



counsel + care  
for older people, their families and carers

factsheet

Information from Counsel and Care: 20

# Abuse: older people at risk

Unfortunately, abuse of vulnerable older people does occur and this factsheet gives advice on how to recognise abuse. It also illustrates the most vulnerable groups and provides advice which may help prevent or stop the abuse.

Abuse can be physical, emotional, psychological or financial. Abusive behaviour can often be subtle and not obvious to people outside of the immediate situation. Reporting abuse is not straightforward for those involved, but the abuse of vulnerable older people is very serious. Older people who are being abused have the right to take action or to know that action is being taken on their behalf.

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Your donations, legacies and payroll giving enable Counsel and Care to get the best care and support for older people, their families and carers

Counsel and Care is a national charity; however the creation of the Scottish Parliament, and the Welsh and Northern Ireland Assemblies means there are differences in the ways each region cares for and supports older people. The information in this factsheet applies essentially to England although there may be similarities with Scotland, Wales and Northern Ireland.

We also produce five separate factsheets for both Scotland and Wales covering the community care assessment of need process; paying care home fees and making a formal complaint which are the key areas where the policy and legislation differ significantly to England. All of the factsheets we publish can be downloaded from [www.counselandcare.org.uk/helping-you/factsheets](http://www.counselandcare.org.uk/helping-you/factsheets) or posted to you by calling our factsheet orderline on 020 7241 8522.

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# 1 What is abuse?

Abuse is behaviour towards other people which causes them any sort of harm or which puts them in danger, and includes being a victim of crime such as robbery, burglary and mugging. It can also occur in relationships where there is an expectation of trust or care.

Abuse of older people generally happens within a relationship. It is a single or repeated act or lack of appropriate action that is done to the older person by someone such as a relative, carer, neighbour or a member of staff at a care home, a day centre or the person's own home. It is also against the law but, because of the relationship that exists between the older person and the abuser, it can often feel difficult to report the abuse or stop it happening.

Older people can become the victims of crime, as they are often seen as an easy target. If you are a victim of crime you should report it to the police. An organisation called Victim Support should contact you shortly after you have reported the crime to offer you advice and ensure you are well cared for. They can support you through any subsequent court action. Victim Support (tel.: 0845 30 30 900) can also provide assistance to people who have been subject to a crime which has not been reported to the police.

## **1.1 Types of abuse**

Abuse might occur in any of the following ways. Someone may be subjected to more than one form of abuse.

### **Physical abuse**

Physical abuse is most clearly identified in cases where there are signs of harm such as bruises, burns, broken skin or broken bones. However, there are less obvious types of physical abuse, for example, giving someone too much medication to make them drowsy and easier to look after, restraining someone by tying them to a chair or bed, or using furniture to stop them moving.

### **Psychological abuse**

It is abusive to intimidate an older person by shouting, frightening, swearing at or ridiculing them. Other, more subtle forms of abuse might include blaming an older person for actions or behaviour that they are not able to control or trying to make them feel humiliated, rejected or ignored.

### **Financial abuse**

Financial abuse includes illegal or improper use of a person's property, money, pension book, bank account or other valuables, as well as stealing money or property. If you are managing the finances of a person who does not have the mental capacity to do so for themselves, you should have legal authority, such as a Lasting Power of Attorney, Enduring Power of Attorney or Receivership to ensure that your actions are not misconstrued as financial abuse.

Lasting Power of Attorney or Enduring Power of Attorney (if set up before October 2007) are legal documents that authorise one or more people to handle another person's financial affairs once they have lost the capacity to do so themselves, provided that they are registered with the Office of the Public Guardian (tel.: 0845 330 2900).

From October 2007, with the introduction of the Mental Capacity Act 2005, people will need to have Lasting Power of Attorney (LPA) set up rather than an Enduring Power of Attorney to organise someone else's financial affairs for a time when they lose mental capacity. There are two parts to the LPA. If set up to do so, it can also authorise someone to make care and welfare decisions on behalf of the person who lacks capacity. The Lasting Power of Attorney will have to be arranged before the person loses capacity in order to be effective, and is arranged by completing official forms available from the new Office of the Public Guardian (tel.: 0845 330 2900)..

