



Older people, cultural diversity and financial elder abuse

Culturally and linguistically diverse backgrounds may have unique factors that leave older Australians vulnerable to financial abuse.

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Introduction

Many older Australians have culturally and linguistically diverse backgrounds (sometimes referred to as 'CALD' backgrounds). It's something that brings a richness to your life and should be enjoyed and celebrated. However, your background may have unique characteristics that could affect your financial security and leave you vulnerable to financial elder abuse.

Every older person in Australia has the right to enjoy financial stability and security, so that their needs are met and life is enjoyable. The financial resources available to you will often determine your housing, health care and aged care options. But if you experience financial abuse, your happiness and wellbeing will be severely affected.

As an older person from a culturally and linguistically diverse background, you are equally entitled to security and independence. To ensure this, it's important for you to know about financial elder abuse, why you may be vulnerable, and what help and advice are available to you.



What is financial elder abuse?

According to 1800RESPECT, financial elder abuse is 'the theft or misuse of an older person's money, assets or property'. It can take many forms. Here are some examples:

- withdrawing an older person's money without their permission
- selling an older person's home without their consent
- not repaying loans from an older person or not contributing to household expenses
- pressuring the older person into gifts or loans
- misusing the older person's power of attorney
- pressuring an older person into making or changing their will
- paying expenses, such as grocery shopping, for the older person (with their money) and keeping the change.

Read more about financial elder abuse on Compass



Different cultural approaches to finances

People, families and communities with CALD backgrounds in Australia sometimes continue to follow the laws and cultural practices of their country of origin. If cultural practices differ from the law in Australia, older people in these communities may be more vulnerable to financial abuse. Let's look at how this could happen.

Perceptions of rights

The 'rights' focus in Australia is very much on the individual person, but the focus in some cultures is more on the rights of the community or family. These are sometimes referred to as 'collective rights': the idea that 'what is good for all of us is good for each of us'.

In a financial context, this can lead to an older person putting the control of their finances or property into the hands of a family member – perhaps the oldest son – or someone else they trust.

Unfortunately, there have been cases of family members or other people misusing the funds for their own purposes rather than for the benefit of the older person. This is financial elder abuse.

Ownership of an older person's assets

In Australia, financial assets don't become an inheritance until their owner passes away. The estate is then bequeathed according to the person's will, usually to their family members. If there is no will, the law decides who will inherit the assets according to testamentary law.

In some cultures, it's usual for the leadership and care of the family to transfer from a person who's growing older to another, younger family member. This new family leader is expected to protect and support all members of the family, so it might be usual for the older person's assets to be transferred to them as well, so they can fulfil this responsibility.

This transfer is based on the older person's trust that the family member will take care of them. Sadly, this doesn't always happen, and sometimes the older people experience financial abuse.

The following story illustrates this scenario. It's based on a groundbreaking legal case from the 1980s that highlighted the risk of financial abuse faced by older people from CALD backgrounds.

Anna and Giuseppe's story*

Anna and Giuseppe migrated to Australia from Italy in the 1950s. Not long after they arrived, they bought and successfully managed a banana farm in regional New South Wales. Over their decades of hard work, the farm's value increased substantially.

Anna and Giuseppe are now in their 80s. Their health is deteriorating, and they are no longer able to work on the farm. They decide to hand over its management to their oldest son, Enzo.

However, they don't know that Enzo has a gambling problem. Enzo asks his parents if they could use the farm as collateral to guarantee a loan for an investment that, he says, will benefit them. In reality, the loan is to pay off his significant gambling debts.

Anna and Giuseppe don't speak or read English very well, but they trust Enzo. They sign the documents that he puts before them without understanding them.

Enzo is unable to make the repayments and soon defaults on the loan. The bank steps in and takes the farm to pay back the loan.

Anna and Giuseppe are shocked to find that they have lost everything they own. They go to court to get their land back but struggle to pay the barrister's fees to pursue the case. The court decides that they have lost their farm to the bank and do not have any resolution for the case.



Steps for preventing financial elder abuse

If you are an older person from a CALD background, it's very important that you are aware of financial abuse, understand your rights and know you can get help to stop any abuse.

Here are some steps that you should consider before signing over your assets to family members or other people.

Seek independent legal advice

A lawyer will be able to provide you with guidance and advice about the proposed arrangement and the possible consequences.

While your family or community may feel offended if you seek advice from other people, it's important that the legal advice is independent. It means you will receive advice and help that is tailored for you – not for the other person.

Document any agreement reached

If you decide to go ahead with an arrangement, ask your lawyer to create a written agreement or contract that clearly sets out the rights of each party and the range of liability that each party holds.

Engage an accredited interpreter

If you do not have a good command of English, get help to understand the conversations and any documents you are asked to sign. Ask your lawyer to organise an accredited interpreter (or engage a lawyer who is fluent in your first language).

Don't use a bilingual family member as your interpreter. They might not have the appropriate interpretation skills, and they could have a conflict of interest in how you manage your financial affairs.



It's okay to look after yourself

Your financial assets should be used to ensure you are able to enjoy your later years in the best way possible, not to provide financial support to younger family members. It's more than okay to make independent decisions focused on your own financial future instead of your adult children's or relatives' futures.

The best way to prevent or overcome financial abuse is to be informed before you make any decisions or when you encounter difficulties.

But if you do run into financial problems with family members, seek legal advice to understand what your options are and the possible solutions to the problem.

You can also call the National Elder Abuse phone line, 1800 ELDERHelp (phone 1800 353 374) or contact a community legal service in your state or territory.

Read more on Compass about the unique challenges of elder abuse in multicultural Australia, including details on where to get help with elder abuse.

* Names have been changed for privacy.