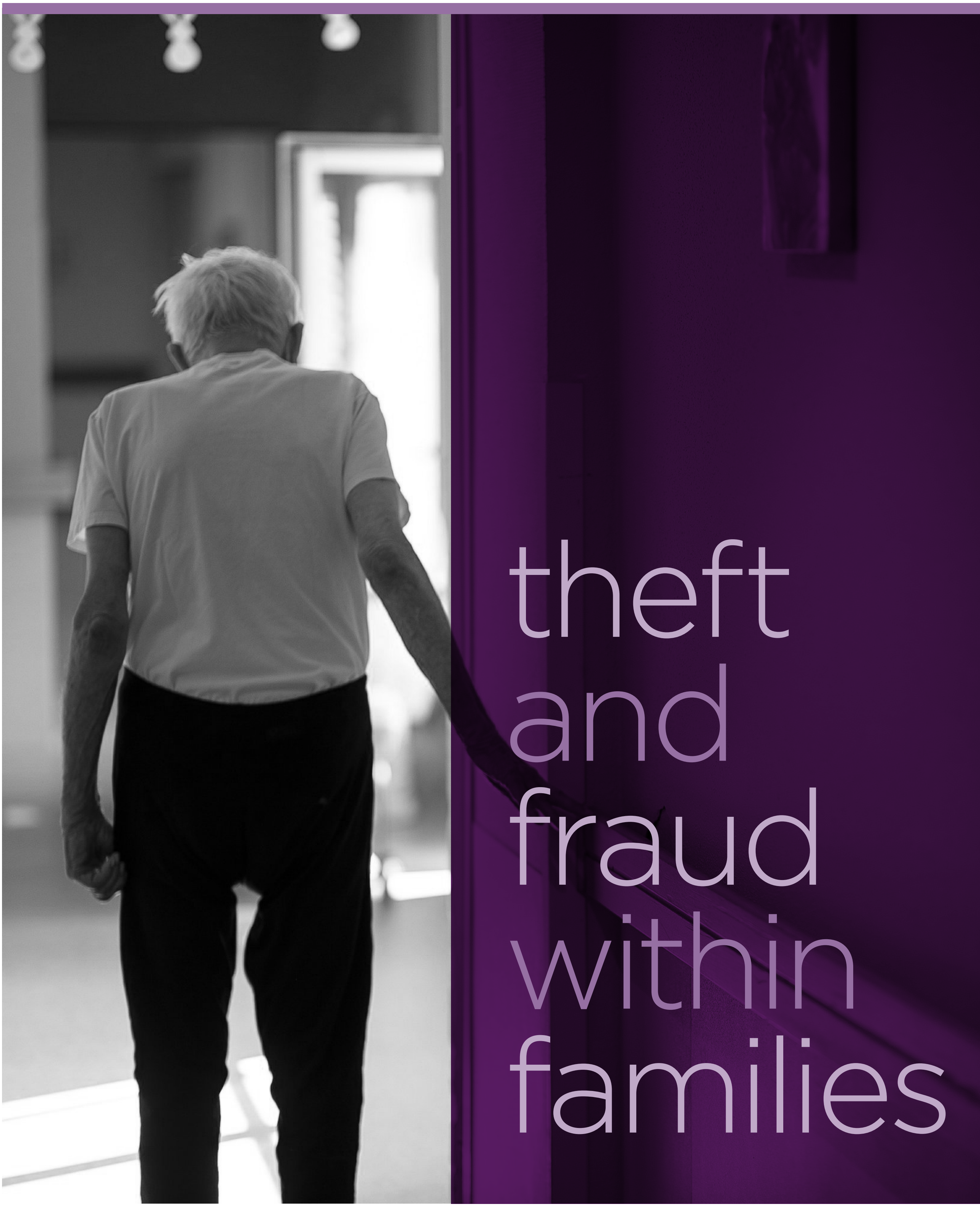
Financial Vulnerability Taskforce

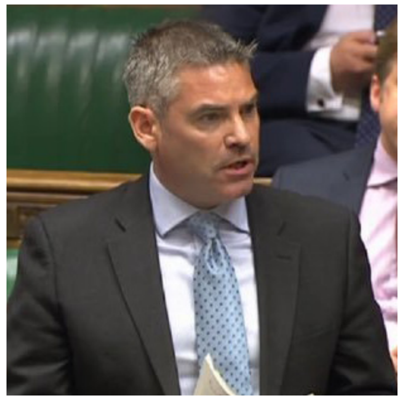
A SAFE PAIR OF HANDS

All Party Parliamentary Group on Insurance & Financial Services



theft and fraud within families

Foreword



It is a common misconception that financial abuse – including theft and fraud – is inflicted by individuals or organisations at arms-length, by people largely unknown to the victim. However, anecdotal evidence has for some time suggested that a significant amount of financial abuse is inflicted by those much closer to home, namely family members.

Back in 2008, a report for Help the Aged stated that not only was 70% of financial abuse of older people perpetrated by family members, but it also estimated between 60 to 80% of these crimes took place in the home. Whilst there is not an extensive list of up-to-date research, we do know that around 50% of financial abuse in the UK is perpetrated by adult children of the victim.

Furthermore, we know that whilst theft and fraud within families is not restricted to older people, demographic changes including living longer will undoubtedly increase its prevalence, with property and complex financial resources a challenge for many to manage over time.

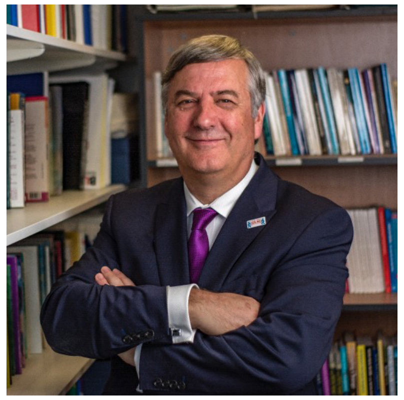
To this end, I welcome this report by the independent Financial Vulnerability Taskforce, to highlight 'the elephant in the room', spread awareness and spark discussion.

As we look to unlock our society and return to some semblance of a normal way of life, we must address the financial impact the pandemic has had, so tackling the rise in fraud and financial scams sits at the heart of this response.

We need to better understand the scale and nature of financial abuse in families. Only then can we move forward together to ensure it is both prevented and responded to effectively. The potential scale of this threat to our loved ones and the consequences across society are simply too great to be ignored any longer, so I commend this report to colleagues across the House who I know share my desire to build back better from this pandemic.

