



## **WORKING WITH VULNERABLE CLIENTS**

Issued January 2021  
Last Reviewed January 2021

### **INTRODUCTION**

This helpsheet has been issued by ICAEW's Technical Advisory Service to help ICAEW members to identify vulnerable clients and take appropriate steps to act in their best interests.

Members may also wish to refer to the following related guidance:

- [Guide to dealing with vulnerable consumers](#) (consumer credit)
- [ICAEW guide to dealing with vulnerable clients](#) (legal services)

This helpsheet is primarily aimed at working with vulnerable clients who are individuals, although in most cases, similar principles may be applied when working with vulnerable individuals who are not clients themselves (for example when working with a director of a company on company matters).

### **IDENTIFYING A VULNERABLE CLIENT**

Whilst definitions of vulnerable clients vary, they are generally those individuals that, due to their personal circumstances, are especially susceptible to detriment.

Given this additional risk, firms should be alert to the indicators of vulnerability (often referred to as risk factors) to aid in identifying actually vulnerable and potentially vulnerable clients.

Principals and staff are not expected to become health experts, but should remain alert to behaviours or clues to vulnerability, as clients may not always be explicit in stating that they have specific needs or have become vulnerable.

#### **Risk factors**

The following table provides a non-exhaustive list of risk factors:

Risk factors		
Age (e.g. very young or old)	Low literacy	Health problems
Inexperience	Cultural barriers	Learning disabilities
Low income	Mental health issues	Physical disabilities
Caring responsibility	Language barriers	Bereavement
Location	Lack of internet access	Leaving care
Lone parent	Loss of income	Living alone
Leaving prison	Relationship breakdown	Redundancy
Low numeracy skills	Low financial capability	High levels of debt

The presence of one or more of these risk factors means an individual is more likely to be vulnerable – it does not automatically mean that they are vulnerable, but the firm should be alert to the possibility.

As an example, an elderly retired client living in a remote location may be at a disadvantage as they may be unable to research a topic on the internet due to lack of technological know-how or perhaps a lack of a reliable internet connection. However, it may well be the case that the individual is well educated, savvy and has more time to undertake research via other sources. So the presence of the risk factor in this case does not result in vulnerability.

### **Vulnerability over time**

Vulnerability can, and often does, vary over time as an individual's personal circumstances change. For example, an individual who has not previously been vulnerable, may become so if experiencing a breakdown in a relationship, but may cease to be vulnerable at a later point in time. Even in such circumstances an individual's vulnerability may change from day to day or hour to hour.

Vulnerability may also vary over time due to health conditions, for example. Such conditions (or indeed the side effects of medications) can lead to an individual being more or less vulnerable at different times during the day – this may, or may not, follow a regular pattern.

## **THE ICAEW CODE OF ETHICS**

Whilst the **ICAEW Code of Ethics** does not explicitly address working with vulnerable clients, the fundamental principles must still be applied. Of particular relevance when working with vulnerable clients are integrity, objectivity and confidentiality, each of which is explored a little more below.

- **Integrity**

An accountant must ensure that they are straightforward and honest. They should ensure that they are clear and unambiguous in their communications with a vulnerable client.

- **Objectivity**

An accountant must ensure that they do not compromise professional or business judgement because of bias, conflict of interest or undue influence. This is particularly important when working with vulnerable clients who may not be able to fully assess a situation for themselves, or who may be at risk of undue influence of others (such as family members or carers).

- **Confidentiality**

An accountant must respect confidentiality. This can be particularly challenging when working with vulnerable clients who may have authorised discussions to be had with other people on their behalf.

## **POWERS OF ATTORNEY, DEPUTYSHIPS AND GUARDIANSHIPS**

Vulnerable clients may have someone else acting on their behalf, such as an attorney, deputy or guardian. In such cases, the attorney, deputy or guardian does not become the client. Their role is to assist the client (the donor) in making their own decisions, or where they are unable to do so, to make decisions on their behalf. Firms will usually be informed (either by the donor or an attorney, deputy or guardian) of the existence of such an arrangement.

Where such an arrangement is in place, it would be sensible for firms to make a search of the relevant register to confirm details, and gain an understanding of the powers any attorney, deputy or guardian holds. This can assist a firm in establishing authority to act for the client.

Further information is available in [Appendix 1: Powers of attorney, deputyships and guardianships](#).

## **PREPARING TO WORK WITH VULNERABLE CLIENTS**

### **Staff training**

As already noted, principals and staff are not expected to become health experts. Client facing principals and staff should, however, have sufficient training to be able to identify vulnerability risk factors and the possible needs which might arise from such vulnerabilities. They should also understand what additional support or extra help is available to assist vulnerable clients and when it might be appropriate to offer this support.

It may be appropriate to engage with external organisations (e.g. relevant specialist charities) which may be able to assist in training to identify risk factors and associated needs.

All principals and staff should be made aware of escalation procedures and should understand where they should be used. These do not need to be complex in nature, it could be that where a staff member is concerned about whether a client is vulnerable, they refer to a particular manager or principal for advice.

Opportunities may be created for sharing knowledge and experience of working with vulnerable clients within a firm (sole practitioners may wish to do this with their alternate, if applicable). This can assist in developing the level of support and understanding within the firm.

Larger firms may wish to appoint team members to act as vulnerability champions to offer support to other staff members in working with vulnerable clients. They may also develop guides and knowledge-bases for other staff to use in their day to day roles.

Staff should also be made aware of the support available to them personally as working with vulnerable clients may affect their own wellbeing.

### **Questions to ask**

When working with vulnerable clients it is important that firms can satisfy themselves with the answers to the following questions:

- Have we considered authority to act?
- Have we made all reasonable adjustments/adaptations to meet the client's needs?
- Have we explained things in sufficient detail to ensure the client has understood?
- Can we justify the advice given to the client?

