

Policy, Practice and the Law:



Improving Protections Against Economic Abuse

Policy Brief by Hourglass
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Policy, Practice and the Law: Improving Protections Against Economic Abuse.

KEY INSIGHTS:

Economic abuse is one of the most common types of abuse in later life.

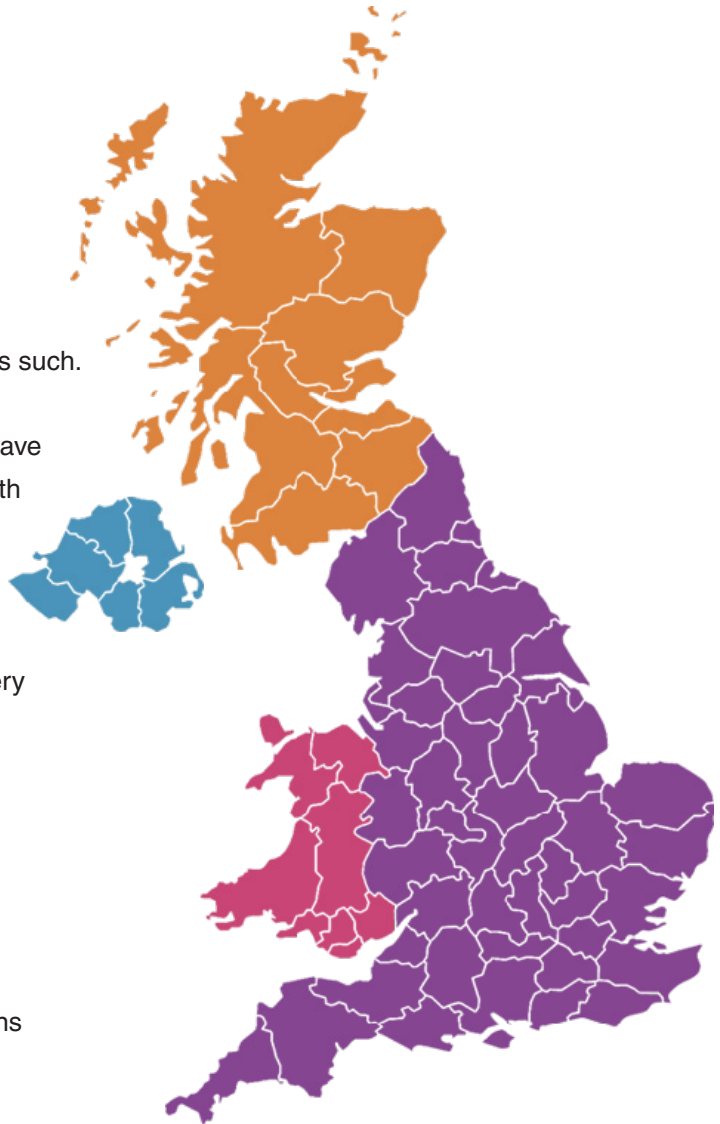
Economic abuse is a crime and should be treated as such.

Suffering economic abuse as an older person can have life changing effects, leading to trauma, mental health problems, and even death.

Millions of pounds worth of money and assets are stolen, defrauded, or coerced from older people every year.

Money management programs, bank account controls, and raising public awareness are key tools in protecting older people from economic abuse.

Changes to forfeiture law could also ensure that perpetrators do not succeed in making financial gains off of those they have abused.



Policy Problem

Economic Abuse is a complex yet common form of exploitation encompassing financial harm, the direct theft of money from bank accounts, and misuse of Powers of Attorney, through to false representation, scams, the changing of wills, and coercion of housing deeds. Hourglass defines economic abuse of an older person as someone in a position of trust interfering in an older person's ability to acquire, use, or maintain their finances.

The 2021 Domestic Abuse Act (England and Wales) defines economic abuse as:

“Economic abuse means any behaviour that has a substantial adverse effect on B's ability to:

- (a) acquire, use or maintain money or other property, or
- (b) obtain goods or services.”¹

While under The Domestic Abuse (Scotland) Act 2018, economic abuse is not mentioned specifically, the act provides that domestic abuse behaviours must have the following effects (known as ‘relevant effects’ within the Act):

- Making the victim/survivor dependant or subordinate to the abuser;
- Isolating the victim/survivor from their friends, family and other sources of support;
- Controlling, regulating or monitoring the victim/survivor's day to day activities;
- Depriving or restricting the victim/survivor's freedom of action;
- Frightening, humiliating, degrading or punishing the victim/survivor.²

Economic abuse can easily fall under these relevant acts, but there is a gap and a need for a formal definition of economic abuse to be enshrined in legislation in Scotland.

