

# Finding solutions to reduce risk of financial abuse

Presented by Fiona Bateman

BSAB Independent Chair





# Webinar: house keeping

- Please put all microphones on **MUTE**
- If you would like to ask a question, please use the **CHAT** function
- **RESPECT** the stories you hear and protect the identity of adults at risk through **CONFIDENTIALITY**
- Take care of your own **WELLBEING** throughout this session

# How to report concerns in Barnet

**Social care direct at Barnet council are the point of first contact**

- **Tel 020 8359 5000 text (SMS) 07506 693707**  
**email socialcaredirect@barnet.Gov.Uk**

**Police community safety unit in an emergency 999**

- **Tel 020 8200 1212 email sxmailbox-tib@met.Pnn.Police.Uk**

- What happens after you report abuse:

<https://www.Barnet.Gov.Uk/sites/default/files/assets/citizenportal/documents/adultsocialcare/whathappensafteryoureportabusebookletmay12.Pdf>

- Your concern should always be taken seriously and acknowledged. Usually the adult at risk will be consulted and you should always be told if the concern will be investigated.
- If you hadn't had this it is ok to ask again!



# The role of BSAB

- BSAB is a partnership, it includes the local authority, clinical commissioning group, police, fire service, housing, health and social care providers and voluntary organisations. The board provides partner agencies opportunities to review practice, provide positive cross-agency challenges to enable accountability and strengthen the culture of continuous improvement.
- Our priorities this year are:
  - To establish that safeguarding practice reflects 'MSP' principles, meaning that adults at risk and people important to them are involved in decisions about how best to protect them from harm
  - Adults at risk are heard and their experiences shape continuous improvement
  - That we advance equality of opportunity, including ensuring access to justice for adults at risk
- S44 Care Act: statutory function to review cases where an adult with care and support needs dies or suffered serious harm as a result of abuse or neglect and there is reasonable cause for concern about how the SAB, members of it or other persons with relevant functions worked together to safeguard the adult.



6 key Safeguarding Principles	Legal principles and obligations	Reflected in Pan London Policy
Empowerment Accountability Proportionality	Human Rights Act 2008 Equality Act 2010 Public Law Principles	Duty to promote wellbeing and MSP principles [pan LDN safeguarding adults policy1.2] Supporting adults at risk across disciplines (accessible information standard) and throughout process (within criminal justice system) Proactive duty to uphold human rights, incl. right to liberty Duties re Record Keeping [3.4]
Prevention Protection	Duty of Care Mental Capacity Act 2005 and Impaired decision making	Recognition of duty to provide information and advice [2.1.4-5], prevent abuse and neglect [2.1.2] and set up agreed processes [4.3] to ensure effective: <ul style="list-style-type: none"> <li>• Risk assessment &amp; management [2.10]</li> <li>• Assessment &amp; care planning responsibilities, incl to self-funders and those on PHB or direct payments [2.2.1] 'think family' and to young people [2.2.2-6]</li> <li>• Assess and act on impaired decision-making capacity [3.1 and 3.3.3.-6]</li> <li>• Provide Advocacy [pg 3.2]</li> </ul> According to agreed indicative timescales [4.3.11]
Partnership	Duty of Care-linked to prof. standards Duty to cooperate and share information Duty to consult	Duty to report concerns applies to all employees and volunteers and 'whistleblowing' affords them protection [5.4.5] and address concerns cross boundary [4.3.10] Understanding partner's duty of care, Powers (and limitations) to cooperate AND escalation processes [4.3.9] Procedural expectations, employment law obligations or organisational responsibilities [5.1 and p81 for obligations in respect of PiPoT] Consent and when can override capacitated refusal to share information [1.1.4-5]



Please go to [slido.com](https://www.slido.com)  
and enter #188734

Or copy link:  
<https://app.sli.do/event/8xc4ozlf>

We know financial abuse can occur  
in any setting, but what setting do  
you find it most challenging to  
investigate?



# Fraud/ scams

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Research by Age UK and others tells us that adults who are socially isolated or suffering age related deterioration in mobility or cognition are more likely to be targeted by scammers. They are perceived as having savings, but with reduced financial literacy and have greater exposure to unsolicited calls.

Police report opportunistic criminals, such as buglers and rogue traders, identify victims by home adaptations.