### **TEXAS protocol**

Where a client discloses a vulnerability to the firm, the TEXAS protocol (originally developed by the Royal College of Psychiatrists and the Money Advice Trust) may be followed.

- **Thank the client for providing the information:**
  - *“Thanks for telling me, it will help us to work with you better.”*
- **Explain how the information will be used:**
  - *“Let me explain how we'll use that information, just so you know.”*
  - The explanation should include why the information has been collected, how it will be used to help decision making, and who the data will be shared with / disclosed to.
- **eXplicit consent should be obtained:**
  - *“I just need to get your permission to...”*
- **Ask the client key questions to get key information (these will help you understand the situation better):**
  - *“How does your mental health problem affect your ability to communicate with us?”*

- *“Does anyone help you manage your finances such as a carer, relative or other third party?”*
- Signpost or refer to internal and external help (where appropriate).

## Tips

In many cases, when working with vulnerable clients, accountants will simply need to apply a common sense approach. Some suggestions are outlined below.

- Think about terminology when communicating with vulnerable clients. Avoid using the word vulnerable if possible. Try to refer to additional support or extra help.
- Where a client’s vulnerability typically varies with a regular pattern (e.g. due to side effects of medication a client tends to feel better in the mornings, or a client tends to be adversely affected during particular phases of a chemotherapy cycle), try to schedule meetings or make phone calls to the client at the most appropriate times for them. If attending a meeting and a client is clearly not in a good state of mind at the time, could the meeting be rescheduled?
- Make the client aware of the different communication channels available to them and allow them time to consider the most appropriate option for them. For example, a client may have a hearing impairment that makes the telephone communication difficult, so written communication may be better for that client. Alternatively, where a vulnerable client struggles with written communication, consider whether written communication is necessary. If written communication is necessary, could it be simplified? Could someone give the client a call to talk them through it?
- If a vulnerable client finds it hard to take in information, consider whether it is possible to brief them in advance of a meeting and follow up after a meeting, so they have something to refer back to. Don’t pressure them into making an immediate decision – give them time to think and reflect about decisions.
- Think about alternatives when certain technology is too difficult for the client to handle, e.g., online portals that have been brought in to ensure GDPR compliance (see the ICAEW helpsheet [GDPR – Communicating safely with clients](#)).
- Vulnerable clients may be more susceptible to fraud – remain alert and if something doesn’t look or feel right, raise it (within the firm initially).

## FURTHER GUIDANCE

### Specific guidance

Firms regulated by the ICAEW for probate services should refer to the [ICAEW guide to dealing with vulnerable clients](#).

Firms undertaking consumer credit activities should refer to the [Guide to dealing with vulnerable consumers](#).

### Other useful resources

At the time of writing the FCA is consulting on [Guidance for firms on the fair treatment of vulnerable customers](#). The guidance is aimed at FCA authorised firms, however similar principles may be applied to other circumstances too.

The Law Society has published guidance on **Meeting the needs of vulnerable clients**. The guidance is aimed at solicitors, however similar principles would be relevant for accountants.

## IF IN DOUBT SEEK ADVICE

ICAEW members, affiliates, ICAEW students and staff in eligible firms with **member firm access** can discuss their specific situation with the Ethics Advisory Service on +44 (0)1908 248 250 or via **webchat**.

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## **APPENDIX 1: POWERS OF ATTORNEY, DEPUTYSHIPS AND GUARDIANSHIPS**

The guidance in this section is based on laws in England and Wales. Whilst similar principles may still be relevant in Scotland and Northern Ireland, the legislation and terminology differs.

### **Lasting power of attorney (LPA)**

A lasting power of attorney (LPA) is set up by an individual (a donor) when they have mental capacity. They appoint attorneys to assist them in making decisions or make decisions for them where they are unable to do so.

LPAs may be for financial decisions (e.g. dealing with tax affairs, buying and selling of property, operating a bank account) or for health and care decisions (e.g. where the donor should live, decisions about medical treatment).

Donors may authorise one or more attorneys. Where more than one attorney is appointed, the donor will need to determine whether decisions are to be made jointly and severally, jointly or a mixture depending on the decision to be made.

Donors may authorise attorneys to have power to make decisions as soon as the LPA has been registered, or only when they don't have mental capacity.

Donors may also include instructions in the LPA which may restrict or limit the powers of one or all attorneys.

### **Enduring power of attorney (EPA)**

Enduring powers of attorney (EPAs) are similar to LPAs although can only authorise an attorney to make decisions about the donor's property and financial affairs. It is no longer possible to register a new EPA.

### **Deputies**

One or more deputies may be appointed where an individual lacks capacity and there is no LPA or EPA in place. Deputies are usually close relatives or friends of the person who needs help making decisions. Applications must be made to the Court of Protection for the appointment of deputies.

Where there is more than one deputy, the Court of Protection will authorise them to make decisions jointly and severally or to together (joint deputyship).

On appointment, the Court of Protection will send a court order detailing what can and can't be done by the deputies.

Deputies must send an annual report to the Office of the Public Guardian (OPG) each year explaining the decisions they have made.

## **Guardianships**

The High Court may appoint a guardian to look after the financial affairs of someone who is missing, is in prison abroad and cannot communicate or who has been taken hostage or kidnapped.

### **Confirming if someone has an attorney, deputy or guardian acting for them**

A free application can be made to search the Office of the Public Guardian (OPG) registers to **find out if someone has another person acting on their behalf**. Responses are typically received within five working days and include the information contained on the registers.

A new service is also available for LPAs registered in England and Wales on or after 17 July 2020. The donor or an attorney can provide the LPA access code which can then be used with the **view a lasting power of attorney service** to access the information about the LPA.