

# Financial Scamming, Next of Kin and the Role of the Mental Capacity Act

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**Learn to Care**

London

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A young police officer was taking his final exam at Hendon Police College in North London. Here is one of the questions....

“You are on patrol in outer London when an explosion occurs in a gas main in a nearby street. On investigation you find that a large hole has been blown in the footpath and there is an overturned van nearby. Inside the van there is a strong smell of alcohol. Both occupants - a man and a woman - are injured. You recognise the woman as the wife of your Divisional Inspector, who is at present away in the USA. A passing motorist stops to offer you assistance and you realize that he is a man who is wanted for armed robbery. Suddenly a man runs out of a nearby house, shouting that his wife is expecting a baby and that the shock of the explosion has made the birth imminent. Another man is crying for help, having been blown into an adjacent canal by the explosion, and he cannot swim.

Bearing in mind the provisions of the Mental Health Act, describe in a few words what action you would take.”

The officer thought for a moment, picked up his pen and wrote:

"I would take off my uniform and mingle with the crowd."

Recent past focused primarily on physical abuse and assault (even this is not fully understood in terms of scale) but now via Care Act (2014) a realisation that financial scamming is a real issue, and indeed Local Authorities now have a duty to protect citizens from financial scamming.

(Section 1, Part 2: Prevent, Section 42: Enquiry, Investigate)

# Mental Capacity

Major changes in society with regards to our understanding of vulnerability for citizens who lack Mental Capacity, and the use of Deprivation of Liberty Safeguards via Best Interest Assessors, especially following the supreme court ruling of the Chester and Cheshire West case in 2014!

Note: next of kin – In law this term has no status except in death without a will.

**Next of Kin: Understanding decision  
making authorities**



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# PC Paul Briggs

"A document, a statement of his wishes would have been totally non-negotiable. But Paul didn't have one. Who does? You think as a wife you'll be able to speak for your husband, be their voice. It's shocking to find that you can't.

The Telegraph, 8<sup>th</sup> January 2017



## **PC Paul Briggs: Wife asks court to end life support 'hell'**

Turn off life support for police officer, judge rules

**PC Paul Briggs case: Plea to 'respect injured officer's wishes'**

Lord Justice Mummy: An unwise decision is not a reason for intervention if the person has capacity.

But what of the capacity “gap”?

People in the early stages of Dementia have some form of cognitive impairment but they do not lack capacity as defined by the Mental Capacity Act.

Yet they are clearly much more vulnerable than the average citizen.

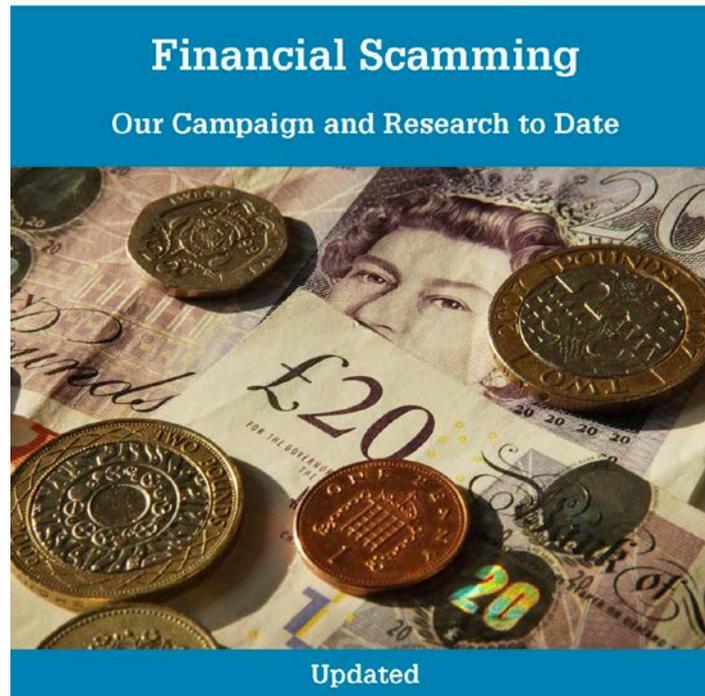
We need to look again at the term “vulnerable” and its definition.

