

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

9<sup>th</sup> March 2018

Somerset Safeguarding Adults Conference

Taunton, Somerset

## **Professor Keith Brown**

Director of the National Centre for Post Qualifying Social Work and the Centre for Leadership, Impact and Management Bournemouth

[kbrown@bournemouth.ac.uk](mailto:kbrown@bournemouth.ac.uk)

# Perfect storm

- Increasing demands
- Budget pressures (or reductions)
- Higher expectations from society and growing awareness of issues
- Just the tip of the 'ice berg' looking into the 'unknown'
- Some of the most vulnerable members of our society





Do we end up  
feeling like this?



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."

# Safeguarding

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.

# 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'**

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



Leading the  
fight against  
dementia



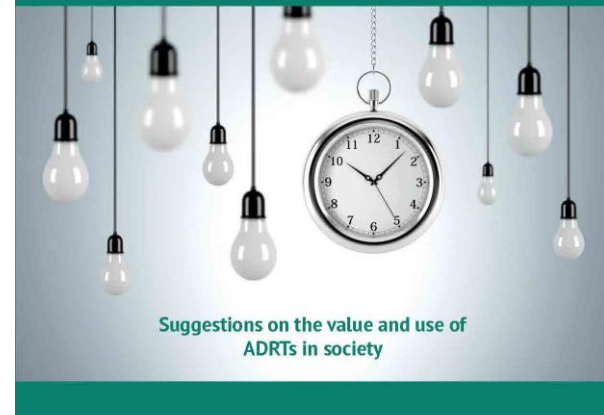
**National Mental Capacity Act  
Competency Framework**



Endorsed by:



**Advance Decisions to Refuse Treatment**



Suggestions on the value and use of  
ADRTs in society

[www.ncpqsw.com](http://www.ncpqsw.com)



## Freedom of choice and vulnerability

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



Working in partnership with:

## Fundraising/charities: a crisis of confidence

- Over 300,000 names now identified and circulating on “victims” 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.

## Is it a scam?

- It is a scam to charge people different rates for the same service/ product simply on the basis that you can get away with it due to their age, gender, cognitive ability or relative social isolation?
- Is buyer beware always the right way?

## Fundraising/charities: a crisis of confidence (continued)

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.