Home office identified significant decline in mental and physical health of victims so risk has wide-reaching consequences.



# Financial abuse was the 2<sup>nd</sup> most reported form of abuse in 20-21

-BSAB Annual report

Financial abuse by family members, friends or those in a position of trust (e.g. with power of attorney) is also very common. However, the way in which agencies respond to financial abuse by friends, neighbours or within families may not be as clear cut as when there is fraud.

Partly, because there are greater layers of complexity inherent in these situations. People are often reluctant to report their loved ones or may be unable or unwilling to support investigations if friends/ family members are alleged to have taken or moved money. But this too often means people with care and support needs are left without financial security and unable to meet their basic needs.

We know, of course, that for many adults at risk this is a form of coercive control. Work by NGO's to raise awareness of this (e.g. see <https://survivingeconomicabuse.org/what-is-economic-abuse/>) is a start, but there needs to be a cultural change in society and amongst all safeguarding partners to challenge perceptions and responses to financial abuse by those within an adult's social network.



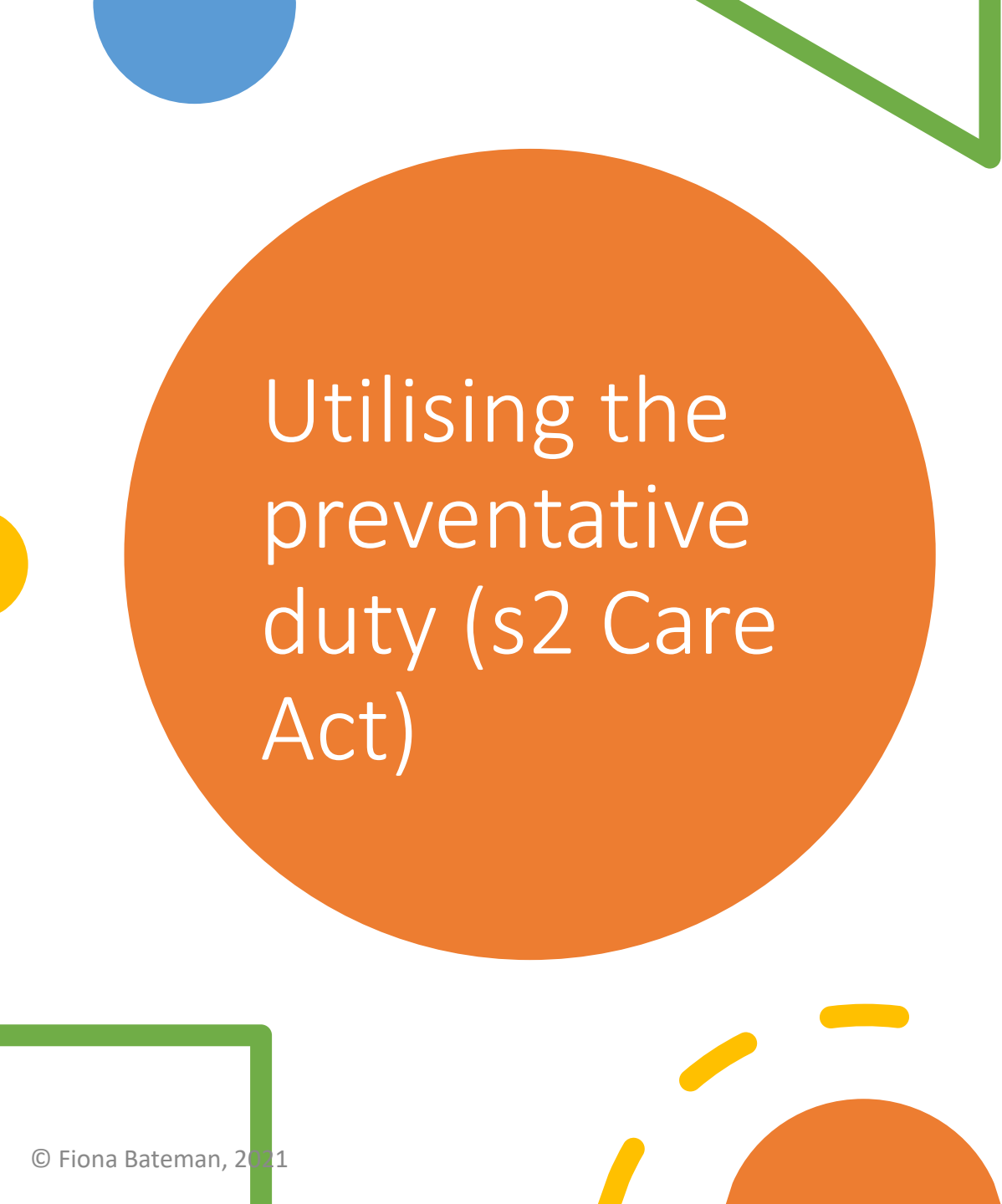
# Common indicators of financial abuse

- Missing possessions or unexplained lack of money/Withdrawal of funds/Reluctance to replace and repair
- Failure to register an LPA after the person has ceased to have mental capacity so that it appears that they are continuing to do so
- Evasive or uncooperative behaviour or unusual interest in assets of adult at risk/Family pressure to alter financial arrangements
- Signs of financial hardship in cases where the person's financial affairs are being managed by a court appointed deputy, attorney or LPA
- Rent arrears and eviction notices/Inappropriate purchases, or out of character purchases/Large volumes of junk mail and cold calls
- A lack of clear financial accounts held by a care home or service/Failure to provide receipts for shopping or other financial transactions carried out on behalf of the person