# Financial Scamming: A Brief Guide

**BU**  
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for Post-Qualifying  
Social Work and  
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Working in partnership with:

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**NATIONAL  
TRADING  
STANDARDS**  
Scams Team

 **Trading Standards**

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## Our Campaign asks that...

### 1. All agencies, especially financial institutions should:

- Recognise that consumers/clients with Dementia are by definition more at risk of being scammed. Therefore measures to protect this population group are required as part of a 'duty to care', and those with a diagnosis of Dementia have by definition a cognitive impairment which means that their potential 'unwise decision' is a result of their cognitive state rather than simply an unwise decision.



### 2. All organisations that hold personal data should:

- Only share or pass on personal details and information to other organisations via a clear opt in as opposed to an opt out process. Data should only be held for a maximum of 12 months before permission needs to be sought again.
- Recognise that the normal default position should be that charities do not share, pass on or sell personal details to help prevent 'Suckers Lists'. The exception being to report a safeguarding concern to statutory agencies where there is a suspicion that the person(s) is/are at risk of harm or scamming and this information should be used in accordance to The Care Act (2014).

### 3. Citizens who feel at risk of financial scamming should be able to:

- Formally notify their bank or building society in writing stating that they feel at risk and requesting that all transactions to new payees above a defined threshold (perhaps £1000) have a 72 hour delay before being processed.
- At the start of the 72 hour delay period, an email/text alert is automatically sent to the customer's nominated representative (relative/friend) stating that the customer is attempting to make a large transaction. This will give the opportunity for the proposed transaction to be challenged with a view to potentially stop it leaving the consumers account.

## Progress to date

- Information Commissioner's Office
  - Active opt in only from April 2018
- Nationwide Building Society
  - Looking to trial delayed payment system and self declaration of 'vulnerability'.

- Over 240,000 names now identified and circulating on “suckers” lists.
- Many from data shared or “sold on” by charities and other bodies.
- NB. Fundraising Regulator and Fundraising Preference Service.

## Scamming a crime but what about legal companies acting in an “illegal way”?

- Clear evidence of legal companies targeting and repeat selling to ‘vulnerable’ individuals – are they making an ‘unwise decision’ or is this a cognitive impairment issue?
- If a charity or fundraiser phones every week for a donation and one is given because the person cannot remember that they have already given last week and the week before – Is this a scam?
- So scamming is not just driven by Criminals but also by legitimate organisations.

Sir Stephen Bubb – Chief Executive of Association of Chief Executives of Voluntary Organisations (ACEVO) – warns tighter restrictions on fundraising would cost charities “tens of millions of pounds” in donations. “Less asking means less giving”.

Daily Telegraph 06/09/15

A crisis of confidence in the sector is surely the greatest risk to “giving”.

# Postal / Mail Scams



These are sophisticated scams driven by criminals

## Victim Profile

- Some victims respond because they believe what they are told by the “system” and also perhaps forget that they responded last week and the week before.
- Some, now we recognise, have little or no other social interaction and respond to scam mail as this is their main / only reason to get out of bed in the morning.
  - N.B. Silverline growing use.

