'absolute intent' on the part of the perpetrator are actually easier for professionals to deal with because they involve reasoning, a potential resolution and reversible causes.

Unintentional mismanagement on the other hand is a broad grey area populated by lay, popular and professional definitions of what constitutes a normative relationship. Our interviewees believed that the majority of families set out to do the best they can for their older members, but are simply not equipped to tackle the formal requirements for substitute decision making. Among those who fall back on family traditions that offer little advice on how to plan for a long life, unintentional mismanagement simply arises from older people sharing bad decisions and good intent with people in whom they trust.

Understanding the intent of victims in their decision making helps to establish if mismanagement has occurred. According to one interviewee, intent is linked to informed consent and should be considered alongside consent. In the case that the older person clearly intends for a certain decision to be carried out, it implies that consent is given to others to assist, as in clearly informing children that one of them will be appointed as EPA and those wishes should be respected.

However, assumptions of intent and consent are not all that underlie unintentional mismanagement. In many of the cases discussed in this report, inadequately communicated intent, and unspoken but 'understood' expectations have led to both intentional and unintentional actions of both victims and perpetrators in mismanaging a life plan.

Rationalising mismanagement

Interviewees described how perpetrators of mismanagement have responded when confronted with accusations that they have not been acting in the old person's best interests. The descriptions ranged across denial and self-justification, to agreement that their actions were not acceptable. According to definitions of mental illness contained in the fourth edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-IV) (American Psychiatric Association 2010), rationalisation occurs "when the individual deals with emotional conflict or internal or external stressors by concealing the true motivations for his or her own thoughts, actions, or feelings through the elaboration of reassuring or self serving but incorrect explanations." Without pathologising perpetrators, those who self-justify would appear to be the most conflicted, those who are fully aware are opportunistic, and in one case commented on, some are suffering from a psychiatric disorder.

Interviewees observed that children appear to consider acts such as transferring the parents' house title into their own name, or transferring their bank accounts into their own name as acceptable practices. When confronted with the suggestion that their conduct is not acceptable, they fall back on skewed explanations of what is in the parent's "best interests:"

> *I've seen cases where private patients I've had for ten years have been put into pension only accommodation by their children who support their decision by stating that such accommodation suits mum who is a simple woman with simple tastes and simple needs. This account is so much at odds with my knowledge of this particularly elegant woman with discerning taste who also took great pride in her appearance, that I conclude "you want her money". I've seen plenty of that.*

Rationalisation is easier if other interested people in family and friendship networks can be cut from the scene to avoid scrutiny and accountability. These strategies allow the perpetrator to strengthen the attitude that *'she may as well give it to me, who else is going to get it – the government or the lost dog's home'.* Similarly, the attitude that *'she doesn't need it'* reflects a tenuously claimed right to early inheritance. A son who has put his parents into residential care and used their money to build himself a house may rationalise his actions as being consistent with his assumed rights to his parents' money.

What these accounts show is that the motivations of perpetrators range from unreflective practices within the 'normal' family context that only demand rationalisation if challenged, to deliberate acts that require a defence to justify the act in advance, or after the act. All forms of rationalisation involve some form of devaluation of the rights and needs of the older person. We do not know if these practices are rationalised in advance of the act. We do know however that if this is as broad a mindset as our interviewees have suggested, we will not find the causes in the psychology of individuals, but in an environment shared by generations.

Interviewees also flagged concerns over administrators' poor understandings of their obligations, which one interviewee considered "staggering". Through the cases they have dealt with, they know that attorneys often lack factual knowledge about EPAs and often do not understand their related duties, including the need to be proactive in managing the older person's finances. For example, they do not activate EPAs. Often when they are activated, they do not understand the ethics of their task. They are often not aware of a conflict of interest involved in gifting from the older person, or indeed gifting to themselves.

Interviewees were also aware of considerable ignorance among their clients about their fiduciary obligations, the risks of financial mismanagement as well as misunderstandings over correct strategies for managing assets. In ignorance, administrators fall back on family traditions and unwittingly do things that are not in the best interests of the older person. For example, a son with an EPA transferred his parent's property title to himself in the belief he was protecting the parents' assets from his siblings.

Setterlund (2003) lists a range of risky practices for both asset managers and carers, including:

- inadequate or no accountability procedures particularly for cash payments;
- appointing attorneys who may lack the required personal or financial skills to take on the responsibility, or who may be subject to influence by a spouse or other significant person whom the donor feels hesitant about;
- asset managers taking over full control – supposedly to make it easier for the older person – but effectively denying the level of control over money sought by the older person;
- asset managers being overly generous with an older person's money – for example, by using a gifting option excessively; and
- fraudulent use of authority such as falsifying a signature or continuing to use an Enduring Power of Attorney after the donor has died or revoked the document in order to get important paperwork done while in a transition period.

Disparities in access to good advice were noted and the need for sound, independent, accessible and cheap financial advice given in an easy to understand format for those with fewer resources was supported. Interviewees also noted that CALD communities are being educated about processes in relation to financial management and legal processes in order to make informed decisions, but also noted that take up is slow as CALD older people continue to fall back on traditional arrangements.

The Victorian Civil and Administrative Tribunal (VCAT) only deals with a small proportion of probable cases of older people not coping with financial management. Interviewees suggested that raising public awareness and providing local resource centres where these issues can be discussed in confidence would be important steps towards identifying and meeting currently unmet need, including the need to educate and train administrators. Some also suggested establishment of a public older persons' advice centre where free information and advice on planning for the future could be obtained. Whilst State Trustees (2008) and the Office of Public Advocate (2007a; 2007) among others are providing such information, the level of public awareness of these resources was not believed to be high.

Intended asset mismanagement

Interviewees' analyses of the likely situations leading to intentional abuse echo those suggested by routine activities theory. There is certainly sufficient data from respondents to reconstruct scenarios in which the vulnerability of the older person, the opportunities for mismanagement, the incentives for mismanagement, and the chances of succeeding are high so long as the crime is not detected until after it has been carried out

The most serious and apparently clear cut cases of financial mismanagement of older people's assets involve the perpetrator acting with absolute intent to obtain the older person's assets. For example, an older woman goes into residential care. Her nephew who has EPA sells her house and takes her money, but is eventually detected and goes to gaol. Some of these cases may appear good examples of the rational actor whom routine activities theory assumes will use rational means to achieve rational ends. However, some cited cases indicated that actors will use rational means to achieve irrational ends.

Passion and intent

While we distinguished intended mismanagement as involving absolute intent, it is not necessarily motivated by cool calculation. A number of cases discussed by interviewees revealed the extent to which deliberate acts of mismanagement may be motivated by passions.

> *A son moved his mother from her house where she had been living comfortably and in contact with friends and neighbours, to a hostel. However, the son did not pay the hostel fees, and an investigation found he had made no provision for his mother, yet the son was well known locally for his charitable work. His motivation for treating his mother so badly was apparently payback for her preventing him from marrying the woman of his dreams many years previously.*

Some people are aware of the abuse and either explicitly or complicity facilitate the process for secondary gain (eg to maintain control in the family through guilt). Others will only act because they missed out on their share of the parent's assets. The example below of the intervention of a daughter appears to be motivated more by her loss than that of her parents':

> *"(Ten years ago) an older couple developed severe dementia almost concurrently (scoring 9, 11 on the Mini Mental State Exam). The daughter went to VCAT to revoke the son's management of assets mainly because she was missing out on inheritance. He had placed (mother) in a low care hostel, sold the parent's property and used the money to build himself a new home. The daughter only received the mother's jewellery."*

Some forms of mismanagement are calculated to be overall beneficial. A neighbour may do the older person's shopping each week, but charges three times the value of the groceries. However, at least the old person is being visited each week and would not be otherwise. Cases of intended abuse often occur when potential victims are at their most vulnerable. They are typically socially isolated and estranged from family and friends. They may also be failing in their cognitive and decision making capacities. In these situations they may be preyed upon by unscrupulous and deliberate perpetrators, as the example below illustrates:

> *The woman was widowed and childless. Her husband had been a client of the solicitor. On his death, the solicitor took on the role of friend and helper to the widow, making her an extended member of his family. He also isolated her from her friends and visitors. He then started asking for money in exchange for favours. She had willed her money to friends and charities. The solicitor persuaded her to change the will to make him and his family sole beneficiaries. She did not have a dementia at the time. She was concerned at having him exclude her friends and asking her to pay for friendship. She received advice from the visiting geriatrician to get financial and legal advice. The solicitor had retired years earlier and could not be reported to a professional body. VCAT advice was that although she was competent and did not have a disability, she was vulnerable and could possibly take action, but she withdrew.*

The geriatrician assumes the woman eventually died and the solicitor was the main beneficiary of significant assets. Through the ACAS grapevine the perpetrator was found to be a serial offender who followed a pattern of preying on vulnerable widows with health issues that he met through his business. His intentions seemed very calculated, but he possibly had a personality disorder.

