

Families torn apart in money feuds: the number of elderly subject to financial abuse is rising

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FAMILY disputes over money are rising with the ageing of the population, the growth of retirement savings, and the large proportion of family businesses changing ownership between generations.

And high divorce and remarriage rates are producing often feuding blended families squabbling over deceased estates and superannuation death benefits. These disagreements can take a devastating toll on personal finances, as well as frequently tearing families irreconcilably apart.

At their most extreme, family money disputes involve elderly financial abuse. An adult child, for instance, may make an early grab for an expected inheritance by taking the assets of a dementia-suffering parent who has no understanding of what is occurring.

Jo Wainer, an associate professor and medical sociologist with Monash University's faculty of medicine, nursing and health sciences, believes both the proportion and number of the

elderly being subject to financial abuse are increasing. "This generation of older people are wealthier," she adds, "so they have assets (that the perpetrators consider) worth stripping".

As co-author of four studies into elderly financial abuse published between 2009 and this year for State Trustees of Victoria, Wainer has extensive insight into this type of inter-family exploitation. She says most of the elderly people who participated in discussion groups and surveys for the research were alert to the existence of financial abuse and were aware that this was usually committed by family members.

A Monash University report -- Prevalence of financial elder abuse in Victoria -- not surprisingly found that those most vulnerable were suffering from diminished mental capacity and other age-related illnesses. (Participants in the research still had full mental capacities despite being aged up to 100.) Peter Bobbin, a principal of Argyle Lawyers in Sydney and Melbourne, says among the most difficult types of elderly financial abuse to track and combat are the continual small amounts which are sometimes relentlessly extracted from an elderly person. It is the \$500 here, the thousands of dollars there; it is (unwittingly) paying for grandchildren's school fees and for an adult child's groceries.

Bobbin says some elderly people are extremely reluctant to seek help for fear of not only cutting off contact with their family but their prime contact with the world other than their nursing homes or own homes.

The ageing of Australia's population, a key influence in the growth of family disputes over money, is documented in Treasury's Intergenerational Reports.

The latest report, released last year, projects that between 2010 and 2050, the number of people aged 65 to 84 will more than double while those aged 85-plus will quadruple, reflecting a trend that has been gathering pace.

Lawyers and superannuation specialists point to how the adult offspring of a first marriage or de facto relationship often become upset with a deceased parent's surviving second spouse over the way inheritances and superannuation death benefits are split. This may lead to a challenge to a will or complaint to the Superannuation Complaints Tribunal.

Australian Bureau of Statistics data shows that 30 per cent of recent marriages involve at least one partner who was previously married.

And this does not include de facto relationships. Further, almost half of divorces in 2009, the latest figures available, involved minor children.

Jocelyn Furlan, chairwoman of the Superannuation Complaints Tribunal, says most complainants are disputing how super fund trustees intend to distribute superannuation death benefits to other family members.

Some people, particularly adult children of a deceased member, view superannuation as an inheritance, says Furlan.

This is despite her view that superannuation is to provide income in retirement to a member and their dependants.

And in the event that a fund member dies before retirement, she adds, the purpose of superannuation is to give support to people who would otherwise have enjoyed ongoing financial support if the member had lived.

Furlan says that adult children of a first marriage typically would not have been getting or expecting financial support had a parent not died, whereas the deceased person's second spouse and their minor children would have been getting that support.

Differing opinions about the direction of a family business once the parents who own the enterprise die, retire or reach old age may cause considerable grief between their adult children, warns Sue Prestney, a Melbourne principal of accountants MGI.

Undoubtedly, the total value of family businesses that will change ownership between generations over the next decade will be massive with the potential of triggering many more interfamily financial disputes.

The latest MGI Australian Family and Private Business Survey found that the average age of family business owners is 55. And MGI's 2006 survey reported that 81 per cent of owners had then intended to retire within 10 years.

Returning to the findings of the latest MGI survey, two-thirds of family business owners-managers say the ultimate challenge for family businesses is dealing with the addition of work/business relationships on top of existing family relationships.

Nevertheless, 86 per cent of the businesses surveyed have not set rules to strengthen personal relationships between family members and manage the expectations of family members. And 82 per cent do not have policies to deal with family-in-business issues before the need arises.

An approach that Prestney often recommends to family business owners is to hold family meetings well before a possible changeover between generations, in order to discuss in detail the business's future and the family's involvement in that future.

"We try to include anyone in the family (meetings) who is working in the business, has equity in the business or is likely to have equity in the business in the future," she says.

Their spouses are also encouraged to attend.

Prestney agrees that family meetings may bring forward family arguments over a business that otherwise may not have occurred for many years. But she says such arguments are valuable.

The arguments are brought forward in a facilitated and objective forum, she emphasises.

And often there were tears as issues were brought to a head.