## Enforcement response: Trading Standards: Doorstep Crime Report 2015

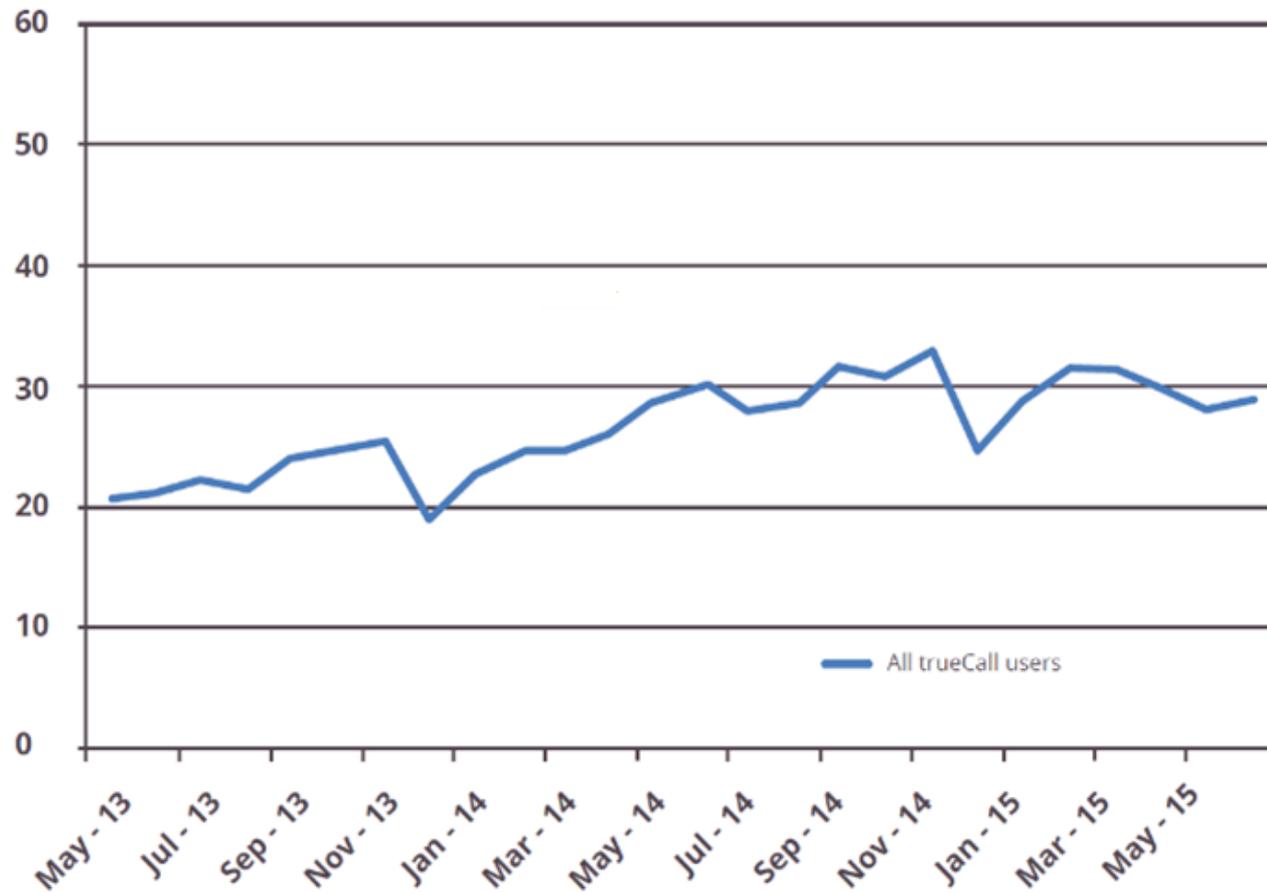
- The average number of prosecutions per LA in England and Wales has remained at 1 prosecution per LA per year (1.07 in 2013/14 and 0.95 in 2014/15).
- 25 LAs had taken two or more prosecutions in 2014/15 (20% of responding LAs, 15% of all LAs). (Down from 32 in 2013/14).
- Resources:
- Total spend on TS £124m (from £213m in 2009). 5 TS Services with a budget of less than £200,000.
- Lack of forensic capability for most LAs to submit items for analysis including fingerprinting and DNA, to assist with the identification of offenders.

# Doorstep Crime

- Use of technology via doorbell and camera systems under active development.

