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This research paper was prepared in good-faith, to assist professionals and consumer advocates to form a better understanding and further the work in consumer protection.
Newer references may now be available. Current as at January 2015
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The Complex Relationship between Vulnerable (older) People and Financial Institutions- an analysis of the financial institution system and how it impacts vulnerable people

This report was prepared by William Johns (MDisStud, B.Bus(FP, AppFin), CFP), a leading consultant and the Head of Financial Planning and Managing Director of Health & Finance Integrated (www.healthfinance.com.au). Health & Finance Integrated is a highly successful specialised financial advisory and advocacy practice, supporting and advising vulnerable Australians, and those who live with complex health conditions and/or disabilities.

Our ground-breaking, multi-disciplinary work has contributed positively to hundreds of Australian families, and we continue to work with leaders in medicine, disability, law, social services and financial professionals to ensure positive outcomes for individuals at risk of being marginalised by very complex systems that include the banking system.

We hope this research paper and the tremendous effort that was put into the research will serve the Royal Commission into Banking and Financial Services in their quest to protecting the consumer.

This research paper examines the complex relationship between the ageing, disability and financial institutions. The paper first looks into the prevalence of disability in people who are of the traditional retirement age of 65 and over and found that there is a positively correlated relationship between age-ing and disability, and dependency on others

We then looked at various case studies from around the world relating to the conduct of the financial services sector when dealing with vulnerable people. **We found financial institutions owe no fiduciary duty to act in the best interests of the customer.** We further found that there appears **no guidelines, requirement or desire to simplify the financial affairs of people who may be at risk of cognitive decline** and in fact their revenue and customer loyalty depends (at least partially) on the number of accounts one has with the bank.

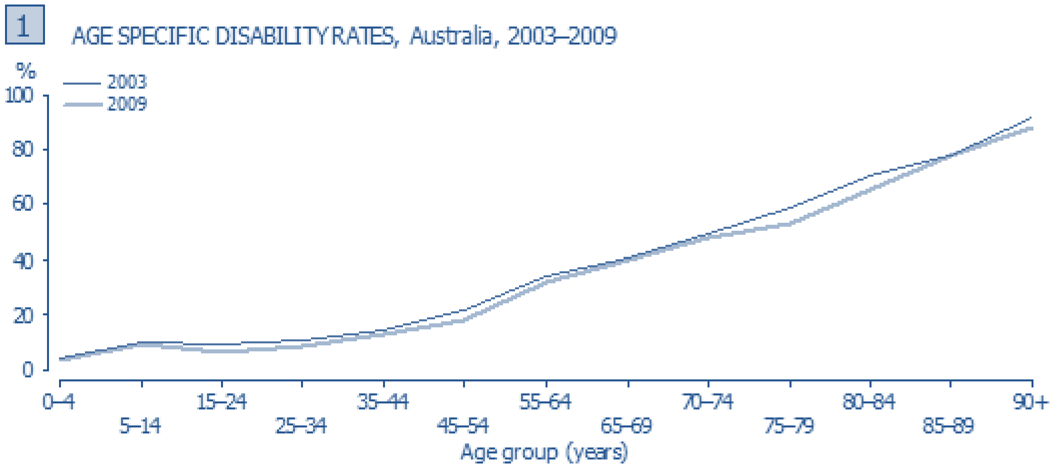
Finally, several recommendations were made, but if things were to materially change, the complex laws in which financial institutions operate needs to change to hold them to a higher level of duty when dealing with an ageing populous, otherwise such behavior will be contributing to people's marginalisation and contribute to "learned- helplessness", which is a psychological disorder.

The ageing population and disability

According to the Federal Treasury, the number of Australians who are 65 and over is expected to increase rapidly, from around 2.5 million in 2002 to 6.2 million in 2042. In percentage terms, from 13% of the population to 25% of the population (Australian Treasury, 2004)

It is widely accepted that ageing and disability have a correlated relationship, so that as one ages, the physical and cognitive functions diminish overtime.

The link between the ageing population and the rate of impairment or disability is widely recognised although complex. The following graph demonstrates the relationship:



Source: ABS Survey of Disability, Ageing and Carers, 2003 and 2009, (cat.no.4430.0)

From the graph above, the rate of disability for those over the age of 90 is just under 100%. Over 11% of people between the age of 65 and 74 reported a severe/ profound disability, and this rate increases to 26% for aged 75-84 and 65% for those aged 85 or more (ABS, 1998)

According to a report published by the National Disability Services, in 2010 an estimated 705,200 people aged 65 and over live with severe or profound core activity limitation and this figure will more than double over the next two decades. Of these, some will have lived with severe disability since their early years; others will have acquired disability as a result of ageing. (NDS, 2010).

