

AGED CARE QLD CONFERENCE

16 to 19 March 2010

Presented by:

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Public Trustee of Queensland



The Public Trustee

- Established 1916
- 15 Regional Offices
- Self-funding
- Public Trustee Services



Public Trustee Disability Services

- Service provider
- Financial manager of adults with a decision-making disability
- Enduring Power of Attorney
- Community service obligations
- Interaction with QCAT/OAG



Emerging Issues

- Increasing ageing population
- Increasing complexity of family relationships
- Increasing complexity of asset base
- Financial abuse of older persons



Abuse of Older Persons

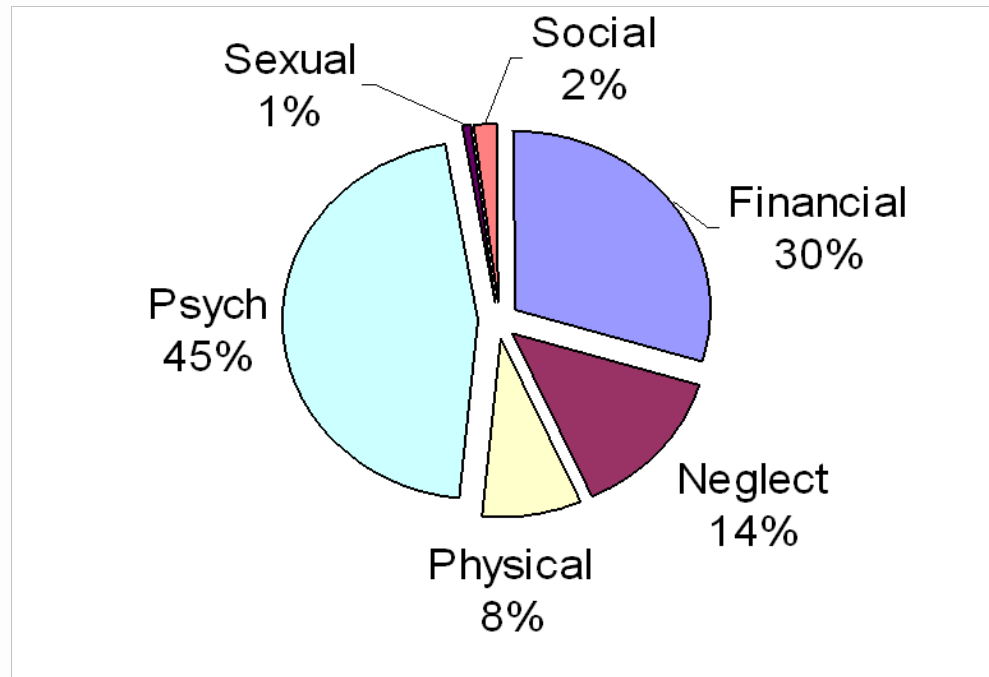
➤ Setting the Scene

Acknowledgement:

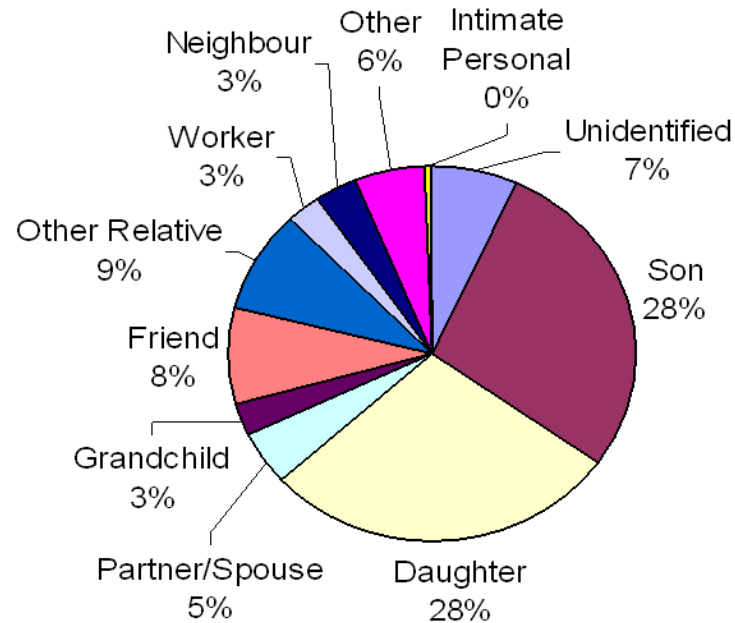
The following graphs and statistical information has been kindly provided by the Elder Abuse Prevention Unit (EAPU), Brisbane, Queensland



Primary Abuse Type for calls to the EAPU Helpline



Relationships between the abused and abuser for notifications of financial abuse reported to the EAPU



Co-occurrence of secondary abuse forms when there is a Primary abuse. A secondary abuse type was present in 543 cases of reported abuse to the Helpline.