In cases such as this, the time between the act and its detection allows the circumstances which would have defined the act as improper to change. The perpetrator used his skills to manipulate circumstances so that once the victim died, her assets would lawfully pass to him. In the assessment of our interviewee, the perpetrator had obtained power over his victim to the extent that she was willing to participate in her own abuse for fear he would withdraw and leave her with nothing.

Other interviewees suggested that many cases of mismanagement start out innocently and turn into cases of absolute intent. The case below is one such example.

> *An older woman of Russian descent who had survived the labour camps during WWII was living in Box Hill with considerable assets including cash. Her capacities began to fail. She was good friends with a Vietnamese couple who lived nearby. They helped her out with meals and repairs to her house. The OPA were called in to investigate possible abuse of this woman by the Vietnamese couple. When the investigator went to see her, the old women wanted her to be her best friend and offered her money to help her out of her predicament. She came from a cultural background in which personal relationships involved gifts of money and as such she had been offering the Vietnamese couple money for their kindness. Because of their relevant cultural background they had perhaps accepted out of respect for an older person's firm request to take the money and not to appear rude. She also gave them powers of attorney. The solicitors involved had, in the advocate's opinion, made a "very poorly informed decision". They executed the power of attorney, but did not sign the clause to say she was competent to do it. They took her money for drafting and execution of the EPA, but did not properly legally execute it. They told the Vietnamese couple that if they wanted to properly execute it, they should go to the doctor who would give them a certificate and then the power of attorney would be valid. The advocate believes this is totally wrong. They cannot be witnesses to the POA and then have some other person be a signatory to verification of the person's capacity. The case went to VCAT and OPA were appointed guardians and ST were made her administrators. It then transpired that she had given the couple around $200K over time. She had given them blank cheques and she had taken them to the bank to withdraw money on numerous occasions. She had also left them her property. ST then applied to the Supreme Court for a court instructed will to remove them from the will. Guardians were forced to restrict access of the couple to the older woman in the facility in which she had been placed because the facility staff reported the couple had been badgering her to sign documents to say they had never been given the money. The police were also investigating the matter.*

The old woman had maintained the couple were her good friends, she wanted to see them and she wanted to give them money. However, she could not recall how much money she had given them and how often. In the beginning, the couple had been well meaning and had genuinely cared about her, but they had developed the attitude that if the woman did not know what she was doing with her assets, why should they not have them? The intriguing aspect of this and similar cases is the willingness of perpetrators to pursue their abuse of the old person to the end once the initial hurdle of guilt has been cleared. Greed may be the easy answer. However, victimology suggests it also possibly includes a sense of power and immunity from detection, and disregard of the consequences for the older person.

Strip mining

Strip mining represents the most serious form of mismanagement. It is driven by absolute intent of the perpetrator and involves the stripping of all the older person's assets of value: house and contents, cash, savings, superannuation, stocks and shares. Then the older person is dumped in a pension-rate facility with no support. Interviewees see this happen depressingly often. As noted above however, the facts are only discovered after the fact, when the facility refers the person to an Aged Psychiatric Assessment Team because they are acutely depressed as a result of how they have been treated, often by people they trust and/or love. One example given of strip mining was of a woman who was a self funded retiree and owned a home worth $2M.

> *She became debilitated. The next door neighbours became friends with her and started to provide assistance. They persuaded her to sign over her property in exchange for their care. She had not been assessed for capacity at this stage. She signed over her estate to them. They then persuaded her to sign an EPA. Shortly later she was hospitalised for three months with a severe and chronic condition. On discharge she found they had sold the house, apparently because they believed she would not be coming home. They then admitted her to a pension only nursing home where she shared a room with three other residents while trying to manage a chronic condition. She became depressed and staff involved APAT who uncovered the situation. VCAT became aware of the scenario after the house had been sold. The neighbours had managed to access her superannuation as well.*

VCAT demanded they return the superannuation, but they fought the case, using her estate money to fight her. She of course had no money to fight. Shortly later she died and the neighbours successfully made about $3M from her. We were told that strip mining is not overly common, but really stands out when it does happen.

Where parents are older or in residential care, sometimes the family believe they can access their parents' assets with impunity. Their actions are apparently justified by the view that the parent does not need much else and the family can strip the assets for their own purposes.

Dump and run

The dump and run phenomenon frequently occurs where the family obtains control over the older person's assets and their pension payments. They then admit the older person to residential care and stop paying fees and stop visiting. This practice is reportedly based on the assumption that once a facility has accepted an older person they cannot reject them. Technically they are correct, but keeping a dumped relative entails applying for guardianship in order to obtain control of their money to pay for their care. The process requires the residential care facility to show that care of the dumped relative is vital, provide proof of non-payment, and evidence that someone was taking the resident's pension and not paying residency bills. Eventually the family might be forced to hand over money for facility fees.

> *One person brought in his mother with 'no assets'. The residential facility were not informed that the mother had already been at another facility. They accepted her after a promise was made that they would get the Centrelink assessment which did not materialise. The son did not pay his mother's monthly resident fee account. The facility took the case to VCAT to get her financial affairs transferred to State Trustees, where it was revealed that the mother recently had a house which the son had transferred into his name. The facility did not receive the government subsidy for concessional resident status, so the resident and the aged care facility were both losing out financially.*

Other patterns observed by residential care facilities include carers using up the resident's money so there was not enough left to pay the facility fees. Private residential care providers have learned to take precautions. These include making medical and financial EPAs a condition of admission to care, and to 'cherry pick' applicants that represent least risk to the business (evidence of ability to pay, EPAs in place, concerned and attentive family members who exercise due diligence and visit frequently).

Coercion and exploitation

Interviewees did not link financial mismanagement to economic cycles, but did comment that when times get harder families seem more likely to take advantage of older members. They use psychological tactics rather than directly illegal strategies to extract contributions from the parent to help fund a mortgage, or a house extension. Parents can begin to feel vulnerable, afraid of being ejected or sent to residential care if they perceive they do not have any support from within the family. Similar tactics are threats to withdraw contact with grandchildren if the parent will not lend the child money. These scenarios represent relatively subtle coercion.

At the less subtle coercive end of activities, a determined and knowledgeable perpetrator can easily appropriate legal and financial instruments designed for protection and use them to their own advantage. The scenarios they can then create have all the hallmarks of a gothic melodrama. For example:

> *A grossly disoriented lady came from low level hostel care where she had been for 10 years into acute care. She was under the care of a geriatrician. In the hostel she had been cared for by her sister-in-law. The woman was extremely wealthy. An EPA had been in place for many years. It was held by a third party. While planning for discharge, a nephew suddenly appeared on the scene. He expressed a desire for the lady to come and live with him some distance from her current home. His sister had made contact, pointing out she was a lawyer and her brother was next of kin. Within a month of moving her in with him, he had barred the relatives from visiting, had organised a geriatrician's assessment to say she was competent, had changed her will in favour of himself and his sister, and sacked the EPA. He had also taken out a medical EPA. The family found out and took the case to VCAT. The nephew eventually lost the case, but it caused incredible grief. The sister- in-law was cut out of the process. The nephew had taken the lady out of her context of friends and familiar surroundings and had isolated her until she died.*

In this case, eventually the family woke to the situation, while the attorney managed to remain asleep even through their dismissal. What was missing, it seems, was a duty of care or the capacity to act among those in the discharge process, in which the geriatrician apparently did not or could not intervene.