Craig Tracey MP
Chair, Insurance and Financial Services *APPG*

Foreword



Our understanding of financial fraud and scams has significantly developed over recent years. Indeed, most of us receive texts, emails and phone calls on a weekly, and sometimes almost daily basis, from criminals attempting to defraud us out of our savings.

I have had the privilege of leading the national research into fraud and scams for the Chartered Trading Standards Institute and the National Trading Standards Scams team for a number of years now and this has included producing a number of All Party Parliamentary Group reports into this area. Indeed, it has been pleasing to see the way in which society and the financial sector now have a much greater understanding and appreciation of the problem of fraud and scams. We have made great progress in society understanding that this is a serious crime, often driven by organised criminal gangs affecting many people with devastating consequences.

However, the more I seem to speak and write about this issue the greater seems to be the feedback that I receive from individuals describing theft and fraud within families. People contact me in a very distressed state to talk about how a close relative has taken money without permission or knowledge from another family member. This is not just one or two examples, but increasingly is becoming the majority of stories I come across. What is clear is that very few crimes from within families are ever reported to the authorities.

It reminds me as an experienced social worker that when we started to use the term 'child abuse' in the 1980s (prior to this we used the term 'non accidental injury'), we assumed that the perpetrator was a stranger (indeed we often used the phrase 'stranger danger'); however, we now appreciate that the majority of abusers are known to the victim and are often family members. In the same way – although it is clear that criminals are behind many frauds and scams and that this is an important message to get out into society – we appear to have overlooked the scale and impact of fraud and theft within families.