However, if you have an existing Enduring Power of Attorney set up before October 2007, it can still continue to be used. Again, if the individual loses capacity, then the EPA needs to be registered with the Office of the Public Guardian before it can continue to be used.

For more information, see factsheet **33: Money and Welfare: managing your affairs if you become ill.**

### **Sexual abuse**

It is abusive to force an older person into any sexual activity that they do not want, including talking about sex or looking at books and videos.

## **Neglect**

It is abusive to deprive a person of food, clothes, warmth and hygiene needs. Older people also have the right to have the healthcare treatment or medication they need. They also should not be isolated from social interaction or left unattended for periods of time if that puts them at risk or causes them distress or anxiety.

## 1.2 Symptoms of abuse

If an older person feels frightened and intimidated as a result of being abused, they may not feel able to seek help. They may be unable to tell anyone about what is happening. **They may need someone to take action on their behalf.** The following may indicate someone is experiencing abuse:

- Recurring or unexplained injuries
- Untreated injuries and medical problems
- Being emotionally upset and agitated
- Inconsistency or difficulty in accounting for the cause of injuries
- The older person not being allowed to speak for themselves
- Poor personal hygiene, unchanged bedding and/or unsuitable clothing for the conditions or environment
- Untreated or longstanding pressure sores that do not heal
- Unexplained weight loss or gain, or evidence of dehydration noted by poor skin condition and/or frequent urine infections
- The older person appearing withdrawn, depressed, having irregular sleep patterns, low self-esteem, fearfulness, agitation, or loss of appetite
- Abrupt or unexplainable changes to bank accounts or Wills.

## 1.3 Where does abuse occur?

Abuse can happen anywhere, but is most likely to occur in:

- The person's own home
- A hospital
- A care home
- A day centre or other social care centre.

## **1.4 Who commits abuse?**

It is possible for anyone in a position of control or authority, whether that is within a family situation or a statutory environment to commit abuse.

This can include a partner, child or relative; a friend or neighbour; volunteer worker; or a health, social care or other worker.

## **1.5 Who are the victims?**

The majority of people who experience elder abuse are women over 81 years, but it can happen to all older people.

## 2 Difficulties in dealing with the abuse of older people

As with the abuse of any vulnerable person, there may be difficulties involved in the identification and resolution of the circumstances in which it occurs.

- Identification of abuse may be difficult because the older person may feel embarrassed that they have 'allowed' it to happen. Preventing or stopping the abuse may be complicated because the older person may feel reluctant to make a complaint against the abuser. This could be through fear of the abuser or because the older person still has a meaningful relationship with the abuser. They may feel that they will not be believed. It may be that they do not recognise they are being abused.
- A victim of abuse may feel traumatised by their experiences. These feelings may lead to a sense of low self-esteem with the older person quietly accepting the abuse.
- An older person is an adult and, therefore, has the right to take risks and make their own decisions. This means that it is often difficult for the authorities to intervene if abuse is suspected or even if they know that the older person is being abused, but does not want to do anything about it.

It is difficult to know what effect the different types of abuse will have on a person. The effects are likely to differ depending on whether it is a one-off instance of abuse or a continued series of abusive acts, or if the person relies on the abuser to meet their care needs.

### 3 If you are being abused

The type of action you take may depend on the severity of the abuse. If you are not sure what to do, or do not want to act alone, you could:

- Speak to a friend or relative you are comfortable with and feel you can trust.
- Keep a diary. Write down the dates and times, what is happening or has happened, and who was involved. This information may be important if you decide to take things further.
- Speak to another older person who may have experienced or seen something similar.
- Speak to your doctor or community nurse, if you feel comfortable to do so, and ask them for advice.
- If you are being abused by someone employed to care for you at home, speak to the manager of the services. All home care services must have a complaints procedure and also procedures to prevent their clients from being abused. All home care services must also be registered with the Commission for Social Care Inspection (CSCI) (tel: 0845 015 0120). If you are not happy with the response you receive from the manager of the service, report your concerns to CSCI. If the service was arranged by social services, speak to your care manager or social worker.
- If you are in a care home, you could speak to another resident you trust, or contact the social worker who was in touch with you at the time you entered the home. If you feel able, you should voice your concerns to the manager of the home or a trusted member of staff. All care homes must have a complaints procedure that you or a

relative or friend could use to voice your concerns. All care homes must also be registered with CSCI which will investigate any complaints you have. For more information, see below or see our factsheet **19: Care Homes: What to Look For**.

- If the abuse is being committed by a 'friend', relative or neighbour you may find it more difficult to report because of your emotional bond with this person. However, you do not have to accept this treatment and may wish to raise this issue with them. This may resolve any misunderstandings and alert them to the fact that you are aware that their treatment of you is unacceptable. You may also wish to involve another person that you trust when you do this.
- If the problem does not improve or you feel too afraid to raise the issue with the person carrying out the abuse, contact your local council social services or a local independent advocate for support (contact Older People's Advocacy Alliance (tel.: 01782 844 036) or Scottish Independent Advocacy Alliance (SIAA) (tel.: 0131 260 5380) to find an independent advocate, and see section 9 of this factsheet). If you feel the abuse amounts to a criminal act, for example, physical abuse or theft, you should contact the police who are trained to deal sensitively with all kinds of criminal or domestic abuse (see section 8.1 of this factsheet).
- If you live with a vulnerable older person, new legislation has been introduced to protect vulnerable older people from serious abuse (see section 8.3).
- Write or telephone for advice from an organisation like Witness (tel.: 08454 500 300), Counsel and Care (tel.: 0845 300 7585), or Action on Elder Abuse (tel.: 0808 808 8141) (see factsheet **24:**

**Information: other useful organisations for addresses).**

## 4 If you see or suspect abuse

### 4.1 In a hospital

Speak to the head of the department in hospital where the older person is receiving the care, for example, speak to the sister in charge of the ward to say you have a serious matter to report. If you are not satisfied with the outcome of the meeting with the person in charge, ask for a copy of the hospital's complaints procedure. For more information, see our factsheet **18: Complaints about community care and NHS services**. (If you live in Scotland, see factsheet **54: Complaints about community care and NHS services in Scotland**, or factsheet 74 if you live in Wales.)

### 4.2 In a day centre

Speak to the head of the unit or to a senior worker in the day centre who you feel you can trust to say you have a serious matter to report. Ask for a copy of their complaints procedure if you are not happy with the outcome of the meeting.

### 4.3 In a care home

The fact that an older person is in a care home means that they can be particularly vulnerable. You could ask for a private meeting with the manager of the home or another senior member of staff who you feel you can trust, telling them you have a serious matter to report (see (section 6 of this factsheet).

If you are not satisfied with the outcome of the meeting with the manager of the home or senior member of staff, you can ask for a copy of the care home's complaints procedure and then decide whether you

want to register a formal complaint. For more information, see our factsheet **18: Complaints about community care and NHS services**. (If you live in Scotland, see factsheet **54: Complaints about community care and NHS services in Scotland**, or factsheet 74 if you live in Wales.)

#### **4.4 If you are a visitor**

- Challenge the person who is abusing the resident immediately and ask them to stop if you see abuse happening
- As soon as possible, report the incident to the manager of the care home or a senior staff member
- If you can, write down what you saw, with dates, times and names if possible.

For more information, see section 6 of this factsheet.

#### **4.5 If you are a registered employer**

##### **Criminal Records Bureau (CRB)**

All home care agencies, care home owners and any other organisation employing people who have regular contact with vulnerable people should not employ someone unless they have received a CRB disclosure. The care home has an obligation to ensure this is carried out. Contact the Criminal Records Bureau (tel.: 0870 9090 811 or if you are a Welsh language speaker 0870 9090 223). If you live in Scotland, contact Disclosure Scotland (tel.: 0870 609 6006) rather than the Criminal Records Bureau.