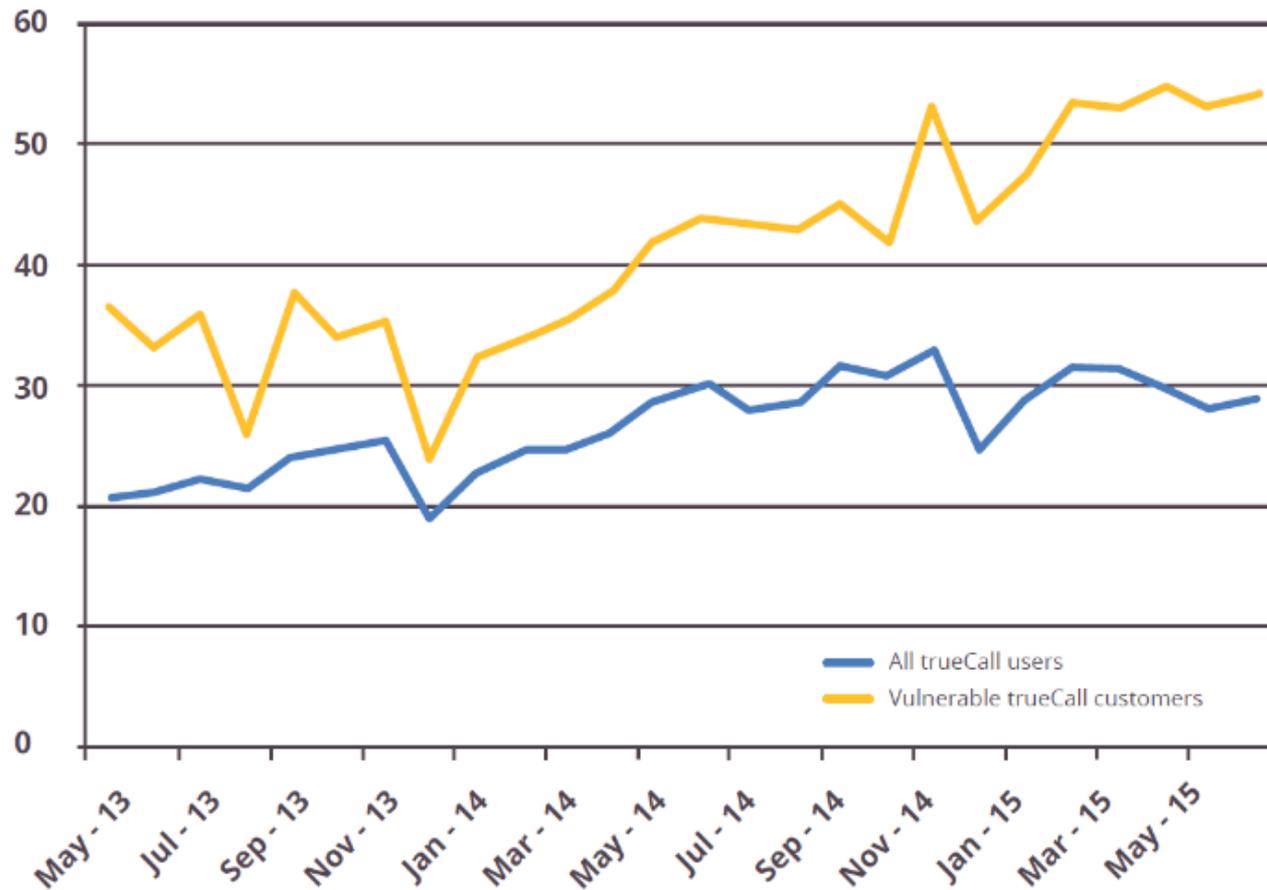
# Targeting of older vulnerable people

Nuisance and scam calls received each month



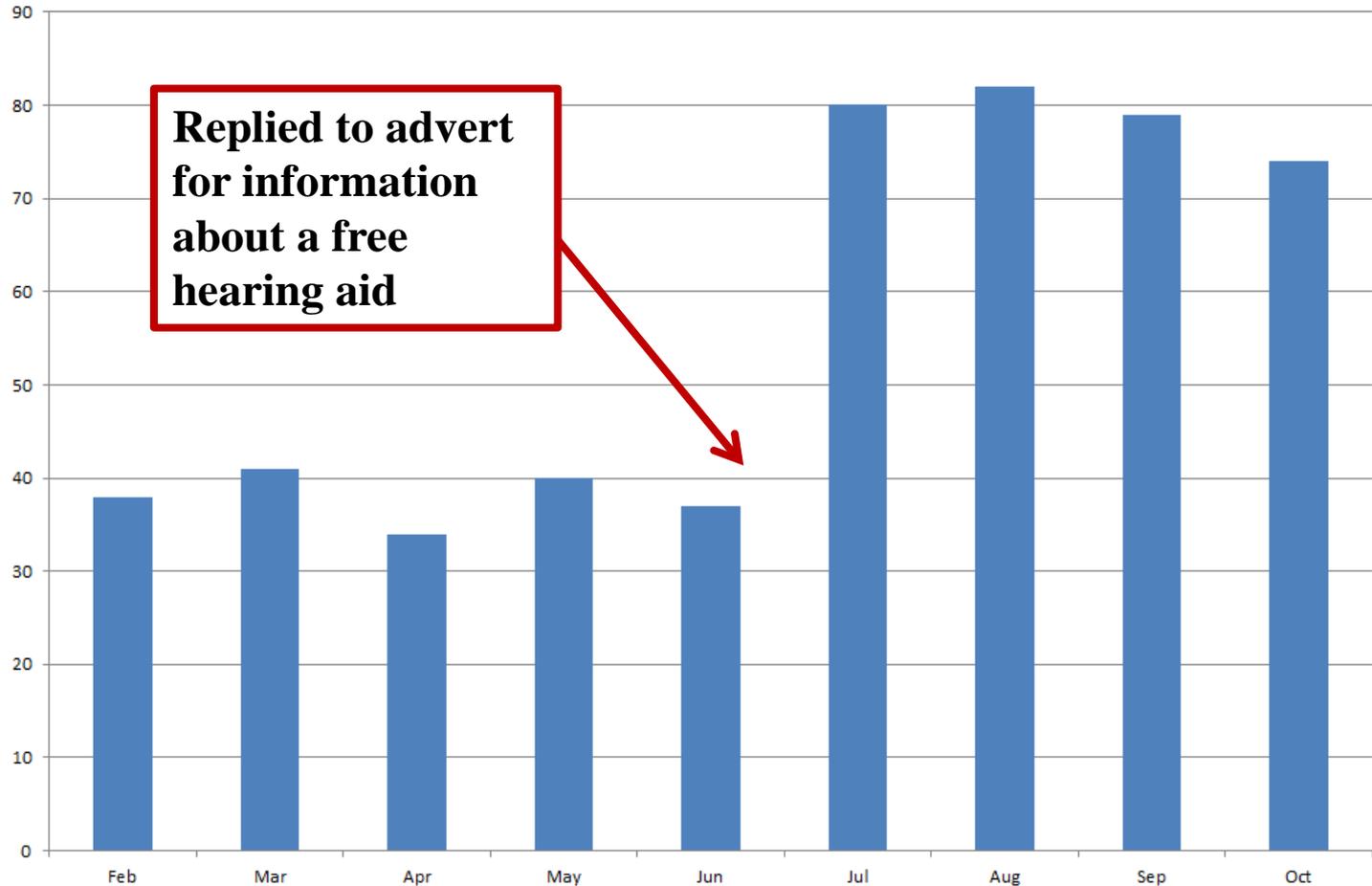
# Targeting of older vulnerable people

Nuisance and scam calls received each month



# Even careful people can be caught out...

Nuisance  
calls per  
month



## We must be right!!

**This is the transcript of a genuine radio conversation between a US naval ship and Canadian authorities off the coast of Newfoundland in October 1995:**