While the types of disabilities vary, nearly 100% of people over the age of 65 reported a long term ongoing health condition.

The following is a summary of the most prevalent disabilities suffered by elderly Australians as reported (ABS, 2006) :

- Around 90% of reported disease of the eye.
- Around 66% reported musculoskeletal conditions
- Around 57% of diseases of the circulatory system

- Over 28% reported osteoarthritis, and
- 15% reported respiratory conditions

Disability Defined

According to the Disability Discrimination Act 1992, disability is defined as:

- Total or partial loss of the person's bodily or mental functions
- Total or partial loss of a part of the body
- The presence in the body of organisms causing disease or illness
- The presence in the body of organisms capable of causing disease or illness
- The malfunction, malformation or disfigurement of a part of the person's body
- A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction
- A disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behavior.

This is a broad definition, and the definition of disability varies according to the objectives of the Act, ranging from very broad all-encompassing definition to very narrow.

Each State has its own legal definition and sub-definitions that seeks to further clarify what disability is, mainly for the provision of support services and guidance of the Court.

The legal definitions are aligned with the medical definition of disability. This is called the classic ‘medical model’. Such model views disability as an individual problem, caused by disease, trauma or other health condition.

On the other hand, a second model termed ‘social model’ which came as a result of a disability rights movement in the U.K. and the U.S.A. This model defined disability as

> The disadvantage or restriction of activity caused by a contemporary social organisation which takes little or no account of people who have physical impairments and thus excludes them from participation in the mainstream of social activities.

(Union of Physically Impaired Against Segregation (UPIAS) 1976).

In contrast to the “Medical Model”, the “Social Model” distinguishes impairment as a condition of the body, from disability, which is a situation of social exclusion caused by the organisation of society. The model thus places the focus of change on social institutions and the environment, rather than on the individual (National Council on Ageing and Older People, 2006)

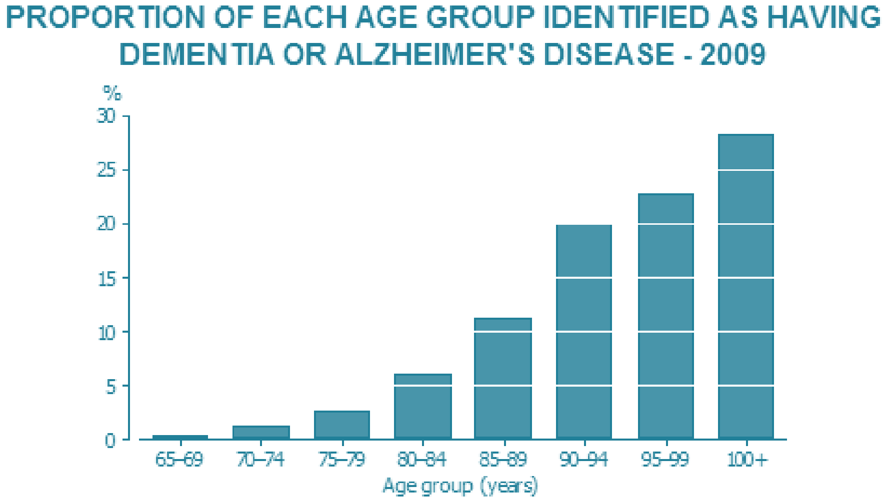
In Australia, people with impairments are still referred to as people with disabilities. However, there is a strong desire and push to break down the barriers and focus on social inclusion.

Mental Health in older Australians

It is reported that 10-15% of older Australians suffer from depression and anxiety. For people living in residential care facilities, this rises to 34.7%. Schizophrenia is also double the younger adult population (2.3%).