Coercion in financial mismanagement, whether it be subtle or not, spills over into violence. Witnesses in one VCAT case appeared under a pseudonym by telephone because the son involved had a record of violence and had threatened numerous staff at the hospital. He had successfully intimidated and kept the rest of this woman's relatives away from her. The woman was put into good care, but our interviewee said it is likely that he forced her to sign a will in his favour and *"I think he's also sold her property as her administrator and realised the assets. There is an unwillingness to go down that track too far because people are going to be injured."* Family traditions can be open to exploitation. In a household where all members are trusted and interdependent, a practice that was legitimate when the older person had capacity may continue after it ceases to be legitimate. The arrangement can shift from an open policy of sharing resources and expenses to one where the victim is paying more, or completely subsidising the entire household.

Mismanagement by service providers

Interviewees confirmed their awareness of instances where professionals had intentionally mismanaged older clients' assets and noted that they are prone to temptation as much as anyone. Professionals have considerable power and trust invested in them by older clients and their families. They more than any other group have privied access to personal details of their clients, and they probably know best how to get away with misappropriation.

We were told that reliable personal care workers may be useful in detecting abuse, but often they are committing financial elder abuse themselves. People who prey on vulnerable older people will take full advantage when they get the chance. They might take on employment where they have access to such people such as in a welfare agency where they have the opportunities. It was suggested that the introduction of police checks may have had some impact on weeding out these people.

One interviewee said he had seen this abuse occur with VCAT appointed administrators, accountants, solicitors, medical practitioners, social support, church, religious and welfare organisations. Others said fraud had occurred within trustee companies.

Older people in the previous studies had identified the vulnerability of eventually needing to trust others with their money and their lives, and the key was knowing who to trust. Interviewees in this study confirm their beliefs about the importance of trust.

7. Best professional practice

In the course of discussing financial asset management practices among older people, interviewees reflected on the professional judgements they have made about the attributes of their clients. They recognised that older people represent a distinct and separate population for some of these professionals and expressed their need to self monitor for prejudicial judgements. The two service providers recognised as having the greatest opportunities for effectively detecting and intervening in financial mismanagement of older people's assets are bank staff and health care providers. These are the two strongest relationships with service providers that people maintain in old age.

Banks and finance sector

We were unable to interview a representative of the finance sector due to current client confidentiality policy. Instead we present a summary of the importance of the banking sector and some of the challenges it faces in providing protective services to its older clients. Banks and financial services have been identified as occupying a privileged position in the financial affairs of their customers and have opportunities *"…to identify some of these issues and prompt people to think about them. "They also have "the potential to be the 'first line of defence' against abuse by identifying the abuse at its outset, before the elder's assets have been dissipated".* (Russell 1999:Preface).

Nerenberg (2008) identified employees of bank and financial institutions as often the first to suspect and detect financial abuse. A number of authors have recommended that regular training be established for staff in financial agencies to raise awareness of the issue of financial abuse, to make staff aware of situations in which older people are at risk, and to better train them to respond appropriately (Boldy et al. 2005; Black 2008; Crosby et al. 2008; Department of Health and Community Services 2009).

Banks are responding to calls for an overhaul of their regulatory approaches towards individuals using EPA documents during transactions (Edmonds and Noble 2008; Peri et al. 2008), and the actions they take in order to protect their customers. However, legal barriers need to be overcome (Edmonds and Noble 2008). The Office of the Privacy Commissioner recently determined that banks and other financial institutions may use or disclose personal information where they suspect financial abuse of older persons (Office of the Privacy Commissioner 2010).

For the time being this potential seems far from being fulfilled. A recent opportunistic survey of Australian bank call centres by the customer experience research firm Global Reviews found that half of call centre staff contacted were prepared to help researchers access a person's financial records (Martin 2011). Apart from suggesting that online personal customer interactions do not inspire customer confidentiality among call centre staff, these results point to the potential for mismanaging financial assets in the anonymous space of the call centre and Internet.

We may take comfort from knowing that personal transactions continue to take place. It is not clear however what the data on informal financial assistance mean. Gardner (2005) reports a Queensland survey of 3,466 people aged 65 and over that showed 87% of those surveyed received informal financial assistance including:

(i) use of an ATM or PIN;

(ii) internet and telephone payments;

(iii) completing cheques and making withdrawals; and

(iv) making payments with the older person's money.

These are 'normal' activities for the older people who were polled, but they are normal activities with potential for serious mismanagement. It is at this level of normality that routine activities theory gains cogence. However, the data are ambiguous. They could equally indicate high levels of trust between older people and those who help them.

In striking the necessary balance between privacy and protection of older and vulnerable people from financial abuse the Privacy Commissioner recommends:

- Developing procedures for using and disclosing personal information for investigating and reporting suspected unlawful activity;
- Meeting legal requirements and assisting enforcement bodies;
- Implementing training for front line employees to assist in identifying financial abuse and responding appropriately; and
- Making a senior person responsible for deciding to release information.

Houses are bound up with complicated processes including transfer of title and mention in wills, whereas bank accounts, pension payments and cash withdrawals can be accessed with relative ease with or without the consent of the victim by forging signatures, obtaining PINs, and obtaining passwords to online banking facilities. As face to face countertop transactions are replaced by electronic transactions, safeguards based on financial staff familiarity with the older client need to be replaced with electronic proxies such as flagging unusual transaction patterns. These considerations are occupying the finance industry (Edmonds and Noble 2008). As noted by McCawley et al. (2006) unlike most other forms of abuse, financial abuse can be perpetrated remotely, for several of its forms require access to only the assets, not the person. The older people who provided data for the Staying safe with money and Diversity and financial elder abuse studies are aware of the risks of the digital age, and concerned about it.

Institutional practices

A relatively neglected area of analysis in research on financial mismanagement is the relationship between the actions of individuals and organisational structures and processes. Hospitals and residential homes are two examples that stand out in this project.

Emergency departments in hospitals are sites where physical abuse can be detected and investigated for other forms of abuse. However, this often does not happen. In the acute system, responses are not necessarily systematic. Cases with underlying abuse are treated and discharged through acute/emergency procedures rather than investigated, thereby maintaining the revolving door syndrome. If a distressed older person is admitted to the Emergency department with multiple conditions, they go directly to Geriatrics as a 'social admission'. The 'social' triage becomes an excuse for passing the case off to geriatrics. At the first hint of a problem that may involve beds being blocked, social work is told they do not need to do anything more. This is rationalised as being the private business of families; the business of the medical system is to return the person home as soon as possible. Concerns of geriatricians and social workers are also overridden by the system imperative to discharge: "social issues are not part of medical care". These problems lie with systems, rather than with individuals. Concerned professionals working in acute care systems are inhibited from acting on cases of suspected financial mismanagement by the difficulties of assembling sufficient evidence on which to act and the legal consequence of not getting it right.

Best practice in residential care facilities can offer effective protection of residents and a relatively less risky alternative to community dwelling, particularly for more vulnerable older people. Essential to good practice is a highly competent Director of Nursing and a strong culture within staff that includes "knowingness" borne out of continuity of care. An outcome is protection of residents against abuse from outside through enhanced ability to detect and act on suspected abuse. Any abuse that occurred at home would have stopped because of residence liability for residents. This ability can be weakened if casual staff are employed as a cost cutting exercise. A good management structure attracts good staff who feel they are looked after and they can deliver high quality care. Obversely, toxic environments attract toxic workers.

Many of the stresses on older people and their families related to residential care are downstream effects of policies and mechanisms for the funding of residential care homes. These experiences and the business practices of the residential care industry are structured by the Aged Care Funding Instrument. Currently, aged care providers are able to request an Accommodation Bond, provided it leaves the resident with assets worth at least 2.5 times the annual single basic age pension (an estimated $34,500 on 20 March 2008). The bond is used by the facility as capital for funding operations. It is invested and returned to the family (sometimes with interest) when the old person vacates the facility (commonly through death). Despite knowing that the bond will be returned when the resident expires or vacates children will baulk at the prospect of paying the bond on independent living because according to our residential care interviewee, they want to maintain immediate control over their parent's assets.