I was fortunate to meet Jennifer Hawkswood, an experienced social worker with a wealth of expertise in the area of safeguarding including fraud, almost two years ago and we began to discuss this issue and discovered that we had very similar views about this matter. During the covid-19 lockdown we decided to start to write something on this subject.

Foreword (continued)

This coincided with the development of the Financial Vulnerability Taskforce which was being supported by the Personal Finance Society. I have been a member of this Taskforce since its inception and thus I approached the FVT with the idea of using this developing work as the basis of an APPG report. This was the genesis of *Theft and Fraud within Families – the elephant in the room*.

A number of individuals and organisations have commented on this report and helped to draft it. Colleagues from within Trading Standards, including the national team and city of London team, the National Association of Finance and Assessment Officers in local government, the Association of Public Appointed Deputies, the National Safeguarding Adults Boards managers network and of course the FVT, to name a few, have kindly offered their input and wisdom and we are truly grateful for this. Personally, I also want to acknowledge the input from Jennifer, who has been the lead author and without her commitment we would not have got this report off the ground.

When we consider theft and fraud within families what we don't yet have an understanding of is the motivation. How much is an attempt to avoid paying care home fees, or to avoid inheritance tax? Or is it simply relatives believing the money is theirs by right, as they will inherit it anyway, so they are simply 'accessing it' early. We simply do not know and thus this report is a compilation of the little that is known, coupled with a call for more research to better understand the scale and impact of this issue. We all know it's a problem we simply do not know how big a problem it is, but it's likely to be massive!

It is clearly a very sensitive subject, and it is likely that 'toes will be trodden on' as we look into it further, but it really needs to be done. It is not just organised crime and individual criminals who undertake and commit fraud and scams, it is also hidden within families and we simply must look into and investigate this further. On behalf of the Financial Vulnerability Taskforce, Jennifer and I commend this report to you with the sincere desire and hope that we can all come together to find ways to better understand this issue.

Professor Keith Brown
Chair, *Safeguarding Adult National Network*
Member, *Financial Vulnerability Taskforce Steering Group*

Executive summary

- There is a lack of awareness about this issue amongst the public and some safeguarding partners. Others are struggling with the difficulties faced by the conflict between the right to make unwise decisions and statutory safeguarding duties around protection
- Financial abuse including theft and fraud within families needs to be researched and best practice guidance for safeguarding partners and other agencies developed.
- The cost to individuals and tax payers through public health implications, care fee debts, and to agencies investigating concerns is significant
- The issue does not just affect local authorities. There is a widespread harmful impact across agencies and society

What are we seeking?

This paper seeks to prompt discussion on all aspects of financial abuse within families. This includes theft, fraud, coercive control, extortion, grooming and scamming - not an exhaustive list. While agencies view this through their own lenses and are likely to use different terminology, the purpose of this paper is to attempt to unite us on a common objective: the need to work more effectively together to prevent and reduce the harm that it causes, however we define it. This paper aims to:

- increase joint working within organisations on prevention and resolution of concerns
- spread awareness amongst safeguarding partners and others about the issue and prompt greater collaboration
- support discussions between agencies to agree and understand their differing terms, roles and responsibilities
- support research on this issue and identify best practice guidance to share amongst partners and others to empower our workforces to deal with these concerns
- encourage production of an all-party parliamentary report seeking official recognition of the need for further research and support to safeguarding partners to tackle this issue
- spread awareness in the general public about financial abuse (similar to that of work around scams and Trading Standards).

What is the problem?

Victims are often reluctant to report their loved ones – comparisons can be drawn here with domestic abuse and we need a much greater understanding of the impact of coercive control on a person's finances.'

The lack of national research into theft and fraud within families has far reaching consequences across society. We don't understand the scale or nature of the problem, meaning we are not able to identify and share best practice in prevention and action when it is believed to transpire.

This can lead to scenarios where individuals with care and support needs are left without financial security and unable to meet their basic needs. Significant care fee debts ensue in some cases, many of which are then paid for by local authorities. There appear to be few criminal prosecutions or civil cases brought by authorities to try and reclaim money from relatives. We may need to draw parallels with the investigation and conviction process for benefit claimants who defraud the system and consider at what point does spending a relative's money become a criminal offence? Do we all understand the roles that Trading Standards and the police have, and are we effectively escalating concerns to each other? These are the types of questions that research and best practice guidance could usefully answer.