Dementia is the most concerning mental health illness and affects 245,000 Australians. It affects 5% of 65 year olds, 20% of 80 year olds and 30% of 90 year olds. The rates are significantly higher in indigenous people. For example, dementia affects 12.4% of indigenous people older than 45 in comparison to the Australian average of 2.4% for the same population age. (The Royal Australian and New Zealand College of Psychiatrists, 2010)

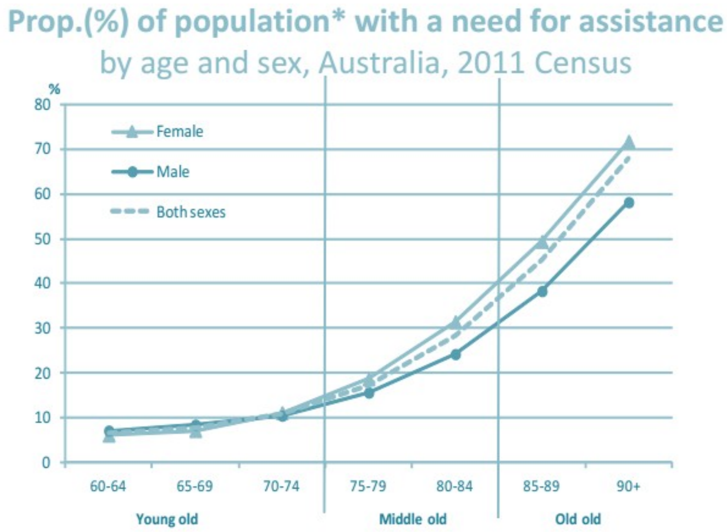
The graph below demonstrates this relationship between dementia/ Alzheimer's and ageing:



Source: ABS 2009 Survey of Disability, Ageing and Carers

The relationship between ageing and the need for assistance.

It is no surprise that if age and disability are correlated, then the need for assistance and ageing is also correlated.



This is an important graph because it now only communicates people over the age of 65 need assistance, but it confirms the increased dependence on third parties. With this increased dependence comes some risks, including financial risks. (Hosseini-Chavoshi & McDonald, 2013).

Such dependence is not limited to physical assistance with core daily activities, but the carer or a third party (such as an advocate body) may be engaged in making representations to government and non-government organisations on behalf of the person with a disability regardless of their age.

Furthermore, as the graph above shows, dependence on third parties does increase with age due to various factors including decline in mobility and cognitive impairment. People dealing on behalf of individuals need a proper legal authority to do so, particularly if they are dealing with financial, legal and health matters. Having such authorities such as a Power of Attorney and Guardianships gives the appointee vast powers, including making financial decisions unless specifically limited.

The Financial Institution- an overview

A major part of the “social institution” and fabric of the Australian economy is the Financial Services Sector. This sector is the largest and most important in the Australian economy and touches every individual Australian because it serves as the medium by which all goods and services are traded by government, private institutions and the people.

Financial institutions play a direct and fundamental role in people’s lives. This role needs to be explored to be better understood.

Traditionally, financial institutions were engaged in the following activities:

a) Serve as a deposit taking intermediary, collecting funds on behalf of individual account holders from different parties.
b) Serve as an intermediary for transactions to take place between the individual account holder and other parties.
c) serve as secure saving houses, allowing people to safely deposit their money and accessing it when desired.
d) a lending agent between savers and borrowers.

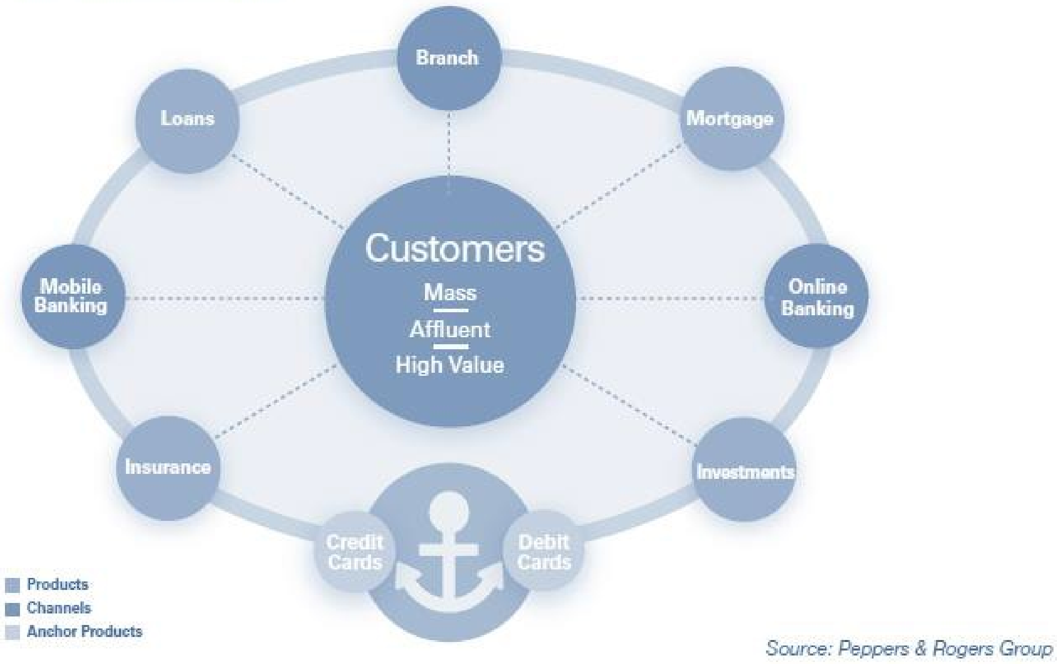
However, Australia’s financial services sector is much more than the traditional banking service. To add complexity, banks now offer insurance, credit cards, multiple facilities, superannuation accounts, advice, savings account s, etc.