The reluctance of families to hand over large amounts of money to residential care facilities may also reflect distrust of the private aged care industry. Interviewees acknowledged the wide range of quality across facilities. On condition of anonymity, one interviewee also discussed a range of practices within the industry that were exploitive of older clients. These included 'assisting' the older person to raise the required accommodation bond by purchasing their house, below market price. The house would be held for a period of time by the facility during which it would be rented out, before being sold at market price for a profit. Our residential care facility interviewee acknowledged that similar unethical practices are carried out in the private industry, noting that some of them have developed not from greed but from generally narrow profit margins.

Facilities will cherry pick applicants to minimise risk to the business. For example, they require evidence of ability to pay, that financial and medical EPAs are in place, and evidence of concerned and attentive family members who exercise due diligence. The size of the accommodation bond could be used to select those who could be offered the best service.

In effect the residential care home can become a sanctuary for older vulnerable people. Low level care residents are also in a safer situation. This form of sanctuary however comes at a price that a relatively small proportion of the older generation can afford to pay. Nevertheless, 'gated communities' of upmarket institutions represent one risk reducing approach to caring for vulnerable older people. In good residential care that is properly funded the lives of older people can be improved dramatically. They can be protected from abuse, have good food, social interaction and security. Access to the safety of residential care is compromised by government funding that has not kept pace with the rising costs of running private nursing homes. One consequence has been a drop in the national take-up of bed licences by the industry. Bonds will therefore remain an essential means to offset running costs in the absence of adequate government subsidy, and bonds exclude those older people without the means to raise them.

From the viewpoint of residential care, the weakness in government support of community independent living is that single older people living alone in advanced age may have a very poor quality of life. Our interviewees told us that without State Trustees the situation for many would be disastrous.

Our CALD interviewees also pointed to a policy of assimilating migrants set up in the 1950s that has run out of time to complete its mission. It does not meet the needs of CALD groups that have been in Australia for 60 or so years and is in drastic need of revision. Our interviewees labelled as 'myth' the belief that Greek communities do not need assistance because of their strong kinship associations. Financial mismanagement occurs in CALD communities because they are experiencing the same environmental pressures as mainstream culture, but their responses are culturally specific and localised and not reflected in the national institutional framework.

Multidisciplinary and multisectoral cooperation

The degree of cooperation and integration of service sectors determines the ease with which cases of concern can be brought to attention, monitored, documented and shared between services. For all concerned, all paths lead to VCAT. However, legal demarcations between service providers can result in cases of concern not being followed through on handover.

Fulmer (2003) identifies four major themes that require attention if elder mistreatment is present: Understanding the underlying health status of the older person and carer, understanding the socioeconomic status and life circumstances of the dyad, credibility of data collected by others, and the consequences of the assessment outcome. Interviewees in our study from the community health sector offered the best evidence for multidisciplinary teams to engage in detecting and responding to cases of mismanagement.

ACAS can identify cases of older people 'at risk' from household members with a history of criminal activity or mental illness or substance abuse which may be managed with appropriate services. If the home situation degenerates, an application for guardianship can be made and the conditions of guardianship formulated by experts. If the case goes to State Trustees for administration, ACAS ceases its involvement. Whilst ACAS team members may develop considerable insights into cases of financial mismanagement, their formal role is about care, not processes in relation to property or assets.

The Aged Psychiatric Assessment Team (APAT) is a multi disciplinary team of social workers, psychiatrists, occupational therapists and nurses that sometimes overlaps activities with ACAS. The service provides aged mental health services in the community. APAT has a philosophy of pursuing cases of mismanagement as far as possible. This level of proactivity has been developed due to the specialisation of the work.

APAT clients are highly vulnerable, typically being referred with depression, psychotic features, and dementia with an overlay of psychiatric symptoms. Only severe cases are taken on referral. Out of a caseload of 150, 35 would have an Interim PA (IPA) or an administrator. The bulk of referrals come from GPs, or other service providers. The ability of APAT to act is restricted where proof of abuse is tenuous or ill-defined and/or the elderly person has capacity for decision making, is not mentally unwell and will not engage with services to prove or disprove abuse issues.

The pathway followed by the team to investigate suspected mismanagement demonstrates the power of multidisciplinary cooperation.

- details of suspected mismanagement are assembled;
- the capacity and potential for harm of the older person are assessed;
- risks and duty of care are assessed;
- conference of colleagues;
- recruit further resources and assessments to clarify cognition, consent and any coercion;
- apply to VCAT for review; and
- provide corroborating information and investigate via public advocate.

To take action requires recruiting resources to investigate. That may mean organising a family meeting and bringing up financial management. Then the pressure on the perpetrator comes from the rest of the family. The perpetrator under scrutiny may fall back into line. If family dynamics do not support this process, and the real situation is not revealed a VCAT application may be made to ask the Office of the Public Advocate to investigate the finances.

An example of this process was of a woman in a residential care facility.

> *The manager suspected a friend of this woman was financially abusing her, and wanted something done about it, but felt unable to act. On investigation it seems the woman had given a cheque for $3K to this friend. The APAT team tried to contact the friend who was not responsive. The woman's family lived interstate. Apparently they were colluding with the friend to obtain money. The family did not see the situation as improper. The mother had not signed a POA because she had a cognitive impairment and was therefore vulnerable and financially at risk. Under pressure from a VCAT submission documentation supporting each party's actions was produced. The larger part of the money from her estate was demonstrably for her accommodation, clothing and other expenses. A daughter living interstate was appointed as administrator to look after the money, although this was not felt to be a satisfactory situation.*

Our interviewee described the investigatory process as necessitated by a duty of care. Had it been his own mother in care and he thought someone was taking financial advantage of her he would want someone to care enough to take steps to look into it.

Several interviewees considered the social worker to be best placed to detect, monitor and influence potential issues of financial mismanagement, especially as a member of multi-disciplinary teams. They have longer contact with clients than other professionals and are privy to a broader range of information so they can see a lot of interrelated factors. Their training and professional relationships help them to better understand issues. They are especially well placed in councils, hospitals and rehabilitation settings to do this. Their scope of practice allows them access to discuss key transactions of their clients, such as an older person selling a house that is their primary place of residence or primary asset, triggering recommendations they seek legal or financial advice and assisting in the process if necessary.

One interviewee however was concerned about the frequency of unintended consequences arising from inappropriate decisions being made by junior inexperienced social workers when senior staff were not available in over stretched services. The interviewee stressed that any form of intervention must be initiated by an experienced and senior social worker and gave as an example the following case:

> *An 80-year old women with same sex partner 12 years her junior have been living together in her house, sleeping in the same bed for a number of years. They decide to downsize to a smaller house and buy a caravan with a plan to travel around Australia. Before they can leave, she falls and breaks a leg. She is admitted to the acute system where the social worker forms the view the partner is financially abusing her older partner and the OT forms the view that she is at too much risk to travel. The case goes to VCAT. The woman is assessed and found to have the capacity to make reasoned decisions and demonstrates a loving relationship with her partner. The case is dismissed. The interviewee concludes the social worker formed their view principally from a prejudicial view of the couples' relationship.*

While the social worker is seen to offer the greatest potential for increasing knowledge of the processes of mismanagement, they also need resourcing, education, training and remuneration befitting the frontline action expected of them. With supplementary training in rights and legal aspects their role could be enhanced.

Ethics and practice boundaries

We found that some professionals find practice demarcations an ethical challenge. For example, acting in the best interests of the older person is clearly the professional ethical imperative for geriatricians, but there are limits to action. While the actions of family members may arouse in the geriatrician suspicion of financial mismanagement, the process of assembling evidence is painstaking and the chance of mounting a VCAT case that is successful are felt to be low. For this reason, professionals are necessarily conservative in their approach to financial mismanagement and will act only when sufficient evidence is available to make a very good case.

Clients also need to be aware that lawyers do not unerringly give attorneys good advice. Research by Tilse (2002) shows that legal advisers need to broaden their expertise in meeting the complex needs of clients whose complex lives also need to be understood in offering good quality advice.