**Americans:** *Please divert your course 15 degrees north to avoid a collision.*

**Canadians:** *Recommend YOU divert YOUR course 15 degrees to the south to avoid a collision.*

**Americans:** *This is the captain of the US navy ship. I say again, divert YOUR course.*

**Canadians:** *No, I say again, divert YOUR course.*

**Americans:** *This is the aircraft carrier USS Lincoln, the second largest ship in the US Atlantic fleet. We are accompanied by three destroyers, three cruisers, and numerous support vessels. I demand that you change your course 15 degrees north, that's ONE FIVE degrees north, or counter-measures will be undertaken to ensure the safety of the ship.*

**Canadians:** *We're a lighthouse. Your call...*

## West Yorkshire Trading Standards

- Work to date to support citizens on ‘suckers lists’ (4,500) in West Yorkshire – has saved over £900,000 in money prevented being spent following intervention.
- They estimate that if only 10% of victims in West Yorkshire were to need residential care a year earlier as a result of falling victim, this would represent an additional £29 million to the West Yorkshire public purse.

# Banking Protocol

- National rollout this Autumn
- One branch in the pilot site
  - London Borough of Havering – stopped £400,000 of scam theft in one year.

## Some possible good news and reasons for optimism.

- Re-launch of Joint Task Force Vulnerability Group now chaired by National Scams Team and Victim Support.
- Opt in/opt out – move from I.C.O regarding data scamming.
- Better use of technology – Cameras and call blockers.
- Banking protocol for sharing data and information.
- Our new text – Safeguarding, mental capacity and financial scamming to be launched 26<sup>th</sup> June 2017 at C.T.S.I Conference – free copies available.
- New learning resources ready in the Autumn to support domiciliary and community health workers to better identify and support scam victims.

## But our ongoing concerns and need to keep the momentum up!!

- So often there is an underlying issue of loneliness and isolation in society and this is the real issue that needs to be addressed.
- Banks and financial organisations look to stop criminal fraud more than protection from legitimate companies acting in an illegitimate way – understandable but scamming is a very wide term and comes in many ‘shapes and sizes’!!
- Massive need for changes in society so that we can better talk about and prepare for ‘difficult times’ L.P.A’s, Next of Kin, Managing and Discussing Finances, etc.
- Tip: Do consider Third Party Mandates – T.P.M’s to help care for your loved ones.

# Scamming

- The cost to individuals: - ££ many
  - loss of confidence
  - dignity
- The cost to society: how much additional cost if citizens are scammed of life savings and the state picks up the cost?
- The cost to carers/relatives and victims of those who have a cognitive impairment and are scammed.

Surely this is the greatest challenge facing public organisations/services like yours in our generation.

His name was Fleming, and he was a poor Scottish farmer. One day, while trying to make a living for his family, he heard a cry for help coming from a nearby bog. He dropped his tools and ran to the bog. There, mired to his waist in black muck, was a terrified boy, screaming and struggling to free himself. Farmer Fleming saved the lad from what would have been a slow and terrifying death.

The next day, a fancy carriage pulled up at the Scotsman's sparse surroundings. An elegantly dressed nobleman stepped out and introduced himself as the boy's father. "I want to repay you", said the nobleman. "You saved my son's life". "No, I can't accept payment for what I did" said the Scottish farmer, waving off the offer.

At that moment the farmer's own son came to the door of the family hovel. "Is that your son?" the nobleman asked. "Yes", the farmer replied proudly. "I'll make you a deal. Let me take him and give him a good education. If the lad is anything like his father, he'll grow to be a man you can be proud of". And that he did.

In time, Farmer Fleming's son graduated from St Mary's Hospital Medical School in London, and went on to become known throughout the world as Sir Alexander Fleming, the discoverer of penicillin. Years afterwards the nobleman's son was stricken with pneumonia. What saved him? Penicillin. The name of the nobleman? Lord Randolph Churchill. His son's name?

Sir Winston Churchill!