It is important to think of a modern financial services organisation such as a bank in terms of “distribution channels”. Each channel (as shown above) has its own products, sales targets, marketing strategy, sales force, policies, governance and management. Ultimately the organisation passes the customer from one unit to the next. From the diagram below, the “hook” symbolises the distribution channel that “hooks” the customer to the institution and is likely where the process starts.

It also helps explain the relationship between the different “distribution channels and the customer. In the diagram below, you will notice Debit Cards and Credit Cards are labeled as “hooks”. This is because they often come with loyalty programs that reward the customer for choosing the bank or product, but there are additional benefits to the institution such as the ability to track customer spending behavior, allowing the financial institution to target the customers more effectively.

Figure 1: Total Relationship Loyalty Program

The Total Relationship Loyalty Program covers multiple customer, channel, and product dimensions to change customer behavior and generate loyalty, which may be anchored by the bank’s already existing credit / debit card rewards schemes.



By treating each unit as an “channel”, financial institutions can also control any damage from flowing to other parts of the business.

Financial institutions and their legal duties to their customers

Professionals such as lawyers, accountants, medical practitioners (and even hairdresser) owe a fiduciary duty because they possess specialised knowledge and skills that renders them in a position of power. There is significant trust and good faith involved in relying on a service provider to act in one’s best interests. This gives rise to a “fiduciary duty” which is simply defined as putting the person’s best interest ahead of that of the service provider.

Therefor surely when dealing with financial institutions to undertake usual transactions such as opening a simple every day bank account, taking out an insurance policy on a motor vehicle or a loan would put the institution in a position of power, and possession of particular skills and expertise? After all, the consumer is issued with complex documentation such as Product Disclosure Statement.

Does the service provider then have a Fiduciary Duty to ensure they act in the best interest of the client?

Contrary to what people may believe, it appears banks do not owe their customers fiduciary responsibilities like a professional person does in relation to the advice they give. **In Timms v CBA [2004], it was found that “there was no reasonable expectation on the part of the borrowers that the bank would act other- wise than in its own interest as a lender in the transaction. As such, there arose no fiduciary duty to the borrowers, of which was breached by the bank.”**

In simple terms, banks do not owe its customers a fiduciary duty, and any duty is limited to fulfilling their contractual obligations to the customer.

Some customers may claim the bank engaged in misleading and deceptive conduct by remaining silent in relation to disclosures. This claim is often brought as an alternative to fiduciary duties. Such claims would most likely fall under The Trade Practices Act and the plaintiff must show that the defendant deliberately withheld that information (Wentworth, 2012).

Many case judgements showed that a claim under a duty to disclose is unhelpful, such is the case in Demagogue Pty Limited v Ramensky and in Commercial Bank of Amadio where Gibbs CJ based his decision that the guarantee should be set aside not on unconscionable conduct but on undue concealment of unusual features of the transaction which the guarantors would not naturally expect to exist (Wentworth, 2012).

It may also come as a surprise that “banks” are not defined in the Banking Act 1959 (Cth). Instead, there is reference to Authorised Deposit-taking Institutions (ADIs) which includes banks, credit unions, building societies and others.

To further complicate matters, financial institutions do not operate in one area of legislation. Some of the legislative instruments they operate in include:

• Banking Act 1959 (Cth) • Reserve Bank Act 1959 (Cth)

• Australian Prudential Regulation Authority Act 1998 (Cth)

• Australian Securities and Investments Commission Act 2001 (Cth), which contains in Division 2 the unconscionable conduct and consumer protection provisions in relation to financial services providers that are no longer in the Trade Practices Act

• Corporations Act 2001 (Cth), in particular Pt 7

• Privacy Act 1988 (Cth), in particular the credit information provisions in Part IIIA

• Consumer Credit Code, usually referred to as the Uniform Consumer Credit Code

• Cheques Act 1986 (Cth)

• State Fair Trading Acts, e.g. Fair Trading Act 1999 (Vic)

To address the complex nature of dealing with financial institutions such as banks the banking industry created a voluntary Code of Banking Practice. When a bank signs up for this code, it is legally enforceable.