- Disparity between the person's living conditions and their financial resources, e.g. insufficient food in the house

# Who can make financial decisions

- Enduring powers of attorney- still apply but only if made before 01.10.17 and, once the adult has lost capacity, it must be registered with OPG
- Advanced decisions to refuse medical treatment [s24- 26 MCA]
- Lasting power of attorney s9- 14 MCA
  - property and financial affairs
  - welfare
- Deputyship- s.16- 20 MCA, but note Re LB Havering v LD and KD [2010] and Re Lawson, Mottram and Hopton (appointment of personal welfare deputies) [2019]
- DWP appointee
- S7-8 MCA: paying for necessities and pledging the credit





## Utilising the preventative duty (s2 Care Act)

Preventative advice and support should form part of health and social care support and any ASC financial assessment.

### **MAKE EVERY CONTACT COUNT!**

Practitioners, incl housing, district nurse, OTs, must be scam aware and confident to recognise and report so that they involve police, Office of the Public Guardian and trading standards depts. *South-end on Sea Council v Meyers* [2019]

As part of any MSP response, understand the adult may feel shame or not accept they are at risk-prepare for resistance so you can explain evidential basis of concerns and the relevant duty of care. This could provide a footing of a trusting relationship. Also consider why the adult responded to scams. This enables a thorough discussion of MSP outcomes and so protection plans can also build in future resilience, e.g. 'Mail marshall' role so they can form part of a prevention scheme!

# Should I share my concerns?

## Care and Support Guidance:

- 14.43 (2). No professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed.
- 14.44 Local authorities may choose to undertake safeguarding enquiries for people where there is not a section 42 enquiry duty, if the local authority believes it is **proportionate** to do so, and will enable the local authority to promote the person's wellbeing and support a preventative agenda.



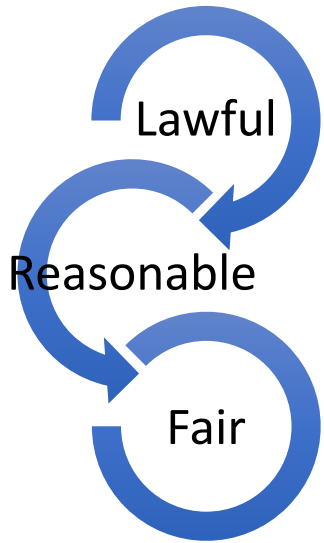


# Utilise Investigative powers:

Remember public law principles and protect against unconscious bias.