Safeguarding somebody's finances is just as important as protecting other areas of their life. However financial abuse is sometimes perceived as causing less harm than other types of abuse. There needs to be a cultural change in society and amongst all safeguarding partners to challenge this. The 'cost' is not always to the individual – who may be unaware and lacking capacity in relation to financial matters – so, although it is their money that has disappeared, the debt is taken on by the local authority/health system (or care provider in some cases) and is therefore often hidden, deemed to be 'low impact' by staff and families alike. This is despite the fact that 'public money' is just that – we all contribute. A criminal offence may also have occurred and yet this may not come up in discussions.

There are layers of complexity inherent in these situations. People with care and support needs may be unable or unwilling to support investigations into family members alleged to have taken or moved money. Victims are often reluctant to report their loved ones – comparisons can be drawn here with domestic abuse and we need a much greater understanding of the impact of coercive control on a person's finances.

What is the problem? (continued)

Possible reasons why families may defraud their own relatives include a misguided or malicious belief that the money belongs to them as their 'inheritance' and can be taken now instead of after death.'

Others may have made a decision that maintaining contact with their family outweighs any concerns they have about their financial affairs being mismanaged. Some may have capacity in relation to finances but have delegated authority, potentially unwisely, and the principles of *Making Safeguarding Personal* included in the Care Act 2014 often makes it more difficult to intervene when individuals are willing to allow themselves to be exploited. Others have made promises to family before care services were required – purchasing a new car or house for a relative as an example – and feel they cannot renege on a promise. The impact of loneliness and social isolation are potentially important here, similarities may be drawn with research around those more vulnerable to scamming.

Possible reasons why families may defraud their own relatives include a misguided or malicious belief that the money belongs to them as their 'inheritance' and can be taken now instead of after death. Some may believe or claim it is reasonable to charge a relative an excessive amount for visiting them, e.g. for petrol or 'gifts'. Definitions of 'excessive' are likely to differ. More significant amounts may be taken for houses, cars, setting up businesses, with the belief or claim that the individual had formally agreed to this. Traumatic events may have occurred such as loss of a job and/or house, and the relative has taken money believing that the individual would have wanted them to have it to help rebuild their life.

Families may be unaware or unwilling to believe that their relative has now lost the mental capacity to agree to such purchases. This can be due to a lack of education and support on the subject or could be an intentional 'misunderstanding' in order to exploit their relative. Care fees can be avoided by a person choosing to transfer property (deprivation of assets). Having to retroactively consider past events and unrecorded decisions someone once made adds complexity for agencies appointed to investigate suspected financial abuses.

What is the problem?
(continued)

> 'Prevention is one of the key principles of adult safeguarding and we can meet this duty by developing and following best practice guidance on theft and fraud within families.'

There appears to be little awareness among the public about this issue and, although families often know or suspect it is happening, it can be the elephant in the room. We don't often hear this debated or discussed locally or nationally, and it is difficult to find training for frontline staff on how best to tackle the issue. There is a clear need to upskill our workforces to become adept at spotting and dealing with this effectively. Prevention is one of the key principles of adult safeguarding and we can meet this duty by developing and following best practice guidance on theft and fraud within families.

The following case study is a typical example of a family member coercing an elderly relative in to giving them money regularly.

Case study 1: 'Angela'
Angela has two sons, David and Sam. David reports to the local authority's adult safeguarding service that Angela has been diagnosed with dementia and his brother Sam is visiting her regularly and getting money from her. He reports his brother has mental health problems and a gambling addiction. A social worker visits Angela and assesses that she has the mental capacity to make decisions about her finances. She tells the worker that she loves her sons and wants to give Sam some money, but not as much as she is currently. Angela explains she values seeing him regularly and wants the relationship to continue. The social worker discusses Lasting Power of Attorney (LPA) for finances and property with her and she decides to appoint her son David and agrees that he can act before she loses capacity. David puts a plan in place with her to allow for a weekly allowance for Sam but takes management of her bills and food shopping. This works well and provides her with the ongoing relationship with both her sons, but also safeguards her from being persuaded or coerced into giving away larger sums of money.