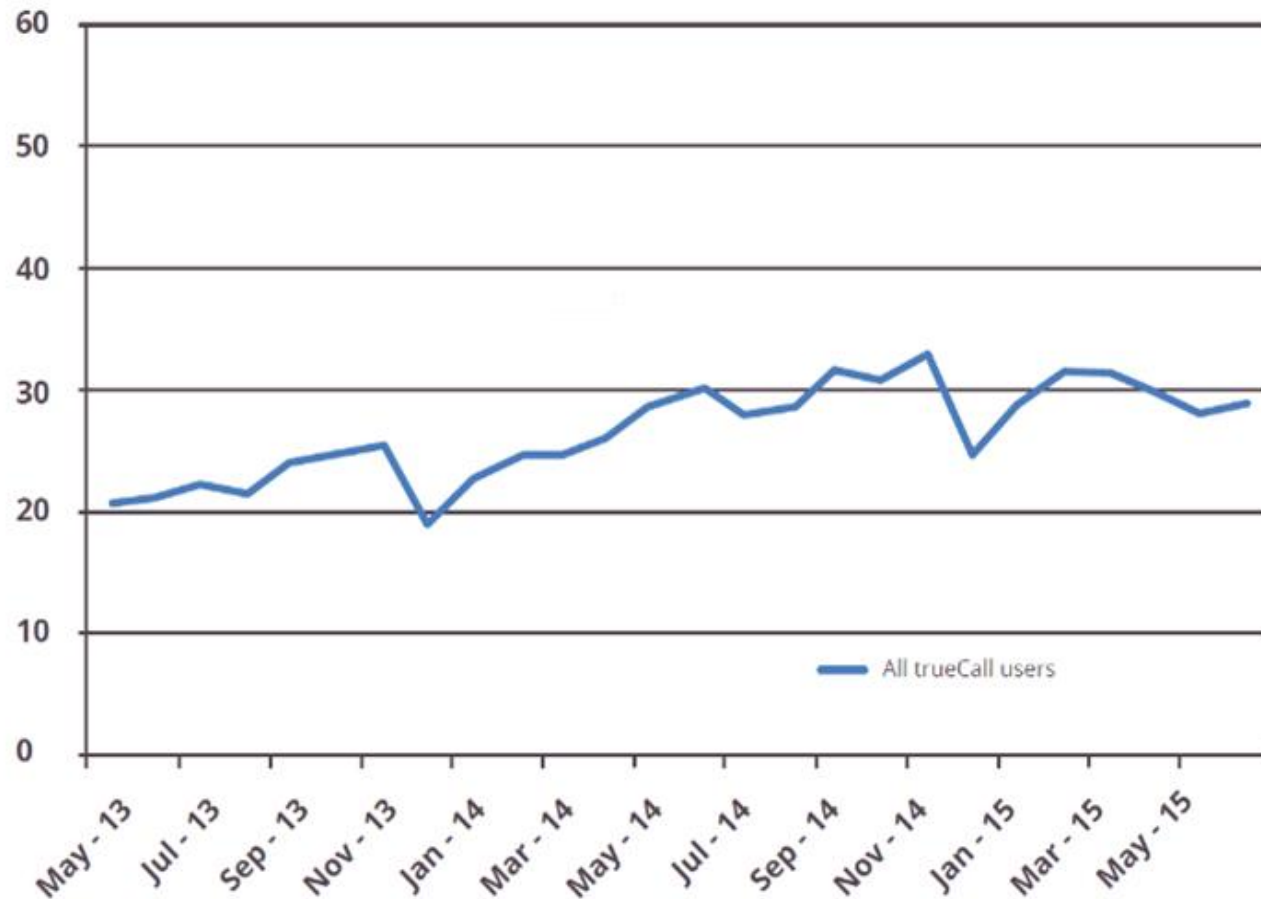
# Doorstep crime

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



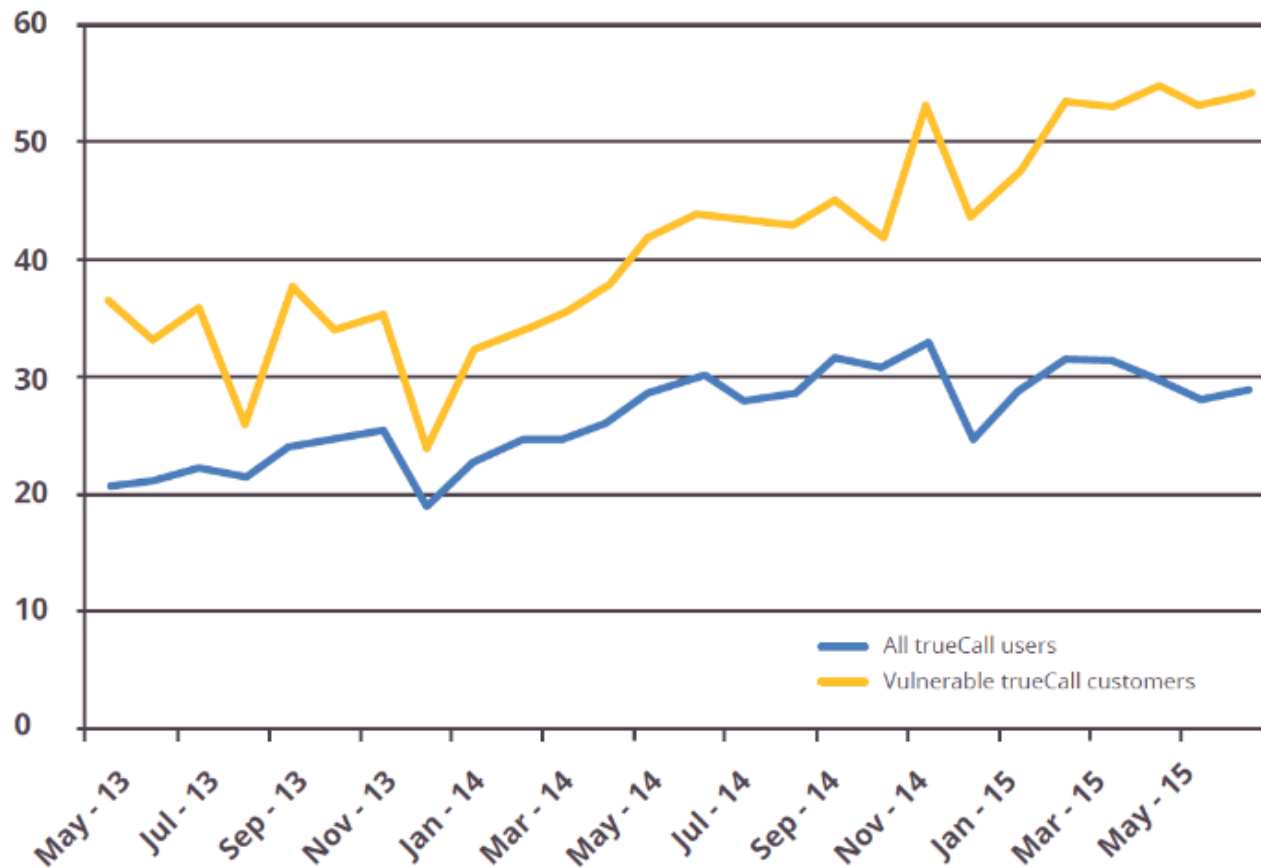
# Targeting of older vulnerable people

Nuisance and scam calls received each month



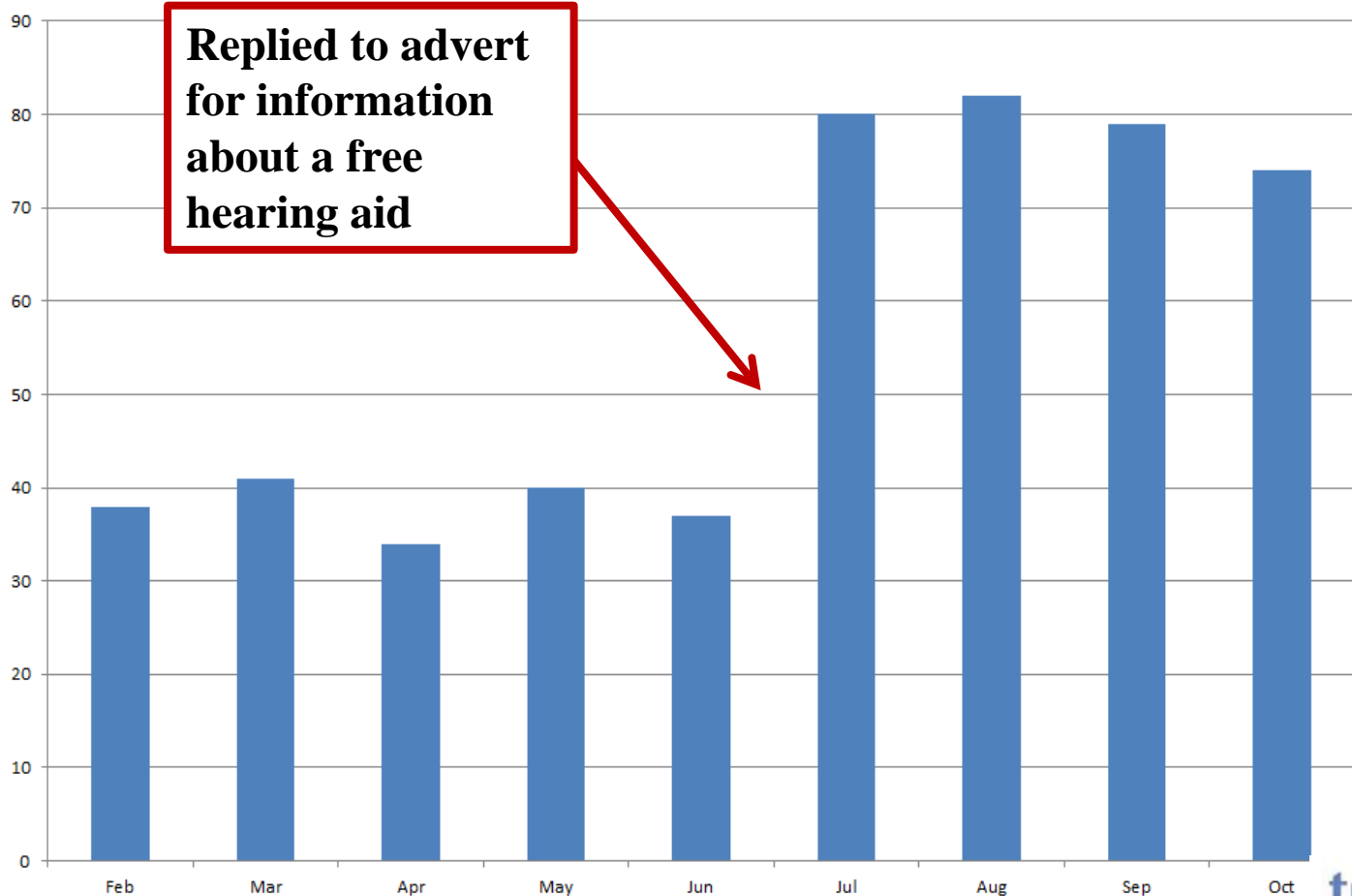
# Targeting of older vulnerable people

Nuisance and scam calls received each month



# Even careful people can be caught out...

Nuisance  
calls per  
month



# New forms of scamming



Clairvoyant Scamming:  
The New Kid on the Block

# 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

## Banking protocol

- National rollout Autumn 2017
- One branch in the pilot site
  - London Borough of Havering – stopped £400,000 of scam theft in one year.
  - Latest MET police is that 42 police forces were live (up to December 2017) with a total fraud prevention £13,243,124 and 129 arrests.
  - 1, 595 emergency calls placed with an average prevention of £8,302 per call



# Resources to help and support



New text issued by C.T.S.I to every trading standards department and chair of adult safeguarding boards



All available to download from <http://www.ncpqsw.com/financial-scamming/>

Also learning/training resources available for free early 2018 to support community/domiciliary workers to help spot/identify victims of scams.

## 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.
- New learning resources ready in May 2018 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.**