Local Authorities are entitled to disclosure of reasonable information in order to carry out their financial assessment functions. It is also for the person to prove they no longer have the asset [pg8, Annex E]. If necessary:

- Highlight duty to disclose and LA powers to investigate fraud under RIPA 2000, or recover against 3<sup>rd</sup> parties under s423 Insolvency Act 1986
- Review information that is available, check previous assessments, case notes, local authority records re Council Tax etc
- Involve other depts, e.g. Trading Standards, Audit and Investigation
- Involve partner agencies with powers to investigate- Police or Office of the Public Guardian
- Set out the basis of your case and offer the adult at risk the opportunity to comment, you may also have a duty to disclose concerns to the person alleged to have caused harm so consider how best to do this.
- Seek legal advice on relevant proceedings to recover assets or debts. If necessary, as part of the Court proceedings, you can seek further disclosure under the Civil Procedure Rules.



As with any s42 enquiry, investigating financial abuse must:

- Ascertain the person's capacity to protect themselves: focus on the specific issue and address within the assessment whether the individual "*can comprehend and weigh the salient details relevant to a decision to be made.*" Apply the correct legal test on that issue of capacity, it will not be sufficient to rely on a generic capacity assessments.
- Consider also if decision making might be impaired by coercive control, undue influence or duress or if the alleged perpetrator was in a position of trust.
- Identify risk correctly: pro-active duty which requires active investigation with relevant partners to obtain pertinent information. You must take into account everything you can reasonably be expected to know and respond appropriately. Be confident, if necessary, use the SAB's information sharing protocol!
- Engage the person's established support network: EPA/LPA and deputies have legal authority to make binding decisions so practitioners can't ignore their views based on different opinion of 'best interests'.
- Family/ friends may remain important to the adult at risk, so consideration is needed about how to minimise risk whilst upholding wider duties (including article 8 ECHR duties).

# Discussion

Mr A is 93 years old, registered blind and lives alone with no close relatives in UK. In 2014 neighbours report concerns that he is being financially exploited by his cleaner 'Sue' as lent her £15,000 for a lease and knee operation. A social worker visits Mr A, during which Sue calls him and is heard to tell him to be careful what he says and 'she is his carer now.' The subsequent investigations reveal that 'Sue' is an alias for Veronica Robinson and that she befriended him 6 months previously following his bereavement. Since that time she had isolated him from friends and family, such that he now believed they were stealing from him. Locks to his home were changed, he also only ever attends social events accompanied by her. Concerns are raised that he is becoming increasingly confused and his mental health is deteriorating. Mr A, however, is hostile to social care interventions, frightened he will be 'put in a home'. He does not attend appointments, incl. health appointments and tells friends not to contact him as he 'has Sue now'. Staff can't complete a capacity assessment.

In Feb he tells a neighbour that he has lent her 'about £30,000' to buy a house, in fact the previous November he signed a cheque of £188,000 to her, the house is solely in her name.

**How might the s42 duty assist you to gather information to enable an effective intervention to protect Mr A?**



# Further reading



- ‘Safeguarding Adults under the Care Act 2014’, Jessica Kingsley Publishers, 2017
- [https://www.local.gov.uk/sites/default/files/documents/25.130%20Making%20Decisions%20on%20the%20duty\\_06%20WEB.pdf](https://www.local.gov.uk/sites/default/files/documents/25.130%20Making%20Decisions%20on%20the%20duty_06%20WEB.pdf): LGA and ADASS guidance on decision making re s42 enquiries
- [https://www.local.gov.uk/sites/default/files/documents/25.143%20Making%20Safeguarding%20Personal\\_04%20WEB\\_0.pdf](https://www.local.gov.uk/sites/default/files/documents/25.143%20Making%20Safeguarding%20Personal_04%20WEB_0.pdf): Case studies for discussion at team meetings!
- <https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>: MCA Code of Practice
- <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>: Care Act statutory guidance
- <https://www.scie.org.uk/care-act-2014/safeguarding-adults/adult-safeguarding-practice-questions/>: SCIE guidance and <https://www.scie.org.uk/care-act-2014/safeguarding-adults/adult-suspected-at-risk-of-neglect-abuse/> on gaining access to an adult at risk
- [http://www.cps.gov.uk/legal/p\\_to\\_r/prosecuting\\_crimes\\_against\\_older\\_people/#mental](http://www.cps.gov.uk/legal/p_to_r/prosecuting_crimes_against_older_people/#mental): Guidance on prosecuting crimes against adults at risk
- [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118173/local-authority-england-wales.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf): Guidance on Judicial process for LA powers to investigate or carry out directed surveillance
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