

# The Medical Matter of Judgement

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# The Psychiatric Mental State Examination

- Appearance and Behaviour
- Speech and Language
- Mood and Affect
- Thought form and thought content
- Perception
- Cognition
- Insight and Judgement

# Definitions

- Oxford Definition:

*The ability to make considered decisions or come to sensible conclusions.*

*a) An opinion or conclusion*

*b) A decision of a law court or judge*

*A misfortune or calamity viewed as a divine punishment*

- Psychiatric Definition: *A conclusion, decision or verdict about a particular action and specifically whether the action was morally right or wrong*

# Medical Assessment of Judgement

*“If you found a stamped addressed letter on the street, what would you do with it?”*



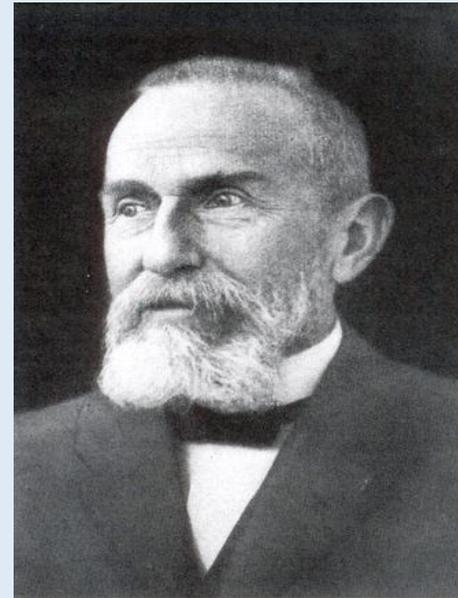
*“What would you do if you saw smoke in a theatre?”*



# Critical judgement

*“But if we speak in psychiatry and jurisprudence of the capacity to judge we mean the ability to form judgements, that is, the capacity to draw correct conclusions from the material acquired by experience.”*

*Bleuler, E. Textbook of Psychiatry, 1930*



# In the psychiatric setting

- Judgement is a process of consideration and formulation regarding a particular issue or situation that can lead to a decision of action.
- Judgement and insight are linked- the better the insight, the more likely the judgement is to be sound

The ability to make sound judgements requires adequate insightfulness, relatively intact cognitive function, the capacity to conceptualise, a sensitivity to impact and consequences of a decision, an ability to consider long term effects and possible adverse consequences and an appreciation of what a rational person in society may do.

‘The Psychiatric Mental State Examination’ P.T Trzepacz R.W. Baker Oxford Uni Press 1993

# Capacity to Consent to Treatment

1. Communicating Choice
2. Understanding Relevant Information
3. Appreciating the Situation and its Consequences
4. Manipulating Information Rationally

Assessing Patients 'Capacities to Consent to Treatment'

P. S. Appelbaum T. Grisso

NEJM 1988 Vol 319 No. 25 1635-8

# In the age of human rights

- The right of an individual to make a decision is protected, even if the decision is not sensible, rational or well-considered
- Capacity to decide can exist with impaired insight
- Capacity to decide can exist with 'bad' judgement
- Capacity is determined by the cognitive ability to understand and appreciate the context and decision, not the actual outcome of the choices made.

In relation to testamentary capacity  
- as stated by CJ Gleeson:



"the law treats as critical the distinction between mere antipathy, albeit unreasonable, towards one who has a claim, and a judgement which is affected by disorder of the mind".

# Disorders of the Mind that can affect Judgement

- **Dementia**

Subtle/Mild are usually the challenging cases

Executive impairment/Frontal lobe symptoms can affect insight, perception, judgement and impulse control

- **Alcohol**

May have acute/chronic impairment on cognition, judgement and behaviour

- **Mood Disorders**

May produce cognitive distortions, irritability, impulsiveness → compromise judgement. Usually reversible but can be chronic

- **Delusions**

May impact on rationale for decisions, make susceptible to undue influence

# Clinical Judgement

- The rise of modern research; external evidence, judgement is unable to go beyond *post hoc ergo propter hoc* (after this, therefore because of this)
- Realm of practice -innate rationality that is born out of observation, reasoning, tacit knowledge and reflection in action.
- Novelty and originality, imagination and inquisitive thinking
- Clinical judgement, and the cognitive basis for medical expertise, is a key issue for the future destiny of the medical profession

# Normative Judgement-judging the Judgement

- Clinical judgement is an inextricable part of an assessment process
- A factor in capacity to decide: the ability to use or weigh information
- Stating someone is failing to use or weigh, is a judgement that there has been a normative failure to respond in an appropriate way to that information
- The assessment further appraises whether a person's beliefs, values and emotions affect how information is handled

## Your Income Tax Update

July 2019



You are eligible to receive a refund of \$219.27 NZD.