Within this Code, the only reference to how to treat elderly clients, or clients with special needs goes on to say "We recognise the needs of older persons and customers with a disability to have access to transaction services, so we will take reasonable measures to enhance their access to those services" (Australian Bankers Association Inc., 2013).

The simple individual within the complex world of finance

Dealing with financial institutions can be very complex and for many Australians, expert advice is required. This advice can be readily available at the bank itself, or through third party advisers.

In all cases, individuals are likely to have more than just a savings account. Many Australians who are 65 and over have superannuation accounts, pension accounts, saving accounts, term deposits, loans, managed investments and so on.

In a highly competitive environment, financial institutions realised that driving growth is not as important as retaining their existing clients. In fact, they discovered that clients are not loyal unless they are tied to multiple products:

Once you have a credit card customer, there is one sure way to keep her. Sell her a second product. Sell her a checking account, a savings account, a mutual fund, an auto or personal loan, or a home equity loan. Banks who have built a customer database have discovered that loyalty is a function of the number of products owned (Hughes, 2013).

A fundamental business goal of the bank is to retain its customers from the hands of competitors. They do this by selling them more products, offering people in loyalty programs (that often encourage spending) thus effectively complicating their financial situation to a point where it is too hard to switch to their competition or manage their own affairs.

To make matters even more complex, financial institutions often engage in direct marketing such as telephone marketing sales. In a report published by the Australian Securities and Investment Commission, there was significant concern expressed with the predatory behavior financial institutions marketed their products:

"ASIC was concerned that the direct marketing calls may have created the impression that customers were not being asked to make a decision to purchase the insurance product immediately over the phone and in certain circumstances, customers were told that they would be sent policy documents so that they could review and make a decision whether to purchase during the cooling-off period."

"telephone sales representatives using the words 'enroll', 'activate', 'start', or 'issue' when referring to purchase of an insurance product which may not have made it sufficiently clear to consumers that they were purchasing insurance products."

In 2009-2011, ASIC engaged in a review that investigated the practices of 15 authorised deposit-taking institutions. It was found in that Consumer Credit Insurance was sold to people that were not actively seeking this cover.

It also found that customers were sold such products without their knowledge or consent. More alarmingly, "pressure tactics and harassment was being used to induce customers to purchase CCI products" (ASIC, 2011).

There are other serious issues, such as misrepresentation, force-selling and other illegal tactics were used.

What does this mean for people with disabilities/ impairments, and particularly those who are ageing and at risk of being vulnerable due to cognitive impairment?

Unfortunately, at this stage there is no in-depth research or statistics on the number of people with impairments being pressured or sold financial products that may not be suitable for them.

However, there are many examples where financial institutions were found guilty of targeting vulnerable people both in Australia and overseas. In 2011, the UK's Financial Services Authority fined HSBC
£10.5 million for mis-selling investment bonds to elderly people in care. A compensation of £29.3 million was paid and the bank was "profoundly sorry".

The advice was provided by bank-aligned employees who targeting vulnerable people in care facilities or at a point where they were seeking entry in care facilities. The particular product involved exchanging a large sum of money in return for an income stream. However, this income was linked to the life expectancy of the investor, who often was already in his 80s. The bank in this case would retain the wind-fall as part of the deal.

In Norway, regulators identified serious risks to elderly people who were sold "structured products". In this case, banks sold loans to elderly people and used their homes as collateral to invest in financial products that would generate them an income. It was found these products seldom generated the gains promised, and they were complex. Eventually, Norway restricted the sale of such products to professionals only, effectively banning the sale to households. (Almklov, 2008).

The Citizen's Advice Bureau in the UK gave this example:

> *"One man with learning difficulties was existing on part-time wages of around £300 per month. He had debts of over £1,400, as well as an overdraft, compounded by being sold a packaged account with benefits he was unlikely to use."- Gilian Guy, Citizen's Advice Bureau (UK) (The Telegraph, 2012)*

The "benefits" this refers to may include Loyalty Programs. In a white paper published by a consulting firm Peppers & Rogers Group exploring profitability and customer loyalty, reads "The secret to success is to build real relationships and provide "hook" products for each segment across the customer lifecycle. Customers can earn rewards when they use banking products and services such as debit or credit cards, open new checking or savings accounts, bank online, or get approved for a loan. In addition, they are rewarded for their retention and lifetime value in the form of number of years as customers, number of accounts, and combined balances." (Jabali & Vela, 2012)

Interestingly, nowhere in the report or other reports is there a reference to the decline of cognitive ability, simplifying the financial system or the protection of vulnerable people.