There is also a need for a formal definition through legislation of economic abuse in Northern Ireland, as again only the broad relevant effects are outlined within the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

“The relevant effects are of:

- (a) making B dependent on, or subordinate to, A,
- (b) isolating B from friends, family members or other sources of social interaction or support,
- (c) controlling, regulating or monitoring B's day-to-day activities,
- (d) depriving B of, or restricting B's, freedom of action,
- (e) making B feel frightened, humiliated, degraded, punished or intimidated.”

Economic abuse is a crime, and should be treated as such, and includes theft, blackmail, fraud, or the coercion to part an older person from money, goods, property, and/or benefits.³

The term “economic abuse” covers the broad strata of financial harm and exploitation previously understood under the financial abuse nomenclature, but allows extension to cover issues involving coercive control, such as preventing the victim-survivor from being in employment, limiting the victim-survivors working hours, or dictating what the victim-survivor can buy.

The impact of economic abuse on older people can be devastating, especially if they are on limited incomes such as a state pension. Many may lose large sums of money, lose property they have lived in for years, incur large debts, or simply do not have enough money to live on. Older people may also find it harder to recover financially from economic abuse because of the limited opportunities and time for investment and monetary growth compared to those aged younger.⁴ Non-financial related impacts can also result, and economic abuse can cause trauma, loss of self-esteem and confidence, familial breakup, mental health issues such as depression, PTSD, and anxiety, and in some cases, the impact can even result in early care admission and premature death.⁵ The experience of one form of economic crime or abuse alone can also lead to a consequential effect. It may leave an older victim disproportionately at risk of “polyvictimization,” that is, multiple abuses or crimes occurring to the same victim.⁶

As well as the impact on the victim-survivor, the effect of economic abuse on the families and friends of the older victims can also be devastating. According to Silvia Fraga Dominguez et al’s recent study investigating the help seeking experiences of “concerned persons” – 85% of those studied (n=498) expressed that they had suffered a psychological or mental health impact from trying to support or help older family members or friends who had been victims of abuse.⁷

Prevalence

For older victims and victim-survivors, economic abuse is the most prevalent form of abuse reported to Hourglass, totalling 30% of all cases over the last three years – and around the same per year.

2021/22 Economic Abuse - 32% of all abuse seen

2022/23 Economic Abuse - 35% of all abuse seen

2023/24 Economic Abuse - 25% of all abuse seen

Over the last three years, economic abuse cases received by the Hourglass 24/7 helpline showed financial losses by older victim-survivors across the UK totalling over 53 million pounds (£53,124,100).⁸ However, only a small proportion of cases received by Hourglass state monetary losses. Over the three years, those values were taken from 4% of our total cases, and 14% of total economic cases, so it's very difficult to ascertain a true figure of money, possessions, and assets taken or coerced from older victim-survivors, but it's undoubtedly into the hundreds of millions.

A common form of economic abuse that affects older victim-survivors and is regularly seen on the Hourglass helpline is the misuse of Powers of Attorney (POA). For many older people, POAs are an important means of planning for trusted others to make decisions on their behalf if mental capacity fails, but there are issues of safeguarding and abuse. Between 2019-2024, cases where the victim-survivor had POA were 1,066. Between the same date's casework interactions where POAs were mentioned there were 3,436 and 2,251 of these were related to economic abuse. More than 20,000 full investigations of attorney abuse took place by the Office of the Public Guardian from 2010 to 2023. Between 2010 and 2020, over 4,000 such cases went to the Court of Protection for action.⁹

Replacing the Enduring Powers of Attorney Act 1985, Lasting Powers of Attorney were introduced in England and Wales by the Mental Capacity Act 2005. Lasting Power of Attorney are legal documents which allow you (the donor) appoint one or more people (attorneys) to help make decisions on your behalf in case you were to lose mental capacity.¹⁰ There are two types of LPAs – one focused on financial and property affairs,¹¹ and one focused on health and welfare affairs, and one can choose whether to make just one or both of these.