##### **Protection of Vulnerable Adults Scheme (POVA)**

The POVA list scheme came into force in England in 2004. This scheme was introduced with the aim of removing abusers from care settings. In Scotland, the new Protection of Vulnerable Groups Act 2007 in Scotland will introduce such POVA lists there under the 'vetting and barring scheme'.

When a person seeks employment within a care setting, the home care agency or care home must request a check against the POVA list. If a care worker is matched against the list, they have caused harm to a vulnerable adult in their care and it is against the law to offer them employment in a similar care position again.

It is also the registered provider's responsibility to refer people they have employed to be placed on this list if the person has committed abuse and been dismissed, suspended or transferred as a result of such action. Where former employees are found to be guilty of abuse which was not highlighted at the time, the provider also has a duty to make sure they are included on the POVA list.

#### **4.6 If you are a care worker**

- Challenge the person who is abusing a resident and immediately ask them to stop
- As soon as possible, report the incident to the manager of the care home or a senior staff member
- If you can, write down what you saw, with dates, times, and names if possible.

The safety of the vulnerable older person you care for is paramount.

However, you may be reluctant to report your suspicions or knowledge of abuse because you are worried about losing your job. Employees now have some protection from dismissal or victimisation as a result of the Public Interest Disclosure Act 1998. If you do report suspected or actual abuse, the information will be treated confidentially if you request this, but if you are the only person able to speak up about the abuse, you may have to be identified before action is taken. For help with these considerations, you could:

- Consult your professional association, staff representative or trade union
- Seek advice for a solution from a solicitor
- Contact the organisation, Public Concern at Work (tel.: 020 7404 6609).

If you know or suspect that the abuse is being carried out by a registered nurse, you can speak to the Nursing and Midwifery Council (tel.: 020 7637 7181). All nurses in the UK must be registered with the council who will investigate any complaints about their work.

#### **4.7 If you suspect abuse**

If you suspect abuse is occurring, it is in the best interests of the older person to try to resolve the issues by taking action. If you have concerns, speak to the relevant person about them (see above sections). It is better that issues are investigated and resolved. If abuse is ignored it can have serious consequences for the older person.

## 5 Regulating against abuse

If the abuse takes place in a care home setting or while the older person is being cared for by a member of staff of a home care or nursing agency, and you are not satisfied with the way your complaint has been dealt with, you may wish to contact the Commission for Social Care Inspection (CSCI) (tel.: 0845 015 0120). CSCI is the independent inspectorate responsible for ensuring that all care homes and home care agencies in England (including those that are registered for providing nursing care) achieve and maintain the National Minimum Standards set by Government. Inspectors from CSCI will investigate complaints raised to their attention.

If you have concerns about abuse of an older person, and you live in Scotland, you can contact the Care Commission (tel.: 0845 603 0890), who has a similar role to CSCI in England. If you live in Wales you can contact Care Standards Inspectorate for Wales (tel.: 01443 848450).

### 5.1 Care homes

An inspector from CSCI will inspect the home at least once every three years, more frequently if the inspector feels this is necessary. The home will also be subject to unannounced inspections and themed inspections, for instance, where one aspect of the home is considered in depth. However, if you suspect abuse, you should report your concerns to CSCI immediately. Do not wait for the next inspection.

Inspectors welcome the chance to talk with residents during their routine visits and should arrange to meet individual residents to talk to them

about their experiences in the home. The inspector can investigate complaints made by or on behalf of residents and has the power to ensure managers of homes take action where standards are low. In extreme circumstances, CSCI may take steps to close a home.

## 6 Meetings with professionals

It can feel intimidating to meet with inspectors, local council social services staff or managers of care services. Before you meet them, it may help if you consider the following things:

- Ask if a friend or relative or other person you trust could be present
- Asking an independent advocate to work with you, (see section 9)
- Outline the cause of your concern
- Ask what action will be taken
- Ask how the older person will be protected whilst any investigation takes place
- Say that you would like to be kept informed about the progress of the investigation
- Ask for this information to be provided in writing
- Make a written note of what you said, with dates and times (or ask a friend or relative to do so)
- Ask for an interpreter to be present if English is not your first language.