Ironically, client confidentiality considerations bar lawyers from addressing ethical conflicts that can lead to knowingly providing legal advice to an intending perpetrator of deliberate mismanagement:

A male client aged in his late 40s and quite articulate was concerned over his security in a property. He and his wife had relocated to a regional centre to care for his mother and aunt in a house owned by the aunt. He had lived in the house for 10 years and made some minor works on the property. He knew he was the sole beneficiary of both his mother's and aunt's wills. He had EPA for both. Both were reaching a stage where he was unable to care for them. The aunt developed dementia and his relationship with her was deteriorating. She was considering future care options including aged care accommodation and was considering selling the house to pay the bond. These considerations had financial and practical repercussion for him. His situation conflicted with the conditions of the EPA. He was considering taking out a caveat on the property because he had an equity stake due to his prior contributions while caring for them, and because he had a legitimate expectation of inheritance. His dilemma lay in not being able to exercise this power because of conflict with his power of attorney.

This is a classic issue for financial elder abuse and succession. It is far more valuable for a beneficiary to maintain an interest in a property that is increasing in value, rather than the older person who owns the house selling it to meet their care needs. The ethical dilemma for the solicitor is that the man is his client and he cannot contact the women independently and advise them of their rights. Yet, there should be some trigger in place to reassess the situation. The solicitor can advise the client he has a conflict of interest. However the client can choose to accept this legal advice or to reject it — it is his own business, but he will be armed or empowered to exploit the situation further in his own interests.

Professional development

The recognition among staff in inter-disciplinary teams that they need to build awareness and develop skills and processes for being able to act confidently on these issues has led to development of their own professional development courses. Further work can be done to support current professionals and ones new to the field to ensure they have the tools and confidence to do the job.

Strategies to better support best practice suggested by our interviewees included:

- Build community awareness and clear avenues for community members to seek advice on these issues from a peak body/lead agency who can clarify and dispense advice on next steps to take.
- Proper use of professional interpreting services for assessments. Do NOT utilise family to interpret.
- Good skill base and confidence with clinicians doing screening and assessment.
- Clear guidelines and processes to help tease out the issues where things are unclear that are available to clinicians and the general public such as online resources.
- Disclosing to outsiders, especially female workers is less likely to be made by male heads of some CALD families. Interpreters are supposed to be impartial, but in small communities, their involvement may complicate situations.

Being alert to possibilities is very important and more education is required for care workers who are in clients' homes and can build up rapport, trust and familiarity.

- Education of care workers is critical, but if they do not believe action will be taken they will not necessarily disclose. They may also be more reticent to complete an incident report on paper, whereas discussion with the case manager is preferred.
- The revised With Respect to Age (Department of Health and Community Services 2009) addresses the uncertainty that reportedly inhibits service providers from acting on suspected cases of financial mismanagement by providing clear pathways for them to act.
- There is a lack of knowledge by service providers helping with age related illness that can be addressed through introduction of professional development on EPAs.

The analyses of our interviewees are reflected by Reeves (2010) who outlines four major strategies for addressing elder financial mismanagement:

- education and outreach;
- general detection and universal screening;
- legal interventions, and
- multidisciplinary teams.

8. Conclusion

For this project we gathered expert opinions on best practice in the management of older people's assets in the context of intergenerational transfers. Best practice in financial management of older persons' assets has been identified and described by our interviewees according to their professional perspectives. To a large proportion of the Victorian population, their definitions may be no more than 'common sense' responses made by informed citizens. However, we must remind ourselves that within our analytical framework of intergenerational transfers, this particular form of 'common sense' reflects the dominant culture within our culturally diverse Victorian community.

It seems that the current generation of older people are the first generation of older people in mass society to present as a 'social problem'. We need therefore to avoid making the victims themselves the problem. In many cases 'bad' decision making occurs in the absence of signposts to 'good' decision making. Whilst experts can distinguish good from bad decision making, the fact that much decision making happens within the privacy of the family means that the consequences are known too late to seek effective remedy if remedy is required.

Our interviewees have brought professional ethical principles, tempered by experience and knowledge, to highlighting the differences between lay and expert notions of mismanagement of older people's assets and offered insights that flesh out the contextual and sometimes contested meanings of these definitions. In the process, they have helped describe a continuum of practices in asset management that ranges from best to worst in terms of outcomes for the older owner of the assets.

The logic seems clear;

- First of all obtain good advice on how to plan and finance your life transitions over the coming years. The principal consideration is to manage all your assets in order to meet all your own needs up to your death. Whatever assets remain can be distributed among selected beneficiaries of one's will.
- Obtain good advice on how to best use legal structures so that you maintain control over your assets and your intended use of them, and through instruments such as enduring powers of attorney ensure that should you lose capacity to administer your own financial affairs, your welfare is in trusted hands.
- Finally, find a person you can trust to manage your assets in your best interests.

From the interviews we conducted the following themes emerged: best practice in asset management, unintended asset mismanagement, intended asset management, and best professional practice.

We found that for successful management the needs of the older person come first, regardless of competing claims. Trust between the older person and those assisting them in the management of their assets is essential. The trust should be explicit rather than assumed, as unspoken assumptions and expectations often lie behind unintended mismanagement. The demand for explicit trust may put strains on relationships, but strong trust should bear the pressure. The older person's relatives need to be willing to take on generational obligations, since according to our interviewees, the strongest protection against mismanagement of older people's assets is good family values, meaning the family puts the needs of the older family member first.

Exercising due diligence is strongly recommended, especially considering the seriousness of planning for the remainder of one's life. As older people are encouraged to obtain expert advice, the providers of advice also need to practice due diligence in ensuring all aspects of a person's situation are considered.

Changes in living arrangements towards lone person households, especially among Anglo-Celtic Victorians adds pressure to understand and meet the needs of this growing segment of the ageing population. While living alone may be a lifestyle preference, its corollary of social isolation carries with it an increased risk of vulnerability to exploitation.

Unintended mismanagement was found to be mostly the result of good motives being informed by bad judgement, resulting in financial distress and strains on intergenerational relations. Early transfer of assets, often based on expectations of reciprocity was one example practiced in both Anglo-Celtic and CALD communities. Fallout can be headed off by a formal care agreement.

Declining cognitive capacity and competence, often the result of a dementia is a serious risk factor for mismanagement. It was noted that even where capacity has been assessed prior to making decisions, bad decisions can be made later when a dementia has developed. EPAs are considered essential, even though they offer limited protection. It was noted however, that even where the consequences of a decision made while competent can be foreseen, sometimes the motivations of the older person should be respected. For example, where an old person wants to express their love for a family member during their lifetime through gifts of money and property.

From this study, and the previous ones from the Protecting Elders Assets Study programme, we know that older people can be vulnerable to mismanagement of their assets through physical frailty, cognitive deficits, poor eyesight, social isolation, new technologies and dependency. Low income, rurality and CALD status can also reveal relative vulnerabilities. Family and individual histories can reveal patterns of mismanagement that indicate generational vulnerabilities.

We confirm that Anglo-Celtic older people are more likely to have wills and EPAs, while CALD people are more likely to depend on family. While close family structures can be protective, cultural differences between CALD generations indicate widening possibilities for miscommunication and unintended mismanagement. It was also observed that culturally specific services do not adequately meet the needs of older CALD people.

Family structure and family relationships significantly impact on the capacity of older people to make rational financial decisions. These range from older parents being forced to continue parenting dependent adult children, to children feeling threatened by their parents' intimate relationships with non-family individuals. We note that parents may prefer family-like relationships with non-family over their own children. Other familial traditions, especially the family farm can give rise to unfair outcomes as a result of the desire to pass on the family farm to 'deserving' children.

Unintended mismanagement when challenged is rationalised by perpetrators in terms that devalue the rights and needs of the older person. The ageist assumptions underlying mismanagement should therefore be of serious concern.

Intended mismanagement ranges from revenge for past wrongs, to clear cut cases of opportunistic stripping of the older person's assets. These cases occur when victims are at their most vulnerable. Strategies range from befriending and exploiting cognitively impaired and asset rich older people through to direct coercion.