In Australia, there are very little reports on domestic financial services abuse by the common financial institution, however, the banks strategically misplaced public outcry by blaming their sales channels.

In a recent case brought by the collapse of the financial planning company Storm Financial, action was taken by ASIC against four banks including Commonwealth Bank, Bank of Queensland and Macquarie Group for lending customers money to invest in the stock market (margin loans channel) and often used the share brokering services of the bank (another channel).

It turns out many of those customers were elderly. The CBA agreed to settle the case against brought against it and compensated their clients 55% of the loss. The main reason is that “many of the investors are elderly. The long delay increases the likelihood that Storm’s elderly investors will die before victory is declared” (Barry, 2011).

Another recent example is a senior financial planner employed by the CBA was caught to have fraudulently and wrongfully invested people’s retirement funds in high growth investments as opposed to conservative investments in line with their risk tolerance.

Whistle blowers who contacted ASIC to warning there was fraud of how the investments were actually invested “the risk profiles of the clients, whereby all, including the retired, the disabled and the unemployed, opted for aggressive high-growth strategies”

So why was it that when people received the statements, they did not check to see how they were actually invested? Did they not understand the statements of their accounts? Or did they depend completely on the advice received by the financial institution and its representatives?

Banks and financial institutions protect themselves by issuing a document relating to the product or services they provide. Such documents are often many pages long, written in a legal format and often in very small/ fine writing. For example, at random, the Product Disclosure Statement of a Home Contents insurance policy offered by St George Bank is 68 pages long and in small print (St George Bank, 2013).

The Federal Bureau of Investigations (FBI) tips the American public that in order to avoid fraud or being defrauded one should “Make sure you fully understand any business agreement that you enter into. If the terms are complex, have them reviewed by a competent attorney”

So why is it those insurance contracts and other types of financial services contracts often written in a complex manner? The other question is how can someone who has an impairment such as vision impairment physically read the document even if they could understand the contents?

Vision Australia reports that by 2021, people with blindness and low vision are set to double to about 421,600 as “baby boomers” reach retirement age (Vision Australia, 2013) which proves the clear correlation between age and poor vision.

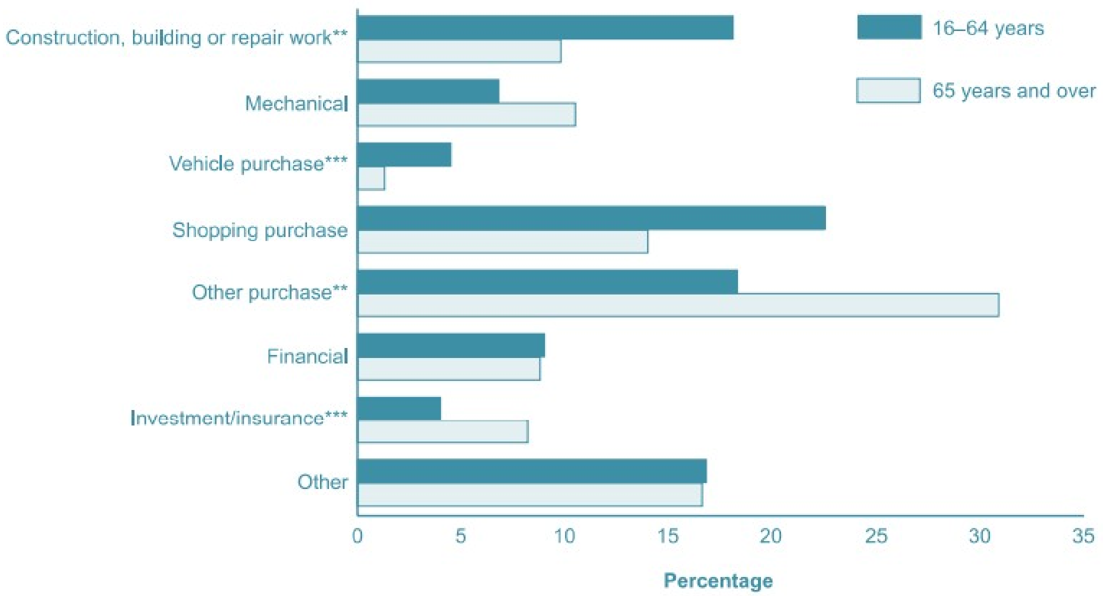
Needless to say, the relationship between people and the financial system is complex and fraught with dangers. Such a complex system needs a sharp mind with an eye for detail, and vulnerability, impairment and cognitive decline adds another layer of complexity.