## 7 The duty of the local council social services

Contact your local council social services department if the abuse is taking place in the older person's home, care home, or other community setting or if you have made a complaint but the abuse has continued.

Following a report by the Government called 'No Secrets' in England, ('In Safe Hands' in Wales), all councils have developed procedures for dealing with the abuse of vulnerable adults, including older people. All organisations working in the care of older people, for example, local council social services, health, and housing, must work together to prevent abuse or take action when it occurs.

In Scotland, each local council has its own Protection of Vulnerable Adults policy. See section 8.4 of this factsheet for the new legislation that has been introduced in Scotland to cover abuse of vulnerable adults or groups.

Some councils have Adult Protection Teams (APTs) in England and Wales (Adult Protection Committees in Scotland), which are made up of staff from different bodies such as health and police, trained in investigating the abuse of vulnerable adults. APTs should investigate the abuse wherever it is taking place and regardless of whether the council Social Services are providing care or support services.

Your local council social services department should make sure that your report about the abuse is treated sensitively and in confidence.

Information given by you should only be shared if it is felt that not to do

so would put you or the person you are concerned about at further risk of harm. Local council social services should tell you who they are going to talk to about your concerns.

The social worker carrying out the investigation should offer you the opportunity to express your concerns away from the alleged abuser so that you do not feel intimidated. Depending on where the abuse is happening, who the abuser is and the severity of the abuse, the local council social services may also involve the Commission for Social Care Inspection (CSCI) and the police in the investigation.

If it is felt that to leave whoever is being abused with the person who is abusing them would put them at further risk, they should be offered protection, for example, being moved to a safer environment.

You, or the older person you are concerned about, should be informed about the outcome of the investigation, what steps are being taken to prevent the abuse occurring again, and how this will be monitored.

If you have decided to contact the local council social services department for support, ask for a copy of the Protection of Vulnerable Adults policy. This is a recent government initiative that places the responsibility with the local council social services to investigate allegations of abuse. If you have contacted your local council social services department and you are not satisfied with the way the investigation of the abuse is being conducted or the outcome of the investigation, you may need to use the formal complaints procedure to make your dissatisfaction known. For more information, see factsheet **18**:

**Complaints about community care and NHS services** (if you live in Scotland, see factsheet **54: Complaints about community care and NHS services in Scotland** and, if you live in Wales, factsheet **74: Complaints about community care and NHS services in Wales**. You could also contact an organisation like Counsel and Care (tel.: 0845 300 7585) or Action on Elder Abuse (tel.: 0808 808 8141) for advice (their full contact details are listed in factsheet **24: Information: other useful organisations**).

## 8 The law

### 8.1 Contacting the police

This step can feel very daunting. However, many types of abuse are classed as a criminal offence. The police now have 'domestic violence' or 'community violence' units, which have staff trained in dealing sensitively with issues of abuse in a domestic setting. If you feel you or someone else is in danger this may be the most appropriate route to take for immediate protection.

### 8.2 Using the courts

Protection is available through the courts, both to prevent a person being abused, and to take action against the person carrying out the abuse. You should talk to a solicitor who specialises in this area of the law to see if this route is best for your particular situation. Solicitors for the Elderly will be able to help you find one (tel.: 0870 0670282) or Community Legal Advice (tel.: 0845 345 4 345).