Our interviewees acknowledged the need to scrutinise their own professions for mismanagement. While older people have high levels of trust of professionals, the service providers themselves are known to abuse the trust of older people for financial gain. The need for awareness of structural ageism among health, financial and aged care organisations was also noted, to the extent that residential care institutions can be seen as either a sanctuary for the vulnerable, or a site for their systematic abuse. Unequal outcomes for CALD clients was also noted.

The professions and service providers are responding to financial mismanagement issues. This report contributes to further developments in education, awareness raising and professional development.

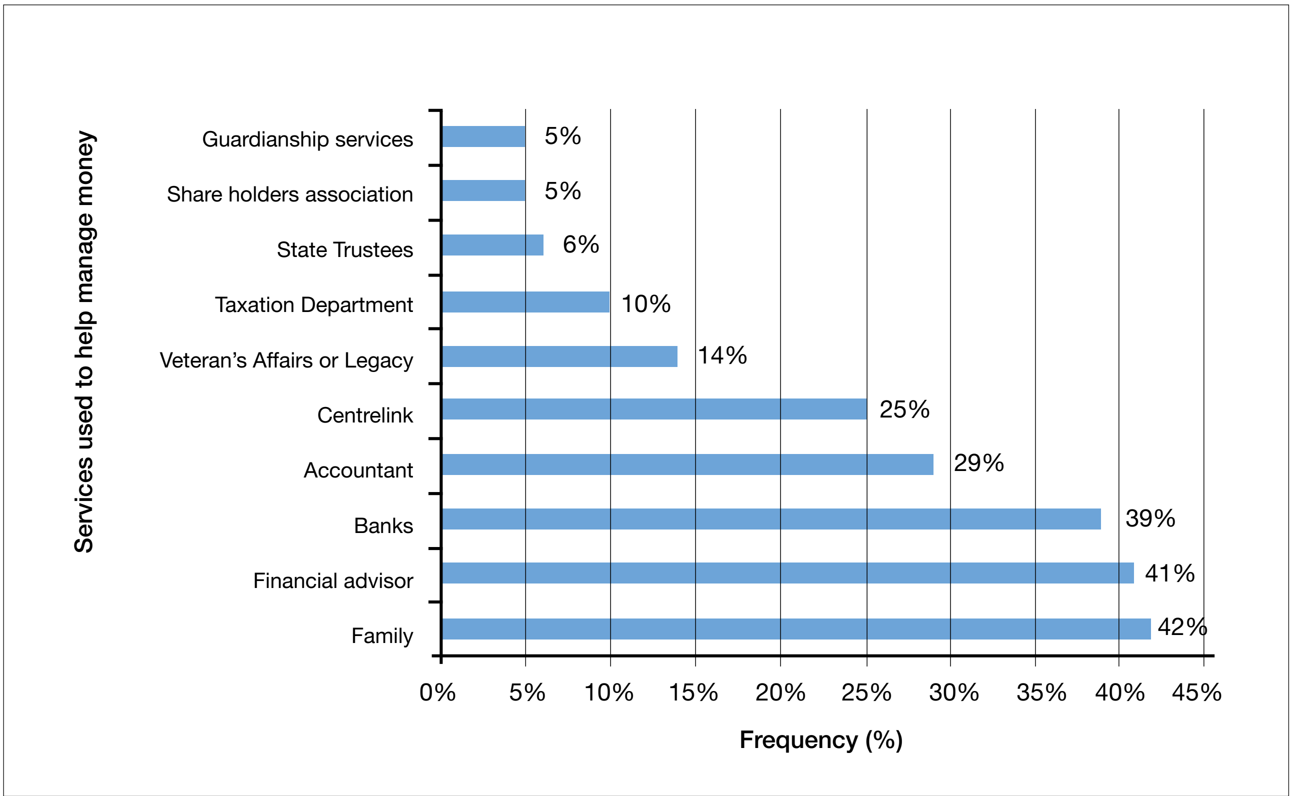
Appendix 1: Data Tables and Figures

Table 1: Percent living alone by country of birth by age, 2001

Percent living alone by country of birth by age, 2001				
	Age groups			
	15–44	45–64	65+	All
Germany	9.9	14.7	31.4	18.2
Scotland	8.8	13.1	30.9	16.6
North West Europe	8.2	15.1	25.4	15.6
England	8.0	13.4	30.0	15.1
Other United Kingdom and Ireland	7.6	10.5	26.7	13.1
Italy	9.3	7.0	19.9	12.6
Southern and Eastern Europe (excluding Greece and Italy)	4.8	10.3	26.2	12.5
New Zealand	7.5	15.6	32.7	11.1
Australia	5.2	12.7	32.8	9.4
Americas	5.9	10.6	23.7	8.7
Greece	9.2	6.0	11.1	8.1
North Africa and the Middle East	5.2	8.2	17.8	7.5
Other North East Asia	6.4	5.5	17.9	6.7
Other South East Asia	5.7	6.1	14.5	6.3
China (excluding Taiwan)	5.3	5.5	10.2	6.0
Philippines	3.5	8.5	13.7	5.5
Southern and Central Asia	3.7	4.9	17.6	5.3
Vietnam	3.7	3.9	7.3	4.0

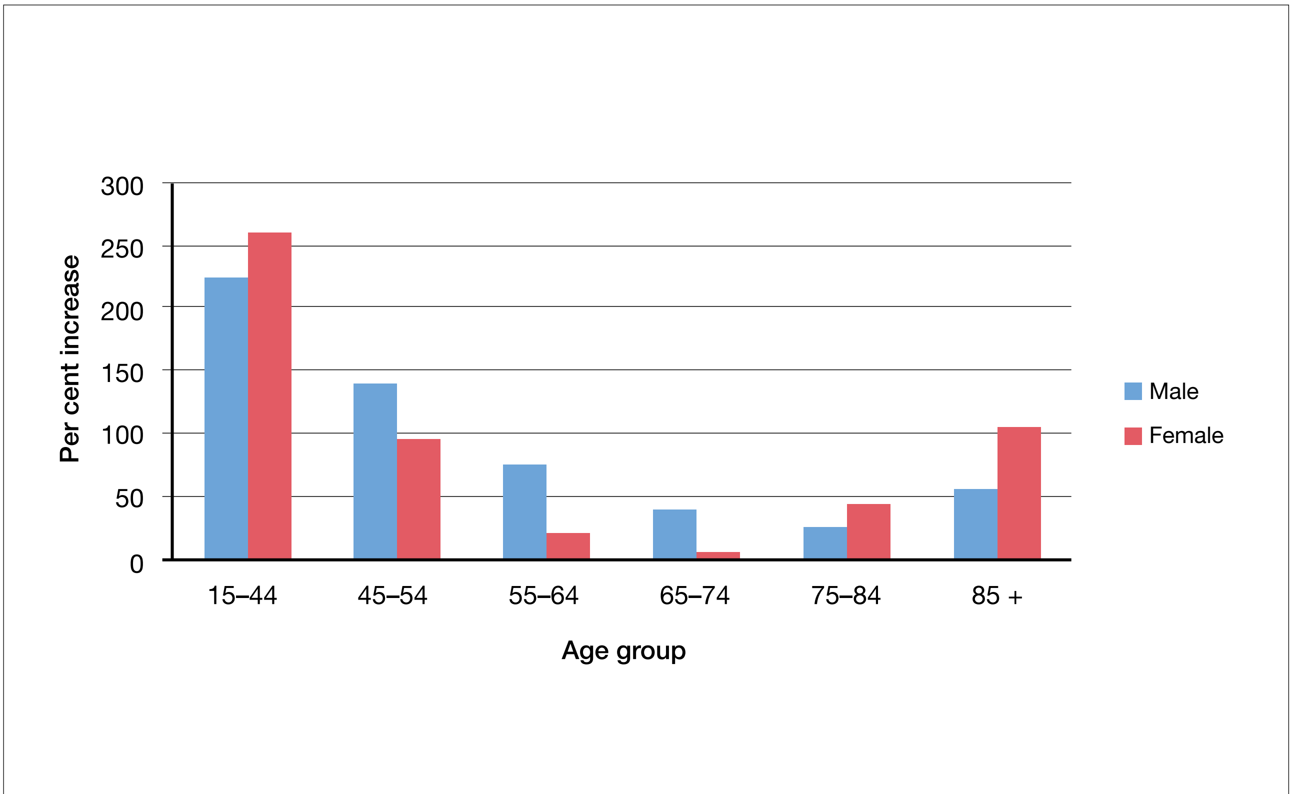
Source: adapted from de Vaus (2004)