This case study demonstrates the complexities of family ties and loyalty. It demonstrates how through positive interaction with the local authority, Angela was empowered to reduce risk without damaging family relationships.

What is the problem?
(continued)

> 'We believe that in most cases of families defrauding their own relatives, there are no legal arrangements such as LPAs or Deputyship orders in place. However, without research, we are currently guessing.'

We know that there has been some criticism of LPAs. Denzil Lush, a former senior judge in the Court of Protection, has been vocal about this, having dealt with several attorneys who have failed to act in the best interest of the client (*https://www.lawgazette.co.uk/law/i-would-never-sign-a-power-of-attorney-retired-judge/5062465.article*). There is criticism of the perceived lack of safeguards in setting up an LPA, however the principle of LPAs, as outlined in the Mental Capacity Act 2005 is that people are able to make their own decision at the point of creating an LPA, even if others deem this to be an unwise decision.

We believe that in most cases of families defrauding their own relatives, there are no legal arrangements such as LPAs or Deputyship orders in place. However, without research, we are currently guessing. If such an authority were in place, there is recourse to seek removal of such a person for acting in breach of the Mental Capacity Act 2005. Agencies may need to consider how much they understand about the registration, revocation and removal of attorneys, so they can effectively support and empower individuals to make informed decisions.

It would also be beneficial to ensure there is a robust understanding of the role of court appointed deputies and how deputyship can be used as a protective measure for someone's finances.

The next case study, overleaf, shows a familiar story of unpaid care fees resulting in the local authority 'taking on' the debt to avoid eviction.

What is the problem?
(continued)

Case study two: 'Simon'
Simon moved into a care home with support from the local authority and his son, Michael, who had LPA for finance and property. He was classed as a 'self funder' and while initial payments were made, none were then received for 6 months. The care home referred the case to the safeguarding team at the local authority. Simon was assessed as now lacking the mental capacity to make decisions about his financial affairs. On review of the case file, it was noted that Michael had previously informed the local authority and care home that he did not want to be an attorney and could not manage the responsibility. He had lost his job, his marriage had ended and he was living in temporary accommodation. He had taken initial steps to remove himself as an attorney but had not followed it up.

He stopped responding to the care home's requests regarding his father's contribution. The local authority assessed that Simon's care and support needs meant he too was eligible for a care home placement and, to avoid eviction, began to pay the care home fees. They did not, however, agree to cover the backdated amounts prior to their assessment. The safeguarding team were contacted by the Office of the Public Guardian (OPG) who had also received a safeguarding referral. They stated that Michael had not responded to their requests for information either but had told them he no longer wanted to be an attorney. Michael eventually responded to the local authority after eviction of Simon was suggested, and stated that he had spent some of his father's money to rebuild his life, claiming this is what his father would have wanted. He did agree to remove himself as attorney and the local authority agreed to deputise. Once he was no longer attorney, OPG ended their investigation. Michael did not respond to further requests by the local authority to repay the money he had spent, the debt was not recovered and was ultimately written off.

What is the problem?
(continued)

In this example, we can see that there was a potential window of opportunity for the local authority/care home to have identified a problem earlier – when Michael told them he wasn't able to carry out his responsibilities as an attorney. Was this followed up at the time and could the authority have applied to be a deputy at that point? Did Michael even know this was an option? Why did six months pass before a safeguarding concern was raised and is this too long? This is not meant as a criticism of the care home, local authority or OPG. The responsibility was clearly Michael's, however frontline staff need to know how to spot problems before they arise (prevention) and be able to support individuals and their families to manage financial affairs appropriately, escalating concerns in a timely manner where this hasn't been possible.