Prior to the passing of the Adults with Incapacity (Scotland) (2000) Act, Powers of Attorney in Scotland were concerned only with financial matters, not healthcare provision – the act introduced two forms of surrogate decision making, Power of Attorney (POA) which are anticipatory and person appointed, and Guardianships, which are responsive, and court appointed.¹²

In Northern Ireland, two types of power of attorney are available.

- A general power of attorney is suitable if you want an attorney to look after your financial affairs for a certain amount of time – i.e., you're heading out of the country for a few years, or you are going on holiday. A general power of attorney cannot be used for mental capacity situations.^{13 6}
- An Enduring Power of Attorney can be used for lack of mental capacity situations. Enduring Powers of Attorney are also focused on property and financial affairs - unlike their English/Welsh and Scottish counterparts - Enduring Powers of Attorney can come into effect immediately and be used by either the donor or their attorneys according to their choice. Controlled by the Office of Care and Protection (OCP) – EPAs must be registered if the donor has lost mental capacity – while the registration process is taking place, attorney's can use the donor's finances to pay for food and bills but are not able to make large financial decisions until the registration process is complete.¹⁴

Extra safeguards are sorely needed, especially with the digitalisation of LPA brought in by the Power of Attorney 2023 Act, which among other measures, allows donors to sign online, apparently without a witness, which may undermine the safety of LPAs. Hourglass is also urging consideration of:

- Inclusion of compulsory notification requirements and identifying the capacity in which the certificate provider acts.
- Additional suitability checks on attorneys (such as criminal background checks).
- Introduction of a requirement that the certificate provider be a professional
- Reintroduction of a requirement to provide people to notify an LPA.
- Making security bonds a mandatory requirement for LPAs.

Related to mental capacity safeguards needed in POAs, Hourglass is calling for the Scottish Government to introduce Willie's Law in Scotland, which would require a medical professional to co-sign legal documents of vulnerable people to prove they have legal capacity.

Predatory marriage as a subset of economic abuse is also seen on the Hourglass helpline. Predatory marriage is a form of economic abuse that disproportionately impacts older people. A typical example is when an older person with dementia or other cognitive impairment is taken advantage of by someone younger than them. These types of relationships can be kept secret from a person's loved ones, who may only become aware of the marriage after their death. Between 2020 and 2024, there were 26 cases where predatory marriage was mentioned to the Hourglass helpline (1 in 2020, 13 in 2022, 10 in 2023, 2 in 2024).

The majority of these cases dealt with male victims (16 – 61.5%), female victims accounted for 10 (38.5%) Dementia was mentioned in 9 cases, and in the majority of cases mental capacity was either unknown or the older person was assumed to have it. All cases mentioned economic abuse, with over a million pounds mentioned being coerced (as noted above, the actual number is undoubtedly far higher) from older victim-survivors.

As a UK wide issue, 16% of adults over the age of 18 (8.7 million people) say that they have experienced economic abuse, with 10% (1 million) noting that the abuse is currently ongoing.¹⁵ Women were only slightly more likely to indicate experiencing economic abuse compared to men (17% to 16%),¹⁶ however women were far more likely to report the intersection of economic abuse with other abuse types, with 89% of women who experienced economic abuse indicating that they also experienced other kinds of abuse.¹⁷

Internationally, Acierno et al in a report focused on community residing adults over 60 in the USA found that 5.2% had experienced economic abuse by a family member.¹⁸ Similarly, Naughton et al's investigation into the abuse and neglect of older people in Ireland, noted that 1.3% of 2021 community dwelling people over 65 had suffered economic or financial abuse in the last 12 months.¹⁹

In Israel, Lowenstein et al identified that 6.4% of urban communities' dwellers over 65 had suffered from economic and financial abuse in the 12 months preceding interview.²⁰ Yon et al's paper focused on the global prevalence of the abuse of older people in community settings suggested that the pooled prevalence estimate for financial abuse was 6.8%.²¹ As we can see from the above, much of the international academic literature on this topic has so far focused on the economic abuse of victim-survivors in community settings, and a further in-depth understanding of older victim-survivors suffering from economic abuse in their own home is sorely needed.