### 8.3 Domestic violence legislation

In March 2005, a new Act was introduced called the Domestic Violence, Crime and Victims (DVCV) Act 2004. This Act sets out the legal duty of those people living in a household in England, Wales and Northern Ireland where there is a child or vulnerable adult that they have frequent contact with, to take 'reasonable steps' to prevent the unlawful death of that child or vulnerable adult (see [www.hms0.gov.uk/acts/acts2004.htm](http://www.hms0.gov.uk/acts/acts2004.htm) for the text of the act). Taking reasonable steps could include:

- Reporting suspicions of abuse to the police

- Contacting the local council social services
- Making sure the child or vulnerable person is treated promptly for any injuries sustained
- Explaining concerns to the GP
- Contacting a relevant organisation such as the NSPCC (tel.: 0808 800 5000) or Action on Elder Abuse (tel.: 0808 808 8141).

The DVCV Act 2004 has been introduced to bring to justice those people responsible in the event of an unlawful death of a child or vulnerable person, and where it is clear one or more of the people living in the household are guilty of the death. This Act does not seek to criminalise members of a household when the death was accidental or could not have been anticipated. A member of a household will be considered to be guilty if they either caused the death or if three conditions are met:

- They were aware or ought to have been aware that the victim was at significant risk of serious physical harm from a member of the household; and
- They failed to take reasonable steps to prevent that person coming to harm; and
- The person subsequently died from the unlawful act of a member of the household in circumstances that the defendant (the person charged with the criminal offence) foresaw or ought to have foreseen.

This Act defines a vulnerable adult (both temporarily or permanently) as *"any person aged 16 or over whose ability to protect himself (herself) from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, through 'old age' or otherwise."*

The powers of the DVCV Act 2004 are not likely to include care homes as it is felt that the professional safeguards, standards and professional duties of care already in place would cover the situation of an unlawful death in a care home. However, a paid or voluntary carer, housekeeper or similar employee may be included within the definition of living in the 'household'.

If you are a carer living in the same household as a vulnerable older person, you may have concerns that you could be accused should the older person die whilst they are in your care. However, the DCVC Act 2004 has been introduced to cover domestic situations where members of a household may feel under pressure to remain silent when an **unlawful** death has been proven in order to protect themselves or others in the household. It would not apply unless the death was proven to be unlawful.

## **8.4 Scottish legislation**

In Scotland, there is new legislation protecting vulnerable adults from abuse: the Adult Support and Protection Act 2007 and the Protection of Vulnerable Groups Act 2007. These new pieces of legislation give local councils and Adult Protection Committees (see below) the authority to intervene in certain circumstances where they consider a vulnerable adult is at risk of or experiencing abuse. They will also be able to place people who have abused a vulnerable adult on the POVA list (see section 4.5 of this factsheet for more details).

## 9 Advocacy

You may find in some situations that an independent advocate can help resolve issues, and help clarify or facilitate communication between you and social care and health professionals. An independent advocate will represent your views if you are unhappy about a situation or decision and can discuss with you in private and in confidence to establish what outcome you would like. With your permission, the independent advocate can speak on your behalf or support you to speak for yourself and to represent your views. This can be important, especially for people who feel unable to speak out themselves, who feel unable to challenge the people/professionals involved or who find it difficult to stay focused on the facts when emotions are running high.

The independent advocate will not make decisions for you, but will ensure that you have all the information you need to be able to make an informed decision. This includes making sure that you can understand some of the complicated information that some organisations provide. They can support you at meetings or attend them on your behalf.

Advocacy schemes will have their own elder abuse policy. Depending on their policy, if abuse of a vulnerable adult is disclosed to the advocate, absolute confidentiality may be unlikely.

You can seek an independent advocacy organisation by contacting the Older People's Advocacy Alliance (OPAAL) (tel. 01782 844036) or the Scottish Independent Advocacy Alliance (SIAA) (tel.: 0131 260 5380). Alternatively, you could contact your local council social services or local

Age Concern (tel. 0800 00 99 66). You could also refer to factsheet **25: (Independent) Advocacy** for more information.

Our advice workers can advise on a wide range of issues affecting older people, their relatives and carers. Counsel and Care produce a range of factsheets which can be downloaded from our website [www.counselandcare.org.uk](http://www.counselandcare.org.uk), or by calling our factsheet orderline on 020 7241 8522.

This factsheet is not a full explanation of the law and is aimed at people over 60.

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