You have GST returns for period ending **25 June 2018**, due **31 July 2019**, now available for refund!

**Remember:** We tried to send it to you automatically but were unable to do so as we don't have your details on file.

### Ready to refund it now?

- Have your credit/debit card ready.
- Open the application form below in your browser and login to your myIR account.
- Follow the instructions on your screen.

Remember, If you are not the intended recipient of this email, please reply to inform us that you have received this email in error and then delete it without retaining any copy.

**Note:** Make sure all your income, benefits and family details are up to date in myIR, this will help make sure you're getting the right entitlements.

### Your Summary

- Issuing number: [8100612218120](#)
- Issuing date: July 31, 2019
- IR number: NZ-01S3RAGJ57NUWH
- Payment method: myIR Online

### To get Started

Please take few moments to complete this quick refund form.



# The Problem of Scamming

- “Scam”- slang for personal fraud
- Financial scamming can affect anyone- vastly under reported
- Internet and e-communication have accelerated the problem
- “Suckers list”- sold globally between fraudsters
- Vulnerability- not defined in law; “adults at risk” in safe-guarding policies
- Falling victim to a scam –seriously damaging

# Scale of Problem

- New Zealand- \$12 million
- Australia- \$300 million
- UK- £9.7 billion
- USA- maybe over \$30 billion



- In UK- 3.75 million fall prey to a scam each year
- The average confirmed victim age based on 'suckers list' intelligence was **75** (National Trading Standards, 2016)

# Types of Scams

- Lottery or Prize Draw Scams
- 419 scams
- Romance scams
- Clairvoyant scams
- Charity scams
- Pension scams
- Investment scams
- Recovery room scams



# Email scams targeting Lawyers

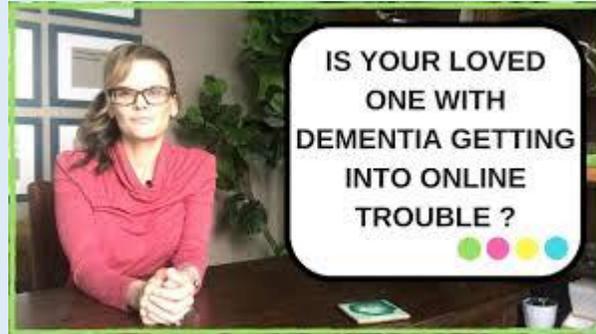
- “In your jurisdiction” - there will be a New Zealand connection: This could be a (genuine) New Zealand company which has “borrowed” from the scammer, or an ex-spouse of the scammer who is living here
- The problem: Collecting a loan which is due, collecting a payment from a divorce settlement, becoming the New Zealand lawyer and debt-collector for an enormous company in China
- Serious money is involved: \$950,500 plus legal fees, \$682,350 plus legal fees... *Not bad for little work...*
- “He has agreed already to pay me the balance but it is my belief that a law firm like yours is needed to help me collect this payment.”

# Vulnerability to Financial Exploitation

- Older people- targeted for consumer fraud, telephone and mail contests, and get rich-quick investment schemes (Crosby et al. 2008)
- Loneliness and isolation- socially isolated older adults may be particularly vulnerable to financial scams
  - a) difficult to talk to others about their finances or about scam offers
  - b) less aware of good business practice or popular scams in the local area
  - c) form of social contact that is difficult to replace
  - d) fewer opportunities for others to identify/intercept scams (Lubben et al 2015)
- Lower education, lower income, depression, reduced well-being...
- Financial literacy

## CON ARTISTS are targeting DEMENTIA sufferers

www.zpworthy.com  
People with dementia might be in danger from telephone scams. The U.K.'s got a neat fix.



### **MAIL SCAM PREY on DEMENTIA VICTIMS**

A TRIBUNAL has stepped in to protect an elderly man with dementia who has sent at least \$200,000 to an African country after being caught up in international internet scams.

The 83-year-old inpatient at a Queensland regional hospital tried to send more money to the scammers on the day he was admitted after a stroke and a decline in his mental acuity. (April, 2017)

# Psychological processes utilised to increase scam compliance

- Deterioration of decision making with incentive
- Acceptance of cues that create trust
- Social influence and consistency
- Urgency and scarcity
- Prey on human factors of greed, fear and need for companionship
- The more proximate the reward, the greater the visceral response will be.