For older adults in the UK, the last major UK national prevalence survey, the 2007 Prevalence Survey Report by King's College, London, and the National Centre for Social Research suggested that over 100,000 (1.25%) people over the age of 65 had experienced economic abuse in the past year,²² and that 0.66% of UK older people, aged 66 and over living at home had reported experiencing economic abuse by a close friend, relative or care worker in the past year.²³

A 2020 Refuge and Cooperative Bank report on economic abuse, suggested that those over aged over 70 were the least likely to say they had experienced economic abuse, with only 8% of respondents indicating as such, however, the report noted that 28% of those respondents aged over 70 had experienced economic abuse behaviours directed against them, suggesting older people may experience economic abuse, but not identify it as such.²⁴

In September 2021, Hourglass and Hodge Bank collaborated on a survey to gain insights into the scale of financial/economic abuse, and the impact of the digital divide. This report noted that 14.1% of respondents indicated that an older person they knew/cared for had been a victim of financial abuse in the past year. 33.80% of these victims were denoted as "parent" and 24.30% were denoted as a "friend." While 26.78% of respondents indicated that an older person they knew/cared for had been the victim of an online scam to access their finances in the past year. 43.97% of these victims were denoted as "parent" and 21.34% were denoted as a "friend."²⁵

Perpetrators

As with the broad spectrum of other forms of abuse and mistreatment committed towards older people, and especially older people lacking mental capacity, economic abuse appears to be usually committed in relative secrecy, and by trusted family members, carers, or friends.

The most often seen perpetrators in Hourglass's data between 2021 and 2024 were adult sons and/or daughters. During these years, 84% of perpetrators of economic abuse were family members (including intimate partners):

- Partner (12% of known)
- Ex-partner (3%)
- Brother (2%)
- Sister (2%)
- Father (<1%)
- Mother (.5%)
- Cousin (<1%)
- Nephew (1%)
- Niece (1%)
- Granddaughter (3%)
- Grandson (2%)
- Step-daughter (0.6%)
- Step-son (0.5%)
- Daughter (21%)
- Son (29%)
- Other family (6%)

Non-family

- Other (6%)
- Neighbour (2%)
- Friend (10%)
- Professional (4%)²⁶

However, in the existing academic literature on the subject it is apparent that there is a wide variation in the prevalence of different perpetrator-victim relationship types for economic abuse. O'Keefe et al found that family members (54%) and care workers (31%) were the more frequent economic abuse perpetrators,²⁷ while Lowenstein et al found that care givers (26.5%) were the most frequent economic abuse perpetrators²⁸, Lithwick et al found that adult children committed more economic abuse (59%) compared with spouses (13%).²⁹

A number of studies suggest that family members may have a sense of entitlement to the financial assets of an older person feeling that they will inherit it anyway, that the older person may no longer need it, or that the perpetrator deserves it for assisting with care needs.³⁰ Other motives for perpetrators identified may be:

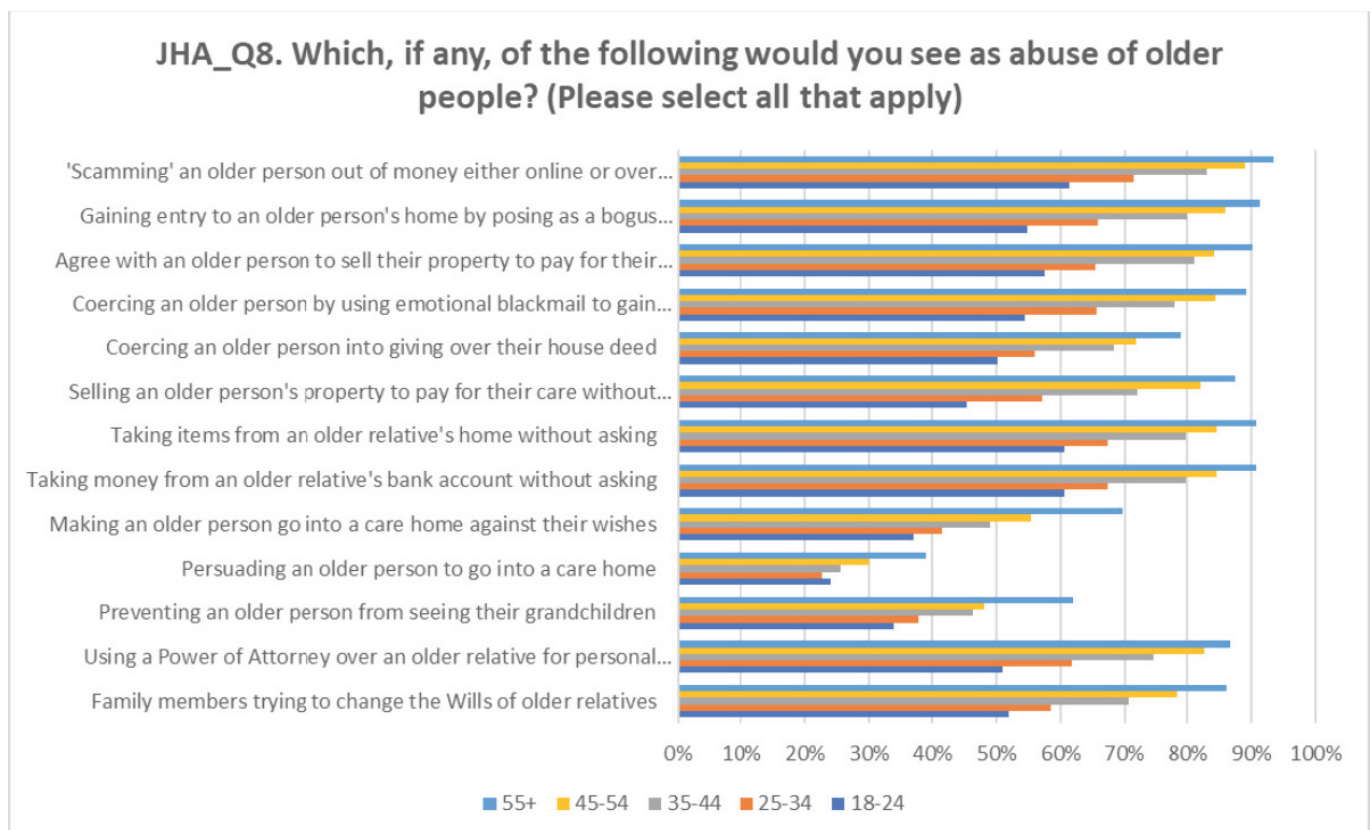
- Gifting to self and others
- Incompetence
- Neglect
- Spending money to reduce the victim-survivors' assets, so the perpetrator does not have to pay for care needs.³¹

Understanding of Abuse

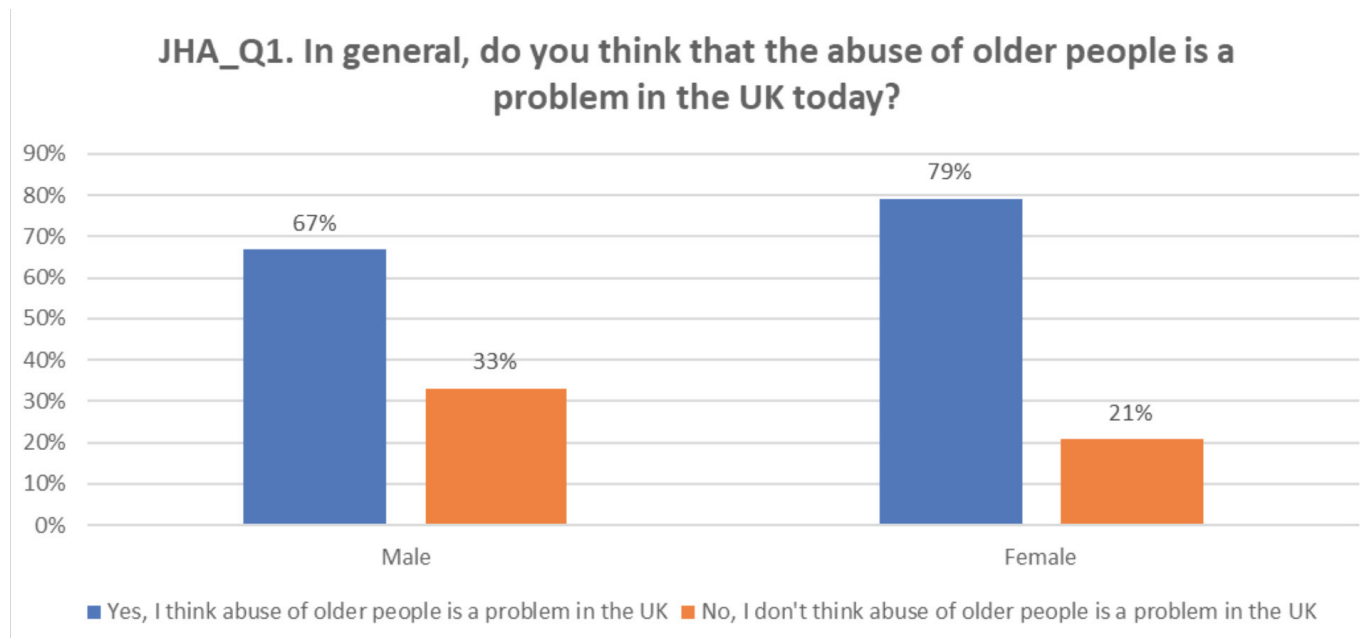
Hourglass's three recent "Growing Old" surveys between 2020 and 2024 have indicated that public levels of understanding about the economic abuse of older people, and the acts that constitute it is lacking.