Primary Abuse Type	Secondary Abuse Type						
	Financial	Neglect	Physical	Psych	Sexual	Social	Total
Financial		18	5	127	0	18	168
Neglect	21		2	41	0	2	66
Physical	16	6		37	0	6	65
Psych	91	54	31		0	54	230
Sexual	0	0	0	2		0	2
Social	3	2	0	7	0		12
Grand Total	131	80	38	214	0	80	543



Financial Risk Factors of abused older people

Primary Financial Risk Factors	Secondary Financial Risk Factors					Grand Total
	Not Reported	Debt Burden	Dependence on others	Dependence by others	Insufficient Income	
Not Reported	438					438
Gambling	1	1				2
Debt burden	2			2	1	5
Dependence on others	28			2	3	33
Dependence by others	120	2	1		16	139
Insufficient Income	58	2	2	7		69
Other	32				1	33
Grand Total	679	5	3	11	21	719



Financial Risk Factors of abused older people (continued)

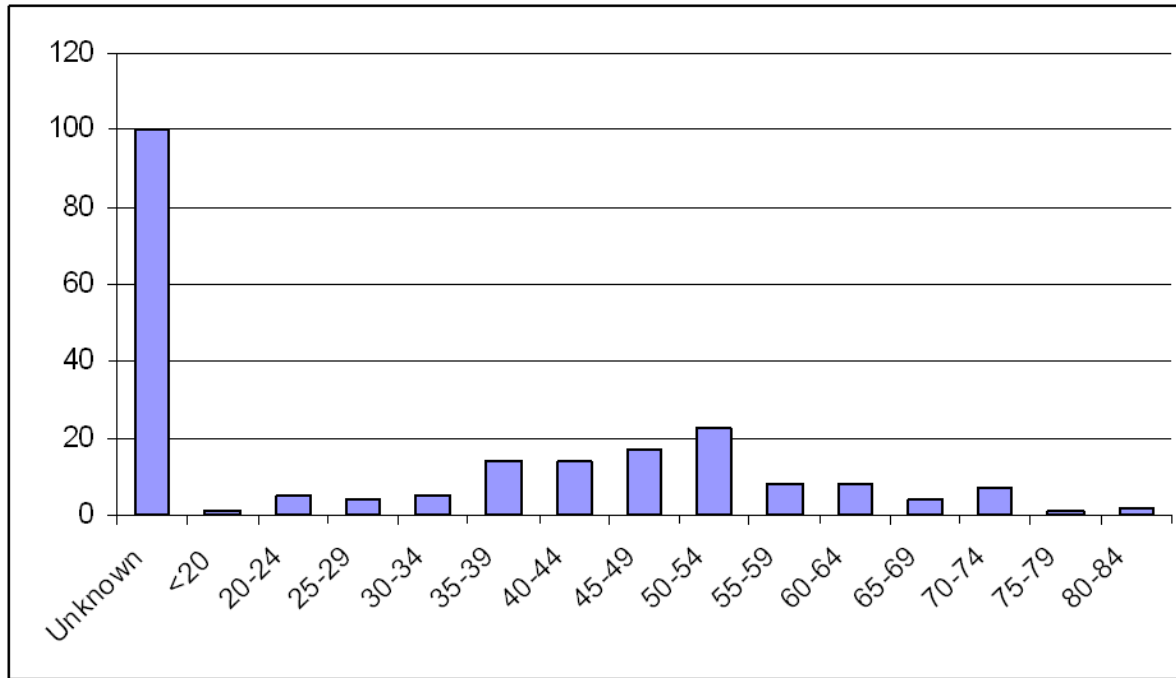
Female	Male	Unknown
\$2,342,690.00	\$6,504,000.00	\$400,800.00

Female alleged abusers were responsible for \$2,342,690.00 worth of financial exploitation or misappropriation from older people. Males alleged abusers were responsible for \$6,504,000.00. \$400,800.00 worth of financial exploitation and abuse occurred by people whose gender was not disclosed.