(Office of Fair Trading UK, 2009)

# Mild Cognitive Impairment

- **Rush Memory and Ageing Project**

Presence of MCI increases risk of susceptibility to scams

700 community-based without Dementia

Assessments-Decision-Making Competence, Susceptibility to Scams and 21 Cog measures

Decrements in episodic memory and perceptual speed

- Perceptual speed- ability to make time-efficient mental comparisons and selections between competing choices

May revert to simple heuristics; “gut instincts” (Han, 2015)

# Phishing suspiciousness in old vs young

## The Role of Executive Functioning

- Neuropsychological AB and Iowa Gambling test
- Greater odds if you are older but young still get hooked
- Older adults may have more knowledge of phishing due to previous victimisation
- Crystallized, conceptual or semantic knowledge increases with age
- Only one test: NAB Mazes correlated with less suspiciousness
- Measures processing speed, planning

(Gavett, 2017)

# Other findings



- Arithmetic: best predictor of financial decision-making capacity
- Self-assessment: MCI likely to over-estimate cognitive skills than normal controls (Sherod, 2009)
- MCI may make older adults more vulnerable, but it is **not** inevitable that it robs them of financial decision-making abilities (Okonkwo, 2009)
- Financial decision-making capacity differs from Executional capacity-the ability to manipulate money, pay bills, maintain chequebook (Boyle , 2009)

# Susceptibility to Scams in Older Adults Without Dementia

- Healthy and active seniors are also susceptible to scams
- Socioeconomic factors also did not appear to play much of a role in determining which seniors are susceptible
- Socioemotional factors might- reduced negative arousal to anticipated losses, decreased anticipatory arousal, positivity bias
- “They seem to believe the pitches they hear and are unable to hang up on telemarketers”
- Assessments of Decision-Making Competence and Susceptibility to Scams: Impaired financial decision-making may be early sign of cognitive decline

(James, 2014)

# Socioemotional circuit

- Affective-integrative-motivational brain circuit
- Ventral striatum, anterior insula, medial temporal lobe, pre-frontal cortex
- Appraisal of emotionally valenced information-the salience network- anterior insula and dorsal anterior cingulate
- Older adults who had experienced financial exploitation showed cortical thinning in anterior insular cortex and posterior superior temporal cortices
- Inferring the thoughts or intentions of others is associated with medial prefrontal cortex broadly implicated in social cognition
- Age-related alterations in default network brain regions may lead to impairment in social reasoning; susceptibility to deception or undue social influence

(Spreng, 2016)

# Clinical Assessment of Financial Capacity

- Educating patients and families about advance financial planning
- Recognising signs of possible impaired financial capacity

(diagnosis that may be affect cognition or function, cognitive or behavioural changes, social changes eg loss of partner, new difficulty in common financial skills, forgetting bills, “missing funds”, erratic withdrawals, unusual purchases....)

- Probe for possible financial impairment and address suspected abuse
- Suggest practical interventions and safeguards
- Make legal and capacity referrals where indicated

(Widera,2011)

# Psychological Assessment of Judgement

- Neuropsychological Assessment Battery JDG
- Neurobehavioural Cog Status Exam JQ
- Problem Solving subscale of ILS
  
- Test of Practical Judgement (Rabin, 2007)
  
- Wisconsin Card sorting test
- Similarities-WAIS
- Comprehension-WAIS (Capucho,2011)

# Assessment Of Financial Capacity

- Financial Capacity Instrument (Marson, 2000)

Task 6a: Detect fraud risk    6b: Understand/make investment decision

- Semi-Structured Clinical Interview for Financial Capacity (Marson,2009)

Domain 6: Financial Judgment “How could you be sure the price for the car is fair? ”

- Decision-Making Competence Assessment (Finucane, 2010)
- Financial Decision Making Rating Scale
- Financial Decision Screening Scale (Litchenberg, 2016)

# Financial Decision Screening Scale



- Was this your idea or did someone else suggest it or accompany you?  
me
- How will this decision impact you now and over time?  
impact/debt
- How much risk to your financial well-being is involved?  
risk
- Who will be negatively affected?
- Who benefits most from this financial decision?
- Does this decision change previously planned gifts or bequests?
- To what extent did you talk with anyone regarding this decision?  
depth