When someone begins to receive care, either at home or in a care home, there can be a lack of scrutiny amongst agencies (health, social and private providers) in reference to who is going to manage the person's finances and pay the bills. Further checks should take place to ensure they are aware whether an attorney or deputy is in place. These checks may also reveal other parties, not previously mentioned by the client, who may have some authority/responsibility. Capacity is usually recorded when making care and accommodation decisions, but capacity for financial decisions in connection with the implementation of placement/care may not have been recorded, leading to problems later.

It can be much harder to spot these concerns in people's own homes where theft and fraud are likely to happen on a sliding scale, starting small but leading to much larger amounts. We then start to encounter situations where families have moved in with relatives before moving them out to a care home, or a person's bills have significantly increased with no apparent equitable arrangements in place. Financial abuse is not always immediately obvious as this case study illustrates, and often creeps in over time.

What is the problem?
(continued)

Case study three: 'Sally'
Sally is a 24 year old adult. Sally has complex learning disabilities and receives benefits from the Department for Work and Pensions [DWP] including components for mobility. As a result, she has a motability car which is meant to be used by her family and carers to help her access the community. Sally's carers report to the Local Authority (LA) that the car is not at her address and they have not been able to help her get to social and health appointments in recent months as a result. They state Sally's brother is using the car and attempts to talk to him about this have led to threats to fire the carers. The LA communicate with the DWP and they begin a joint investigation.

Reviews by health and social care workers may take place which focus predominantly on the care. Emerging and anecdotal evidence indicates that frontline staff and care providers may sometimes steer away from difficult conversations about finances for a variety of reasons. These may include wanting to concentrate on the care and physical/mental wellbeing of the person; lacking confidence when discussing complex property/equity issues with families; or an assumption that discussing finances is someone else's role (i.e. the financial assessment team/debt recovery). Even if the subject of financial abuse is broached, they may feel unable to intervene if the individual, as in the case of 'Angela' mentioned earlier, wants to give some of her money away, something *Making Safeguarding Personal* suggests she should be allowed to do. Terms such as 'theft' and 'fraud' may be seen as legally loaded and are avoided due to a lack of understanding of their true meaning. Likewise, visits by agencies such as the police, financial advisors and trading standards may overly focus on the financial aspects, and miss the wider context of the care, or family relationships.

Innovative approaches

This discussion paper sets out the case for greater understanding on the issue of financial abuse within families. It also makes the case for the need to collect and share examples of innovative and good practice currently being used to tackle this issue.

One example from Norfolk County Council has been the establishment of a **Financial Abuse and Safeguarding Officer (FASO)** in its finance departments. Created in May 2019, this post was in response to a need identified by the **Adult Safeguarding Board** and the local authorities adult safeguarding team, in relation to compliance with Care Act Section 42 safeguarding enquiries. It was recognised that, while cases of financial abuse were identified, interdepartmental systems (including a lack of knowledge of legislation, the role and processes of external agencies within both by the financial departments and social care teams) did not lead to appropriate action being progressed.

The FASO:

- enables a universal service to be offered to all individuals in need of care and support who have suffered or are at risk of suffering financial abuse.
- is a point of contact for financial services, social services and the police in financial abuse and safeguarding cases
- can assist in investigations and complaints of financial abuse
- can provide guidance on financial abuse cases and complete internal training sessions

The FASO receives cases from either the financial services departments or from social services and reviews all relevant financial and social services systems, before deciding what action is required. This can include:

- contact with the persons who have been managing the finances to request information and explanations
- visiting the client (with social care staff) in support of assessing their mental capacity, in relation to finances
- referring the case on to the police (100% of referrals submitted by the FASO to the police have resulted in a police led investigation)

Innovative approaches (continued)

- the FASO making additional enquiries in cases where no further action is being taken by the police, to support a case being re-submitted to the police or for other Safeguarding actions to be completed
- referral to the Office of the Public Guardian.

Although the focus of the FASO is to make enquires under safeguarding legislation, between August 2019 and August 2020 there has been a financial recovery to the local authority of £154,299.80 in one off payments and £19,338.09 in monthly payments. During this period the FASO received 160 referrals for action.