In the January 2020 study, only 25% of UK wide respondents noted that abuse of older people was likely to involve a financial component, and large numbers of respondents did not appear to see commonly understood forms of financial harm as representing abuse. In the same survey, 33.9% of UK wide respondents did not see "family members trying to change the wills of older people" as abuse, while 34.9% did not view "taking money from an older relatives bank account without asking" and 39.3% did not identify "taking precious items from an older person's house without asking" as abuse or mistreatment either.³²

In the follow up 2024 survey, 26% of respondents did not see "taking items from an older person's home without asking" as an abusive act, the same proportion did not see "family members trying to change the Wills of older relatives" as abuse, while 24% of respondents did not see "using a Power of Attorney over an older relative for personal financial gain" as an abusive act either. Those respondents from younger age categories were far less likely to see these acts as abusive compared to respondents middle aged or above.³³



Interestingly according to the 2024 survey, there is a marked difference between the responses regarding economic abuse (and the likelihood for older people to experience all types of abuse) between men and women. Men are seemingly far less inclined to think that older people are likely to experience any types of abuse compared to women.



This could be for a number of reasons, but may be linked to the much higher prevalence of women experiencing abuse and violence compared to men throughout the life cycle, women may be more likely to know someone who has suffered from abuse or violence, and therefore identify it as a problem. Such conversations may not be part of male friendships, including displays of vulnerability to admitting suffering from or knowing someone who has suffered abuse, and as such it may be less at the forefront of male thought. For economic abuse in particular, there is an 18.3% decrease between male respondents and female respondents choosing this option (men, 58% and women 71%).³⁴

These findings help illustrate that economic abuse harms aren't readily understood or taken seriously by non-victims. This lack of understanding both constitutes a barrier to help seeking for victim survivors of economic abuse and ensures that perpetrators have an easier time getting away with acts of harm and abuse.

Legal

From a legal view, we must consider the development of forfeiture laws in the UK. Forfeiture laws allow the government to keep the assets or property involved in the crime, preventing perpetrators from financial profit. In English and Welsh common law, a forfeiture rule exists which prevents perpetrators from benefiting from killing another person. This was codified in the 1982 Forfeiture Act.³⁵

The Forfeiture (Northern Ireland) Order 1982 introduced the “forfeiture rule” which is the rule of public policy which in certain circumstances precludes a person who has unlawfully killed another from acquiring a benefit in consequences of the killing.