My idea /Someone else suggested/drove

Improve/No impact//Negative

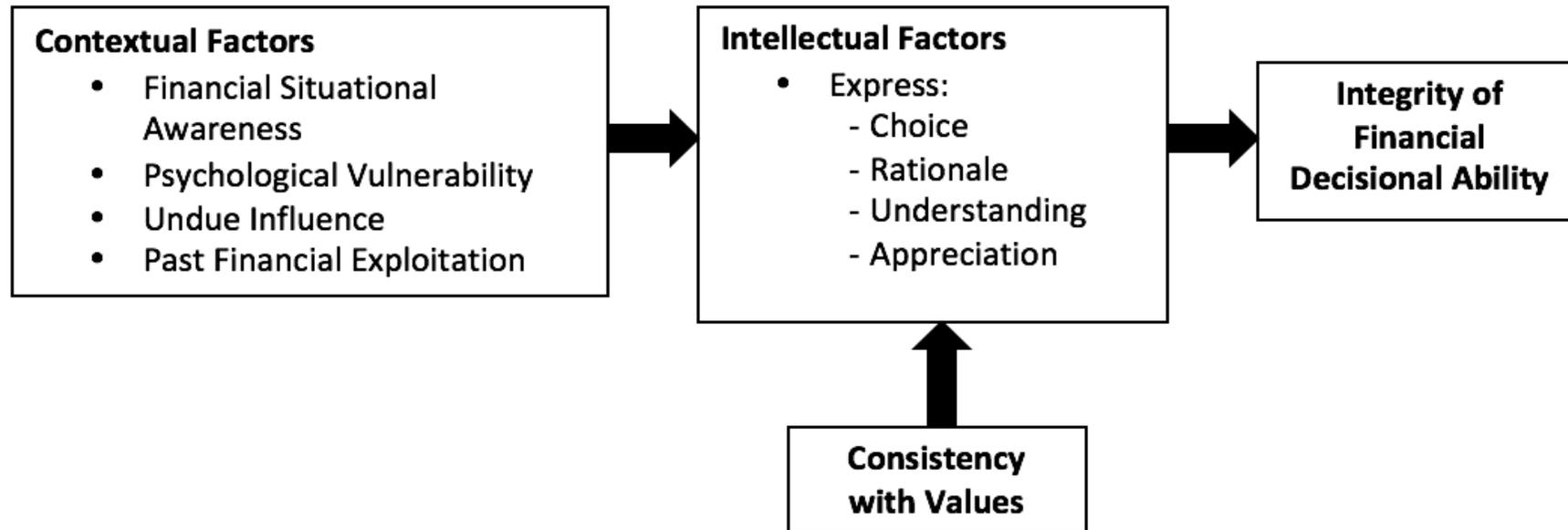
Low risk or none/Moderate risk/ High

No one/ Family/Someone else

I do/Family Friend/Other

No/Yes/Don't know/inaccurate

Not at all/Mentioned it/Discussed in



*Figure 1. Key Components of the Financial Decisions Abilities Model.*

# Preventing Financial Exploitation

## Education, Recognition and Law enforcement

### **Bournemouth University: National Centre for Post-Qualifying SW and Professional Practice**

The Centre works with the Police, Financial sector, local authorities Adult Safeguarding Boards, Trading Standards - **Joint Fraud Taskforce**

“Friends Against Scams” - National Trading Standards Scams Team- empowering **communities** to take a stand against scams

“Operation Broadway” - City of London Trading Standards Service, the National Trading Standards Tri-Region Scambusters Team, the City of London Police, the Metropolitan Police, the Financial Conduct Authority and Her Majesty’s Revenue and Customs **vs** Investment fraudsters cold callers

“Call-blockers”- technology blocks up to 98% of nuisance calls

**NZ**- Consumer Protection, Banks, Police, Elder Abuse, Age Concern...

# Key messages

- A appreciation of judgement is integral to medical assessment
- The persons world view, experience and emotions impact
- Certain disorders of mind affect judgement
- We can all make poor decisions due to bad judgement
- Scamming is on the rise -wealthiest generation ageing; lucrative target population
- Socially isolated older adults may be particularly vulnerable
- Impaired episodic memory and perceptual speed in mild cognitive impairment
- Socioemotional network changes may impair social reasoning and judgement
- No simple bed-side screening test; best to ASK
- Education, awareness and recognition of vulnerability is vital