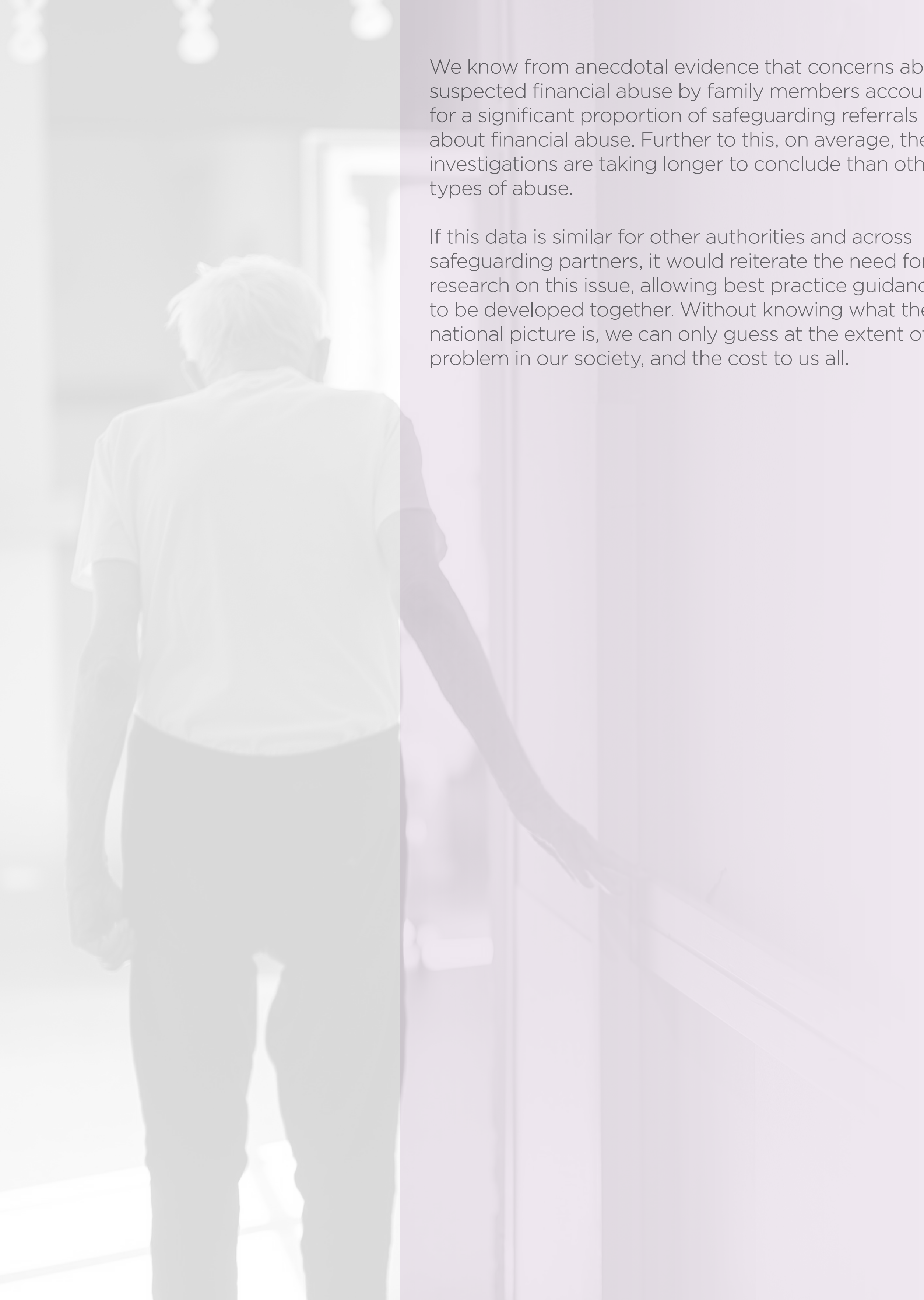
Case study four: 'John'
John had not had his contributions paid to care services by the Appointee, his mother, who was also receiving residential care at another home. Her home manager had managed to secure bank statements which showed that John's money had been used by his mother. Action had previously been taken by social services and welfare rights where the mother had agreed to relinquish her role, but had failed to comply and the abuse continued. The FASO contacted the mother (Appointee) and in the presence of the manager agreed to relinquish her Appointeeship. This was immediately confirmed in writing and she was removed, finally safeguarding John's income of £1,396.00, and due invoices to NCC of £407.20. A new Appointee was put in place. The FASO intervention finally put an end to years of abuse by John's mother. It was agreed by the FASO and social services that no formal police investigation was required as it would not be in the public interest due to her condition.