In Scotland, forfeiture rule was governed by the Parricide Act 1594, which made provision for a person who had killed their parents or grandparents to be automatically disinherited from their victim’s estate, this was updated in the Succession (Scotland) Act 2016.³⁶

In the case of the abuse of older people there are examples internationally of forfeiture law developed to ensure that a person should not benefit from financial or asset gains if found guilty of mistreatment or abuse of a victim if the perpetrator is still within the victim’s will or testament when they die. Some protective national policy measures are in place to help combat economic abuse. For example, the institution of the Financial Vulnerability Taskforce in 2015³⁷ to help establish good practice in improving the finance sector’s support of vulnerable people, and the establishment in 2018 of the Financial Abuse Code of Practice, which lays down key steps in bringing increased awareness of, and consistency in dealing with financial abuse for employees, users, and firms of the financial sector.³⁸

Both have been key tools for helping increase support and protection for older and vulnerable people against financial abuse. Nevertheless, there are still more actions needed to help protect older victim-survivors of economic abuse. For a start, the voluntary sign up nature of the Financial Abuse Code of Practice ensure gaps in practice and that whole sector knowledge and support is currently lacking. To better protect older people from economic harm, we need to see further changes to banking support, including but not limited to, a prioritisation of money management support through local authorities and targeted partnership working to improve financial literacy.

Recommendations:

Banks and the Financial Sector should be encouraged to offer further tailored support to older people.

We know service users and experts want to see restrictions designed into bank accounts which could be available for vulnerable victims without capacity, or older people at risk of economic abuse. These “high control” accounts would have bundled restrictions such as:

- Limits on transaction size
- Spending limits
- Limits on cash withdrawals
- Delayed payment by default on all transactions
- Secondary confirmation of large transactions.³⁹

These accounts could be combined with measures such as easy read formats, audio visual enhancements, and “Account Angel Alerts,” wherein the service user, and/or trusted friend or family member can receive alerts about unusual activity in a bank account that appears out of character or different from usual outgoings.

Access to money management teams should be available through the local authority and become an integrated part of the adult safeguarding process.

For economic abuse involving theft or in particular, a number of case studies and scholarly reports have also suggested that money management programmes can be an effective way of providing assistance to those older people most at risk of economic exploitation.⁴⁰

Money management programmes can feature daily assistance with monetary matters, including providing help with making deposits, paying household bills, and negotiating with creditors – and are targeted to those most at risk individuals, i.e. older people who are cognitively impaired or suffer from social isolation.⁴¹

Pillemer et al note that money management programmes are highly promising as both an interventive and a follow up preventive tool, recognising that with well-trained financial advisors the risk of adverse outcomes or further exploitation is low.⁴²

Work with banks and the wider financial sector to target financial literacy, with a focus on protecting one's finances and assets while growing older.

As seen with the results from Hourglass's recent polling, awareness and understanding of the nature and extent of economic abuse towards older people is lacking. Hourglass has already worked with a number of banks and financial institutions on awareness raising, and this experience should be utilised to support the rest of the sector, and also built on in the form of an economic abuse awareness campaign targeted at both older people and the general public and focused on financial literacy, preventing scams, and the measures or tools available to protect oneself from economic abuse in later life within the prism of safer ageing.

Forfeiture legislation should be expanded to cover abuse, neglect, or financial exploitation of the deceased.

Forfeiture law has been implemented internationally to target the abuse of older people. In the US, California and Washington State, state laws or "slayer" laws have been expanded to disqualify persons from inheriting if they have been involved in abuse, neglect, or financial exploitation of the deceased. "A principal goal of slayer rules is to transfer property according to the probable intent of the deceased person. It is not difficult to understand that an individual would not want to pass on his property to someone who killed [or abused] him."

As such, while the existing forfeiture law in the UK provides justice in cases of homicide, Hourglass notes there is still wide scope for pushing the extension of the forfeiture rule to cover economic exploitation and abuse of older people, including concerning the misuse of Power of Attorney.

Introduction of Willie's Law and an Economic abuse Strategy by the Scottish Government.

Hourglass joins the call to introduce Willie's Law in Scotland, which would require a medical professional to co-sign legal documents of vulnerable people to prove they have legal capacity. Hourglass also argues that there is a necessity for the Scottish Government to institute a strategy focused around economic abuse and older victim survivors. Hourglass sees too many cases of economic abuse where vulnerable older people have not been given adequate protection and the introduction of both Willie's Law and a Scottish government strategy on economic abuse would help ensure that safeguards are more readily available for vulnerable older victims/victim-survivors

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