Preventing crime and safeguarding people with dementia: findings from the Evidem MCA study

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CRIME ! By strangers...

The vulnerability of people with dementia

‘Dementia sufferers robbed of £100m: Callous conmen prey on elderly

HEARTLESS criminals are targeting dementia sufferers in a bid to fleece them of their life savings’. 
By friends...

‘Former head teacher jailed for fleecing elderly friend of £215,000’

Lifelong friend (60), known through church, of care home resident (83) who was granted power of attorney. Jailed for fraud for 3 ½ years.

*Yorkshire Post* 2 October 2013
Social worker jailed for stealing over £31,000 from elderly clients

By professionals

The Social Work Blog
News and views on the social care workforce

Social worker jailed for stealing over £31,000 from elderly clients

by Ruth Smith, Editor on 23 September, 2013 in Conduct, social workers

A social worker has been sent to jail for 15 months after stealing over £31,000 from elderly clients via council accounts set up for those unable to handle their own finances.
‘Woman jailed for fleecing elderly relative in care’ *Yorkshire Post*, 5 October 2013

Guilty of fraud by abuse of position, jailed for 2 years following social services’ investigation of arrears of care home fees & lack of personal allowance passed to relative (aged 88)
Not just a UK problem – crime of 21st century?

Crime prevention

Social policy measures
- Disclosure and Barring Service
- Fraud prevention and Trading Standards services
- Codes of Practice on victim evidence & support
- Enhanced penalties
- MCA offences

Personal Prevention
Lasting Powers of Attorney & planning
Community vigilance
Our study: the Mental Capacity Act 2005 in safeguarding practice

- MCA aims to protect and empower people with decision-making problems arising from lack of capacity
  - Enables Lasting Power of Attorney (health, welfare &/or finance and affairs)
  - Deputies appointable under Office of Public Guardian
- Provides greater oversight of people unable to make specific decisions for themselves
And MCA Criminal offences

- Two new offences of wilful neglect and ill-treatment created under Section 44
- Criminalises neglect & abuse occurring in a relationship of trust, including professionals and family carers
- Offender indulges in behaviour believing person lacks capacity, and aware that they were under duty to perform required standards of treatment
- If reported and prosecuted, penalty for criminal offences may be fine and/or a prison sentence for up to five years
- As yet, no public national reporting of S44 MCA charges, results and sentences
- Local media reports relied on
Care Home Case

Three care workers have been jailed after filming the “inhuman and degrading” abuse of two old people... Harrowing mobile phone footage of an 86-year-old man being bullied, baited and taunted and a 99-year-old woman sprawled, legs apart, on the floor pleading for help were played to a packed courtroom.
XX was sentenced to 12 months in prison for four counts of ill treatment or neglect of a person without capacity under Section 44 MCA 2005.

Two other healthcare assistants also sentenced. Y was sentenced to 5 months in prison for one count of ill treatment or neglect of a person without capacity and one count of common assault. Z was sentenced to 2 months in prison, suspended for 12 months, and 100 hours of unpaid work for one count of ill treatment or neglect of a person without capacity.

The three were all found guilty after a student-nurse whistle-blower reported their abuse to senior hospital staff.
Objectives of study

- To collect data and to seek to understand how MCA was being implemented in community-based dementia care, focusing on frontline practice.
- Specifically, to understand how the MCA offences were being understood and applied in dementia care settings amongst front-line staff as part of MCA role in safeguarding
Methods

Qualitative longitudinal study

- Interviewed 279 practitioners 2–3 times over three years (2009 – 2013) in person and in groups

  +

- Framework analysis used to structure themes around interview guide questions
- Compared and contrasted views between and within groups.
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<th>Year</th>
<th>Sample Size</th>
<th>Role Description</th>
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<td>2008 (N=106)</td>
<td>Age Concern (voluntary sector) staff (T1 = 10)</td>
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<td>Safeguarding Adult Coordinators (T1 = 13)</td>
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<td>Alzheimer’s Soc staff (T1 = 10)</td>
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<td>Third sector = 15</td>
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<td>Specialist community nurses (T1 = 15)</td>
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<td></td>
<td>Care home staff (T1 = 43)</td>
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<td>2009 (N=10)</td>
<td>Social Services staff (Time 1, March 2009) = 10</td>
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<td>2010 (N=42)</td>
<td>Safeguarding Adult Coordinators (Time 2, January 2010) = 12</td>
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<td>Specialist community nurses (Time 2, July 2010) = 15</td>
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<td>2011 (N=101)</td>
<td>Alzheimer’s Society staff survey (Time 2, November 2011) = 86</td>
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<td>Safeguarding Adult Coordinators (Time 3, May 2011) = 15</td>
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<tr>
<td>2012 (N=20)</td>
<td>Care home staff (Time 2, June 2012) = 20</td>
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Findings – Staff interviews

General awareness of MCA

- Sketchy knowledge, but awareness growing – terms becoming familiar, regulation requirements, matter of record

- Safeguarding practitioners most knowledgeable about the MCA and used as a resource by others

- Many staff aware of crime risks faced by people with dementia
Findings – on offences

- Difficult to determine ‘wilful neglect’, especially if carer is the client but option is there...

- Difficult to tell the difference between ‘ordinary poor practice’ and mis-treatment/wilful neglect or to find the person at fault:
  
  ‘in a care home you can’t pin it down on one person, and then you have to prove it’s wilful and it usually comes down to incompetence.’

  (Safeguarding Adult Coordinator 05; Time 2, January 2010)

Power of stories...eg from Media and circulations of Information (as above)
Findings

- Dementia care not traditionally legally literate
- Producing and thinking about evidence difficult and unusual
- Problems progressing cases – new areas for police and courts
Reducing crime & promoting safeguarding part of dementia care
- Questions of confidence
- Ambivalence about raising concerns
- Limits of ‘training’
- Illustration of communication patterns
- Longstanding issues: how voice of person with dementia central?
Final thoughts

Cases increasing – more crime or justice being achieved?
From bad apples to bad barrels?: New criminal offence of “corporate neglect” proposed to broaden culpability beyond individual failings (Burstow, 2013)
Do vulnerable or frail people not proven as lacking mental capacity lack legal protections?
Disclaimer and acknowledgements:

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