Safeguarding Adult Boards

Safeguarding Adults Boards (SABs) are a statutory requirement of the Care Act (2014). They bring together safeguarding partners in the local area such as health, police, housing, and as such play a critical and pivotal role in responding to and leading adult safeguarding responses in their areas. While significant work has been and continues to be done on the topic of financial abuse, it is less clear how engaged SABs may be specifically on the question of theft and fraud within families. We know that the most common location of abuse risk was the person's own home at 43.8% (*Safeguarding Adults Collection (SAC) 2019-20*) and most perpetrators of abuse are well known to their victim. Stimulating wider discussion and action on this issue for SABs will enable the wider workforce to recognise the unique features of this particular abuse type. Further research is required to better understand what barriers might need be to addressed including:

- what might be holding back professionals from having difficult conversations when concerns first arise?
- what are the strategic weaknesses in the current responses which need to be addressed?
- what might good practice that can be promoted by SABs look like?

Data



We know from anecdotal evidence that concerns about suspected financial abuse by family members account for a significant proportion of safeguarding referrals about financial abuse. Further to this, on average, these investigations are taking longer to conclude than other types of abuse.

If this data is similar for other authorities and across safeguarding partners, it would reiterate the need for research on this issue, allowing best practice guidance to be developed together. Without knowing what the national picture is, we can only guess at the extent of the problem in our society, and the cost to us all.

Conclusion

‘There is a compelling argument to be made that this is a public health issue in that it leads to psychological distress, a crisis in wellbeing and a heavier reliance on health services.’

If we look at national work done to spread awareness on scams, and the work of Trading Standards, we can see the difference it has made in society and amongst organisations. In comparison, if we try to find research, training, publicity campaigns on families financially abusing each other we come up short.

Working with somebody to safeguard their finances should have equal footing with other aspects of their life. Without ensuring there are secure systems in place to help someone manage their finances, (especially when we know there are insecure arrangements), or make informed decisions for themselves, we risk not fulfilling our safeguarding responsibilities. We do not have more resources, so we must work together more effectively. Whichever terms we use for this issue, the consequences are the same. This affects us all. There is a compelling argument to be made that this is a public health issue in that it leads to psychological distress, a crisis in wellbeing and a heavier reliance on health services. Similarly, it is an issue for social care, with the additional burden of the financial implications of unpaid care fees. For the police, trading standards and the financial sector there are crimes being committed that they are not aware of, and on their own may struggle to prosecute. We are seeking your collaboration on the next stages of this work. We need your perspectives and ideas for the future.

We need to unite so we can start to tackle the elephant in the room – that families taking money from each other is real, and is happening every day, with long lasting consequences for us all.

Jennifer Hawkswood & Professor Keith Brown

Jennifer Hawkswood qualified as a social worker in 2012 after studying at Manchester University. She has worked in various local authority roles and her current position is as a senior practitioner specialising in adult safeguarding. She recently worked at the Office of the Public Guardian providing consultancy and support on safeguarding issues and partnership building. Jennifer is passionate about the detection and prevention of financial abuse within families having experienced this across her varied roles.

Professor Keith Brown was the founding Director of the National Centre for Post Qualifying Social Work. He has led the National research into fraud and scams for a number of years for the Chartered Trading Standards Institute and the National Scams team and has published widely in this area. He is also acknowledged as an authority in the area of mental capacity and is a member of the National Mental Capacity Leadership Forum. He acts as an advisor to the Ministry of Justice, the Home office and the Department of Health and Social Care. Currently he is the Chair of the NHS Safeguarding Adults National Network and a member of the Financial Vulnerability Taskforce.