

**Financial abuse and older people with  
impaired capacity:  
A secondary analysis of Tribunal files**

*A thesis submitted for the degree of Doctor of Philosophy at  
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**by**

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*For Mum and Dad*



## Candidate's Statement of Originality

This is to certify that the work presented in the thesis is, to the best of my knowledge and belief, an entirely original and independent work, except as acknowledged in the text. The material has not been submitted, either in whole or in part, for a degree at this or any other university.

Signed



Anne-Louise McCawley (Candidate)

Signed



Dr Cheryl Tilse (Principal Advisor)



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## **List of Publications and presentations**

Publications by the candidate relevant to the Thesis but not forming part of it

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### **Unpublished Conference and Seminar Presentations**

McCawley, A.L., Tilse, C., Wilson, J., Setterlund, D. and Rosenman, L., (2004) *Beyond public scrutiny – the financial abuse of older people with impaired capacity*. An oral presentation given at the 37th National Conference of the Australian Association of Gerontology: Maturing Assets - Appreciating an Ageing Australia, November, Melbourne.

McCawley, A.L., Tilse, C., Wilson, J., Setterlund, D. and Rosenman, L., (2004) *Developing a model of financial abuse of older people with impaired capacity*. an oral presentation given at the ERA 3rd National Conference for Emerging Researchers in Ageing, December, Brisbane.

McCawley, A. L, Tilse.C, Wilson, J., Setterlund, D. and Rosenman, L (2005) an oral presentation given to the Guardianship and Administration Committee about older people, asset management and Enduring Powers of Attorney, May, Brisbane.

McCawley, A.L. Tilse, C., Wilson, J., Setterlund, D. and Rosenman, L., (2005) an oral presentation in a public seminar to discuss the findings of the 2002-2004 ARC Linkage Research Project: *Asset Management and Older People: Prevalence, Practices and Response*, September, Brisbane.

McCawley, A.L. Tilse, C., Wilson, J., Setterlund, D. and Rosenman, L., (2005) *Financial abuse of older people with impaired capacity: Who is minding the money?* An oral presentation given at the 38<sup>th</sup> National Conference of the Australian Association of Gerontology: Exploring the meaning of ageing through Research, Policy and Practice, November, Gold Coast.



## Abstract

The management of the financial assets of older people is of increasing concern to researchers, practitioners and policy-makers as older people seek to self provide for long periods of retirement, conserve assets for user charges and ensure choice in accommodation, health and lifestyle. This research is part of a broader research project funded by the Australian Research Council that explores and describes the prevalence and practices of non-professional asset management for and on behalf of older people. This thesis focuses upon abusive asset management practices in relation to a vulnerable group of older people with impaired capacity. Despite the vulnerability of this particular group of older people to financial abuse, research in the area is still under-developed.

The exploratory and descriptive research design is based on an analysis of data from 234 cases heard by the Guardianship and Administration Tribunal in Queensland, Australia in 2002/3. Access to the Tribunal files enabled an exploration of a usually hidden form of elder abuse and afforded a rich source of data. The research questions explore the nature and extent of financial abuse processes; the concerns that bring financial abuse of older people with impaired capacity to the attention of the Tribunal; the characteristics of the older person that makes them vulnerable to financial abuse; the processes of asset management associated with such abuse and the characteristics and practices of the abuser.

The analysis identifies two types of case – suspected financial abuse and non-financial abuse cases. Bi-variate and multi-variate analysis (logistic regression) seeks to determine statistically significant differences between the two types of case and the relationships between the ranges of variables identified from the elder abuse literature. The text in the Tribunal files is used to illustrate aspects of the quantitative data.

Suspected financial abuse was identified in about 26% (n=60) of the Tribunal cases sampled. It was noted that financial abuse could occur inadvertently from lack of knowledge about proper asset management practices as well as intentionally. Abuse cases were commonly referred to the Tribunal after financial abuse had occurred and the abuse was noticed usually as a result of some unusual behaviour or conflict that made the application-maker pay closer attention to the older person. Financial abuse happened,

irrespective of gender, age, type of impaired capacity, marital status and location (community/care facility) of the older person with impaired capacity. Having access to the older person's assets, not access to the older person was of primary importance for financial abuse to occur. Close family, particularly adult children, were the predominant financial abusers. Formal arrangements to manage assets such as the Enduring Power of Attorney did not protect the older person from financial abuse and in fact, was the means used to perpetrate the financial abuse in some of the financial abuse cases. Care is taken to limit generalisations to the population of interest: older people with impaired capacity who come to the attention of the Tribunal.

These findings challenge some current understandings in the literature about such abuse and highlight the limitations of existing policies, practices and theoretical approaches. Routine Activities theory is proposed as useful for theorising this type of elder abuse and for developing appropriate interventions. A multi-level framework of individual, structural, legal and social responses that cater for the prevention, detection and, if needed, the deterrence of financial abuse is suggested. Recommendations for such policy and practice interventions focus upon the three levels of preventing financial abuse, detecting it and responding to it. Different recommendations are suggested for the different types of financial abuse that emerged from the Tribunal data. Some strategies proposed include raising community awareness about good asset management practices and clarifying who owns the older person's assets; encouraging family asset managers to use appropriate asset management practices by providing easily accessible education and training; the development of consistent and collaborative protocols and training for aged care workers in relation to preventing, detecting, monitoring and responding to suspected financial abuse; the proposal for the establishment of dedicated protective service workers; encouraging financial institutions to become engaged in monitoring for financial abuse and reviewing current policies in relation to the lack of safeguards surrounding the Enduring Power of Attorney.

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## List of Abbreviations

<b>ABS</b>	Australian Bureau of Statistics
<b>ACAT</b>	Aged care assessment team
<b>CALD</b>	Culturally and linguistically diverse
<b>EAPU</b>	Elder abuse Protection Unit
<b>EPA</b>	Enduring Power of Attorney
<b>GAAT</b>	Guardianship and Administration Tribunal
<b>HACC</b>	Home and Community care
<b>NFA</b>	Non-financial abuse
<b>NCEA</b>	National Center on Elder Abuse [USA]
<b>OAG</b>	Office of the Adult Guardian
<b>PTQ</b>	The Public Trustee of Queensland
<b>SFA</b>	Suspected financial abuse
<b>SIFA</b>	Suspected intentional financial abuse
<b>SUFA</b>	Suspected unintentional financial abuse