Fraud elderly Australians

A report published by the Australian Institute of Criminology found that elderly Australians are less than half as likely as younger people to fall victims to consumer fraud, irrespective of gender. (Muscat, James, & Graycar, 2002).

However, when examining the types of fraud experienced by the victims, there is clear evidence that elderly people are at double the risk of fraud when it comes to financial matters

Figure 3: *Types of consumer fraud experienced by victims by age, percentages*



*** Difference between 16–64 years and 65 years and over groups was significant at the 10% level.
** Difference between 16–64 years and 65 years and over groups was significant at the 5% level.
Source: Australian Institute of Criminology, Australian Crime Victims Survey 2000 [computer file]

This demonstrates beyond reasonable doubt that when it comes to financial fraud, elderly people are at a significant risk of being defrauded, much higher than the rest of the population. Fraud is also likely to be more complex in nature and cognitive decline and learned helplessness may explain this anomaly compared to other types of fraud.

To try and deal with such a system, people are often discouraged from dealing directly and encouraged to seek assistance from family, professionals and organisations.

Advice is often sought from:

- Immediate and extended family
- Attorneys
- Financial Planners
- Bank staff

- Community services
- Government agencies

By depending on the advice of others, people develop a certain level of learned helplessness or dependence on others even for simple decision making.

The relationship between dependence and fraud

Research has linked older age with a decline in the ability to make effective financial decisions as memory loss, dementia and other types of cognitive impairment risk rises (ABS, 2012)

It is widely understood and known that vulnerable people are often defrauded by new friends, acquaintances and even family members. There are numerous cases where children abuse a Power of Attorney (Watson v Watson, 2002).

What is not widely known or researched is the extent of which a complex system or systems results in fraud by virtue of forcing dependence on others.

To fully understand this relationship, it is best to explain the nexus using a formula:

IF Disability = Increased Rate of Dependence/ learned helplessness

And Dependence/helplessness = higher risk of fraud

Therefore, risk of fraud is a function of any system or state (physical and emotional) that causes dependence.

Then a system that forces people to depend on others is causing disability, and therefore putting people at risk of being defrauded. This relationship is true no matter what the age or actual impairment the person suffers.

At that point when a person is derived from the ability to think, act and understand for himself is also when that person becomes dependent on others. By lacking the ability of performing certain tasks is the very cause of disability.

It is very important to stress that dependence does not always constitute or result in disability. In fact, it is encouraged to depend on professional advice for complex matters that requires specialised knowledge or skills. Seeking advice from professionals such as medical practitioners, teachers, nurses, lawyers, accountants, architects, engineers, law enforcers etc. demonstrates one understands and acknowledges the complex society in which one exists.

By virtue of seeking advice, one can be said to have actively participated in their role of addressing a particular need when it arises.

However, when dealing with financial institutions, there are elevated risks as discussed previously.

Contract Law and the ability to enter a contract

While this is outside the scope of this paper, it is important to highlight that other laws may offer some protection to vulnerable people but proving wrong doing is complicated. For example, Australian Contract

The Australian Contract Law is based on the old English law, Statute and many case laws. The Law such as *Sale of Goods Act 1896* (Qld) and Australian Consumer Law (2010) dictates that for a contract to be valid (and exist), parties entering into a contract must have contractual capacity.

The concept of capacity gives legal expression to individual autonomy in the sense of the right to respect for, and recognition of, the legal effects of one's own decisions. The boundary between capacity and incapacity is used to differentiate between those whose decisions will be accorded respect and legal recognition and those for whom decisions must be made by others.

Capacity relates to various tests such as legal age, intoxication and also includes Mental Disorder. If a party suffers from a mental disorder that impedes their understanding of the contract or renders them legally incompetent to enter a contract, then they may have remedy to terminate it (Gibbson v Wright [1954])

Adults are presumed to be competent to enter into a contract. However, the party seeking to terminate has the onus of proof, and must meet the following requirements:

(a) that they were suffering from such a disability and

(b) that the other party was - or ought to have been - aware of it.

Most people are not aware themselves of their diminishing cognitive ability let alone formally prove it. People seeking termination of contract using this legislation often face lengthy battles with skillful legal representatives.