Figure 1: Services used to help manage assets



Source: Wainer (2010:24)

Figure 2: Percentage change of people living alone by age group, Australia, 1971-2001



Source: de Vaus (2004)

Appendix 2: Interviewees

Elizabeth Brophy, Private practice lawyer

Steve Cowell, Manager, State Trustees

Robert Franssen, Accountant, Pakenham Aged Care

Dr Robert Hall, General Practitioner, Wonthaggi

Chris Harrison, Manager, Aged Mental Health Service, St Vincent's Health

Poppy Hearn, Greek Welfare Association

Neil Jenkins, Former owner and operator, Hallam Health Care residential home

Michelle Manning, Case manager, Home and Community Care services, City of Greater Dandenong

Dr Michael Murray, Director of Geriatric Medicine, St Vincent's Health

Peter Noble, The Loddon Campaspie Community Legal Service

Tanya Nolan, Advocate, Office of the Public Advocate

Rod Petri, Team leader, Aged Care Assessment Service, St Vincent's Health

Russell Robertson, Director, O'Farrell Robertson McMahon, Accredited Wills & Estates Specialist

Samantha Ronalds, Case manager, Home and Community Care services, City of Greater Dandenong

Dr Jenny Schwarz, Geriatrician, Western Hospital.

Jenny Skapetis, Greek Welfare Association

Janine Stevenson, Case manager, Home and Community Care services, City of Greater Dandenong

Contributors who did not wish to be named (2)

We were unable to interview bank staff due to current client confidentiality policy.

Appendix 3: Interview questionnaire

Monash University/Eastern Health Protecting Elders Assets Study

Part 2B
Interview schedule
Tuesday, 2 November 2010

Definitions

Financial elder abuse

i) *Intended financial abuse – the separation of a person from the benefit of their assets for the benefit of another, involving deliberate intention – maliciously or otherwise [and without the informed consent of the person]. eg Sold mother's house with power of attorney. Took $50,000 without mother's permission.*

ii) *Unintended financial abuse – the inadvertent and/or uninformed financial mismanagement or neglect of financial assets which causes the deprivation of benefits to be derived from those assets. eg Parent on fixed low income supporting child's drug habit.*

iii) *Intergenerational asset transfer – normative arrangements for transferring wealth from parents to their children, eg Wills, distribution of proceeds from sale of assets to children.*

Assessment

1. How would you rank financial abuse in seriousness against other problems impacting negatively on old people?

2. Do you think the problem is on the rise and if so what are the main causes?

Experiences

3. From your own experiences, can you provide some examples of the best and worst you have seen of a) financial management, b) asset transfer. Please discuss why they turned out the ways that they did.

4. What strategies could be developed to better support ‘best practice’ and prevent ‘worst practice’ in management of older persons’ finances; by individuals and families, and professions/service providers.

Responsiveness

5. How have your responded to clear examples of financial abuse in your professional work? To what extent have you been restricted in your capacity to respond?

Capacity to respond

6. Do you think your profession is adequately prepared for and confident in dealing with financial abuse and its consequences?

7. What are your thoughts on interprofessional, intersectoral cooperation in dealing with financial elder abuse?

Abuse by professions

8. Are you aware of instances of elders being financially abused by professionals trusted with acting in their interests, or paid workers/professional advisors/health care professionals, or volunteers from various religious or benevolent organisations?

9. What role do you see for a trustee company in supporting older people to manage their assets?

Interventions

10. If more vulnerable groups encounter financial difficulties, what help or resources might make a real difference to them?

Characteristics of abusers and abusees

Ethnicity

11. In your role have you had contact with people from different cultural backgrounds, who appear to belong to a defined ethnic community? If yes, can you please describe their approach to financial management, highlighting how it differs from common practices?

SES

12. Have you had professional contact with the spectrum of wealth, from those who are struggling to make ends meet to those who are exceedingly wealthy? Can you please provide some insights regarding how financial management practices differ across the wealth spectrum?

Abuser profiles

13. Abusers may be categorised as "mad, sad or bad" according to their intentionality. We would be particularly interested to have your thoughts about the criminality/intent/*mens rea* of the abusers; did they knowingly do the wrong thing out of choice, or was the abuse "accidental" something that happened by twist of circumstance that could not be easily undone?

14. People can do things for all sorts of reasons. Sometimes they act in perfectly rational ways with clear links between thoughts, actions and consequences. Other times people are driven to behaviours by extreme emotions or by psychological or psychiatric conditions such as personality disorders, substance abuse or by mental illness. Can you please comment on this with respect to the people and situations you have dealt with?

Family dysfunction

15. Where you have encountered families where there is member

(a) with a psychiatric illness,

(b) who abuses drugs,

(c) has a gambling habit

How has this affected financial management? Does it usually result in the older generation paying for the actions of the younger?

Do you have any additional comments?

References

Access Economics (2009). Keeping dementia front of mind: Incidence and prevalence 2009–2050, Alzheimer's Australia.

American Psychiatric Association (2010). Diagnostic and statistical manual of mental disorders. Washington DC, American Psychiatric Association.

Andrews, K. (2001). National strategy for an ageing Australia: An older Australia, challenges and opportunities for all. Canberra, Commonwealth of Australia.

Australian Bankers' Association (2010). Review of administration and guardianship laws. Submission to Victorian law reform commission on guardianship.

Australian Bureau of Statistics (2009). Age matters. Canberra, ABS. Retrieved from www.abs.gov.au/AUSSTATS/abs@.nsf/lookup/4914.0.55.001Main%20Features5May%202009#defgen.

Australian Bureau of Statistics (2010). Australian households: The future. Canberra, ABS. Retrieved from www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features20Dec+2010.

Australian Bureau of Statistics (2010a). Population by age and sex, Australian states and territories. Australian Bureau of Statistics. Canberra, ABS. Retrieved from www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/3101.0Feature%20Article1Jun%202010?opendocument&tabname=Summary&prodno=3101.0&issue=Jun%202010&num=&view=].

Australian Institute of Health and Welfare (2007). "Older Australia at a glance." 4th Ed. Retrieved Feb. 2, 2011, from www.aihw.gov.au/publication-detail/?id=6442468045.

Australian Institute of Health and Welfare (2011). "Australian trends in life expectancy." Retrieved Feb. 6, 2011, from www.aihw.gov.au/mortality/life_expectancy/trends.cfm.

Australian Mutual Provident and National Centre for Social and Economic Modelling (2003). Income and wealth report.

Black, J. (2008). "The not-so-golden years: Power of attorney, elder abuse, and why our laws are failing a vulnerable population." St. John's Law Review 82(1): 1–26.

Boldy, D., B. Homer, K. Crouchley and M. Davey (2005). "Addressing elder abuse: Western Australian case study " Australasian Journal on Ageing 24(1): 3–8.

Bourdieu, P. (1990). The logic of practice. Stanford, SUP.

Brannen, J. (2006). "Cultures of intergenerational transmission in four-generation families." Sociological Review 54(1): 133–154.

Commonwealth of Australia (2007). Older people and the law. House of Representatives. Standing Committee on Legal and Constitutional Affairs. The Parliament of the Commonwealth of Australia. Canberra, Commonwealth of Australia. Retrieved from www.aph.gov.au/house/committee/laca/olderpeople/report.htm.

Commonwealth of Australia (2010). Australia to 2050: Future challenges, intergenerational report 2010. Attorney-General's Department. Barton, Treasurer of the Commonwealth of Australia. Retrieved from www.ag.gov.au/cca.

Costello, P. and Australian Treasury (2002). Intergenerational report 2002–03. Canberra, Australian Government Publishing Service. Retrieved from www.budget.gov.au/2002-03/bp5/html/01_BP5Prelim.html.

Crosby, G., A. Clark, R. Hayes, K. Jones and N. Lievesley (2008). The financial abuse of older people: A review from the literature. London, UK, The Centre for Policy on Ageing.

de Vaus, D. (2004). Diversity and change in Australian families: Statistical profiles, Australian Institute of Family Studies.