	Female	% of all Females	Male	% of all Males	Unknown	% of all Unknown	Grand Total
Abuser	100	33%	94	32%	19	17%	213
Abused	132	27%	80	37%	1	13%	213

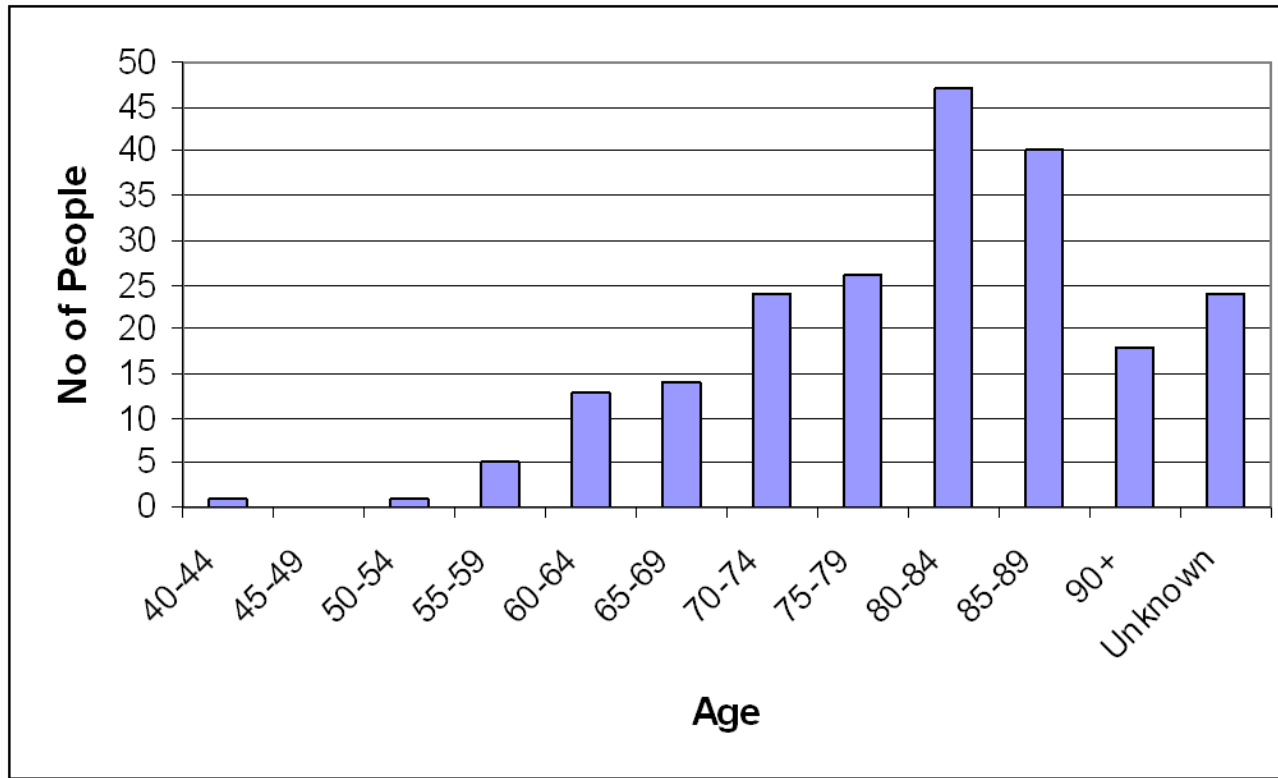


This is the gender breakdown for the notifications that identified financial abuse as the primary abuse type



Abuser Age





Abused Age



Forms of Financial Abuse

- Transfer of Assets (real or personal)
- Theft
- Undue Influence – Wills/Enduring Power of Attorney
- Forgery (Bank Account)
- Denial of Expenditure
- Misusing Enduring Power of Attorney
- Early distribution of an Adult's Estate (ie. while they are alive)



Other Considerations – Financial Abuse

- Not clear cut
- Family dynamics
- Cultural issues
- Questions of capacity
- Documentation
- Difficulty recovering assets



Remedies

- The Whistleblower
- Office of the Adult Guardian – Suspension of EPA
- Application to QCAT to remove Attorney/Administrator
- Tribunal/Court action to recover assets
- Police action



Recovery

- The perception
- The adult's capacity to give Instructions
- Limited financial resources to fund litigation
- Difficulties in obtaining evidence to prove abuse
- The balance between the general principle to support the adult's relationships & support network and protecting or recovering the adult's assets



Safeguards

- The Enduring Power of Attorney
- Greatest safeguard is the exercise of your choice as to your Attorney
- Talk to the family
- Start Clause – Incapacity vs. Frailty
- Substitution clause
- Conflict of Interest clause
- Consultation clause
- Accountability clause