Even if successful, financial institutions may well have the right to offer a contract in the first place, and not doing so based on the client’s disability may upset clients and invoke anti-discrimination laws.

Learned Helplessness and the financial services system

Learned helplessness is a concept developed by Maier and Seligman (1967) who observed that in an experiment that involved dogs, harnessed dogs repeatedly exposed to electric shocks through their collar eventually became indifferent and passive to the shocks. Even after the harness was removed to make escape possible, the dogs remained in their cages and discontinued the attempt to escape.

The explanation for the dog’s behavior was the dogs learned that the shocks were independent of their behavior and that this expectancy was transferred to new situations (in this case, the removal of the harnesses), thus inhibiting their learning and escape responses. This inhibited ability to respond and learn is viewed as the *debilitating* effect of learned helplessness (Seligman & Maier, 1967)

In humans, this theory suggests that once people perceive that responding to a stimuli does not result in the desired outcome or avert a certain outcome, they attribute their helplessness to a particular reason or cause (e.g. because I am old, or because I am impaired).

Symptoms of learned helplessness may include:

- Passivity
- Giving up
- Procrastination
- Decreased problem-solving ability
- Frustration
- Low self-esteem

The relationship between the passiveness in elder people and their environment is well documented. In a research paper that investigated learned helplessness with elderly consumer complaint behavior found that elderly consumers are much less likely to complain, even though financial losses were significant in comparison to their income and assets. Reasons given were the complaint process was complicated and acceptance of such behavior (failure to complain) is a performance deficit. The re- search attributed such behavior to Learned Helplessness. (LaForge, 1989).

Research also shows that old age is associated with perceptions of decreased control which also results in Learned Helplessness in elderly people (Fincham & Cain, 1986)

In Australia, to complain about a particular conduct of a financial institution, the person would need to adhere to the Dispute Process outlined, depending on the service and the overseeing legislative act and governing body. For example, the process to complain about a Superannuation provider:

1) Lodge a complaint with the service provider
2) Lodge a dispute with the Financial Services Ombudsman
3) Opportunity is afforded to the service provider to resolve within 45 days
4) Ombudsman review process begins
5) Negotiation, conciliation or reach a decision.

This process often takes significant time and energy and elderly people are often put under immense pressure. The notion of negotiating, writing letters, providing evidence and involving the legal system can be very daunting.

It is for these reasons elderly people are likely to choose to depend on third parties when dealing with the financial system, which manifests the feeling of helplessness and creates performance deficits.

Recommendations

Financial institutions around the world should consider the challenges faced by an ageing population when dealing with this complex but unavoidable system. Banks and other institutions should re-evaluate their current practices to help people feel included and in charge of their financial affairs.

Some of the things such institutions may consider:

- Simplified contracts and documentation
- Education of staff, management and internal policy makers
- Change of sales culture
- New programs aimed at simplifying people’s account structures
- Free consumer awareness services into benefits they may or may not be using with their current products and disclosure of fees.
- Ban on telemarketing calls
- Simplified Product Disclosure Statements that are no more than few pages long, with no legal jargon.
- Ban on any programs that encourage unnecessary complex financial structures.
- Simplified and quick resolution processes that encourage people to report and follow up possible fraud.

Government should also simplify the legal system, impose higher duties on banks and actively engage the community on these issues with the aim of exposing and closing holes that may put vulnerable people at risk.

For those who suffer from a known vulnerability, access to unbiased non-institution aligned advisers should be a service provided to people to help them understand their financial affairs.

Shareholders of financial institutions should push for a higher ethical code of conduct and hold themselves (as the owners of the businesses) to a higher level of community responsibility and address the inadequacies of the law. This can be done by elevating the duties in the Code of Banking Practice.

Summary

The relationship between people and the financial services system is extremely complex. Disability by its very definition is the lack of ability to perform tasks one is expected to perform. The current financial system and the complex manner in which it engages with people (particularly the elderly) creates a feeling of inability to manage one’s personal affairs and teaches the reliance on others.

When financial institutions complicate people’s finances to a point where they can no longer “control” their finances, they are encouraging or forcing such reliance. People learn to be helpless which causes learned-helplessness, a condition that results in depression, anxiety, lack of self-worth and the in- ability to think for one’s self resulting in people feeling devalued and dependent.

When people learn to be helpless, they become unable or unwilling to scrutinise the world in which we live, and this puts people in situations where they risk being defrauded (by people, institutions or systems) and ultimately marginalised.

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