Department of Health and Community Services (2009). With respect to age – 2009: Victorian government practice guidelines for health services and community agencies. Melbourne, Department of Health and Community Services.

Edmonds, J. and P. Noble (2008). Responding to the financial abuse of older people: Understanding the challenges faced by the banking and financial services sector Victoria. Advocacy & Rights Centre Ltd. Loddon Campaspe Community Legal Centre.

Esser, H. (1993). "The rationality of everyday behavior: A rational choice reconstruction of the theory of action by Alfred Schütz." Rationality and Society 5(1): 7–31.

Featherstone, M. and M. Hepworth (1995). Images of positive ageing: A case study of Retirement Choice magazine. Images of ageing: Cultural representations of later life. M. Featherstone and A. Wernick, Eds. London, Routledge: 29–47.

Felson, M. and L. E. Cohen (1980). "Human-ecology and crime - a routine activity approach." Human Ecology 8(4): 389–406.

Foner, N. (1984). Ages in conflict. A cross-cultural perspective on inequality between old and young. New York, Columbia University Press.

Fulmer, T., A. Firpo, L. Guadagno, T. Easter, F. Kahan and B. Paris (2003). "Themes from a grounded theory analysis of elder neglect assessment by Experts " The Gerontologist 43(5): 745–752.

Gardner, J. (2005). Uncovering elder abuse: Powers of attorney, administration orders and other issues for banks. Banking and Financial Services Ombudsman Annual Conference.

Gibson, F., L. Davis, M. Andrea and C. Pirvu (2008). Financial & consumer credit issues for older consumers in central Victoria. Bendigo, Advocacy & Rights Centre Ltd., Loddon Campaspe Community Legal Centre.

Giddens, A. (1990). The consequences of modernity. Oxford, Polity.

Hareven, T. K. (1994). "Aging and generational relations: A historical and life course perspective." Annual Review of Sociology 20: 437-461.

Helmes, E. and M. Cuevas (2007). "Perceptions of elder abuse among Australian older adults and general practitioners " Australasian Journal on Ageing 26(3): 1–5.

Homans, G. C. (1958). "Social behavior as exchange." American Journal of Sociology 63(6): 597-606.

Hudson, M. F. and J. R. Carlson (1998). "Elder abuse: Expert and public perspectives on its meaning. Journal of Elder Abuse & Neglect 9(4): 77-97.

Kelly, S. and A. Harding (2003). Income and wealth report issue 5: Wealth and inheritance. You can't rely on the old folks' money, Australian Mutual Provident Society, National Centre for Social and Economic Modeling.

Koyano, W. (1989). "Japanese attitudes toward the elderly: A review of research findings." Journal of Cross-Cultural Gerontology 4: 335-345.

Lim-Applegate, H., P. McLean, P. Lindenmayer and B. Wallace (2007). New age pensioners-trends in wealth. Department of Families Community Services and Indigenous Affairs. Canberra, Commonwealth of Australia. Retrieved from www.fahcsia.gov.au/about/publicationsarticles/research/austsocialpolicy/Documents/austsocpolicy_2006/article1.htm#t7.

Mannheim, K. (1952). The problem of generations. Essays on the sociology of knowledge. K. Mannheim, Ed. New York, Oxford University Press: 276–320.

Martin, P. (2011). Bank call centre staff assist account breaches. The Age. Melbourne.

McCawley, A., C. Tilse, B. A. Wilson, L. Rosenman and D. Setterlund (2006). "Access to assets: Older people with impaired capacity and financial abuse " Journal of Adult Protection 8(1): 20–32.

McDonald, P. (1988). "Families in the future: The pursuit of personal autonomy." Family Matters 22: 40–47.

Nerenberg, L. (2008). Elder abuse prevention: Emerging trends and promising strategies. New York Springer Publishing Company.

Office of Public Advocate (2007). Advice for attorneys: Information for people appointed with enduring power of attorney (financial). Melbourne, Office of Public Advocate.

Office of Public Advocate (2007). Enduring power of attorney (financial): Planning ahead for future financial and legal decisions. Victoria Office of Public Advocate.

Office of Senior Victorians (2007a). Victorian government elder abuse prevention strategic implementation plan 2006-09. Department of Planning and Community Development. Melbourne, State Government of Victoria. Retrieved from www.seniorscard.vic.gov.au/Web19/osv/rwpgslib.nsf/GraphicFiles/Victorian+Elder+Abuse+Prevention+Strategic+Plan+2006-09+APR08/$file/Strat+plan.pdf.

Office of Senior Victorians (2009). Rights. Respect. Trust: Victorian government elder abuse prevention strategy, State Government of Victoria.

Office of the Privacy Commissioner (2010). Re: Financial abuse of older persons and disclosure by banks. Office of the Public Advocate. Sydney.

Olsberg, D. (2006). "Shifts in values and priorities of older Australians presents challenges for elder law." Elder Law Review 6 (4): 11.

Olsberg, D. and M. Winters (2005). Ageing in place: Intergenerational housing transfers and shifts in later life, Australian Housing and Urban Research Institute (AHURI).

Parliament of Victoria (1958). Instruments act 1958 (vic).

Peri, K., J. Fanslow, J. Hand and J. Parsons (2008). Elder abuse and neglect: Exploration of risk and protective factors. Wellington, Families Commission.

Procopis, C. (2007). Celebrating 10 years of promoting the rights of older people in Elder Abuse Prevention Unit.

Productivity Commission (2011). Caring for older Australians, draft inquiry report. Canberra. Retrieved from www.pc.gov.au/__data/assets/pdf_file/0011/104879/aged-care-draft.pdf.

QSR International Pty Ltd (2009). Nvivo qualitative data analysis software. Version 9.

Reeves, S. and J. Wysong (2010). "Strategies to address financial abuse." Journal of Elder Abuse and Neglect 22: 328-334.

Russell, C. (1999). Meanings of home in the lives of older women (and men). A certain age: Women growing older. M. Poole and S. Feldman, Eds. Sydney, Allen & Unwin: 36–55.

Salt, B. (2003). The big shift : Welcome to the third Australian culture: The Bernard Salt report South Yarra, Hardie Grant.

Setterlund, D., C. Tilse, J. Wilson, A. L. McCawley and L. Rosenman (2007). "Understanding financial elder abuse in families: The potential of routine activities theory." Ageing & Society 27: 599-614.

Setterlund, D., J. Wilson, C. Tilese, G. Robinson and L. Rosenman (2003). Financial abuse within families: Views from family members and professionals Symposium: Assets, ageing and abuse - emerging issues for families: 8th Australian Institute of Family Studies Conference. Melbourne.

State Trustees Limited (2008). Enduring power of attorney [financial]. Melbourne.

Tilse, C. (2002). "Cash, customers, and care: The experience and meaning of differential payment for high care places in aged care facilities." Australian Journal of Social Issues 37(4): 383–396.

Tilse, C., L. Rosenman, J. Peut, J. Ryan, J. Wilson and D. Setterlund (2006). "Managing older people's assets: Does rurality make a difference?" Rural Society 16(2).

Tilse, C., D. Setterlund, J. Wilson and B. Herd (2002). "Legal practitioners and older clients: Challenges and opportunities for effective practice." Elder Law Review 1(11): 1–16.

Tilse, C., J. Wilson, D. Setterlund and L. Rosenman (2005). "Older people's assets: A contested site." Australasian Journal on Ageing 24 Supplement S51-S56.

Turner, B. S. (1998). "Ageing and generational conflicts: A reply to Sarah Irwin." British Journal of Sociology 49(2): 299-304.

Wainer, J., P. Darzins and K. Owada (2010). Prevalence of financial elder abuse in Victoria. Melbourne Monash University.

Wainer, J., K. Owada, G. Lowndes and P. Darzins (2010). Staying safe with money: The experience of older English speaking Victorians. Melbourne, Monash University.

Wainer, J., K. Owada, G. Lowndes and P. Darzins (2011). Diversity and financial elder abuse in Victoria. Melbourne, Monash University.

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