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A safe pair of hands for your clients in need of financial advice

MATRIX CAPITAL LIMITED VULNERABILITY – POLICY AND GUIDANCE

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1. Background

This policy and guidance procedure has been borne out of our Corporate Social Responsibility (CSR) Policy, the theme of which is 'Vulnerability and combatting financial abuse.'

We have already undertaken a significant amount of work under our CSR policy, including the production of a video animation for Citizens Advice to help them in their work in raising awareness of financial abuse. The video animation has a much wider application though, in that we have made it freely available to anyone interested in raising awareness of vulnerability and combatting financial abuse. The video animation is available on YouTube at <https://youtu.be/aE46Kbefeks>

The issue of vulnerability has also been highlighted by national organisations, professional bodies, and regulators, such as the Office of Public Guardian (OPG) the Personal Finance Society, the Society of Trust and Estate Practitioners (STEP) and the Financial Conduct Authority (FCA).

Matrix Capital Limited has, as a result of the pro bono efforts of two of its directors, been instrumental in the establishment of the Financial Vulnerability Taskforce, a national independent professional body to promote greater understanding, encourage appropriate behaviours and establish good practice in respect of consumer vulnerability.

This policy sets out how we aim to identify and treat clients and prospective clients who may be in vulnerable circumstances.

The first important point to bear in mind is that all people are potentially vulnerable; it is their circumstances that create the vulnerability. A person that is normally very resourceful and capable can be rendered vulnerable by a sudden change in circumstances. An obvious example is someone whose health suddenly deteriorates, leaving them without mental capacity. Some examples are less obvious, such as an emotional upset that the person may not feel comfortable discussing.

Although vulnerability can come in many forms, such individuals must be dealt with appropriately, fairly and consistently.

2. Overview

Matrix Capital Limited is a firm of Chartered Financial planners providing professional advice and long-term financial planning services to private individuals and businesses.

We are committed to making sure that we treat any client in vulnerable circumstances as an individual. We will do this by being:

- Flexible in our approach to client communications
- Empathetic to any specific needs or concerns they have

We will provide training to all our staff to identify the key indicators of vulnerability and appropriate support and solutions for clients who are in vulnerable circumstances.

This policy recognises that we have a duty of care to protect our clients' interests. All clients (vulnerable or otherwise) must be dealt with appropriately to ensure they are treated both fairly and consistently.

3. Purpose and Scope

While the implementation of this policy has evolved out of our CSR policy, the FCA has issued guidance to regulated firms on the fair treatment of 'vulnerable customers.' This policy has, therefore, been informed by guidance from the FCA, the Personal Finance Society, STEP, The Financial Vulnerability Taskforce and the Office of the Public Guardian (OPG).

This document focusses on the following key issues:

- Defining vulnerability
- Identifying the types of vulnerability
- How to spot whether someone is vulnerable
- How to deal with clients (and prospective clients) in vulnerable circumstances
- Internal processes, systems and controls
- Training
- Policy review

4. Defining vulnerability

We should be mindful that many clients in vulnerable situations may not think of themselves as being 'vulnerable' and may object to being labelled as such. That aside, the FCA has defined a 'vulnerable person' as:

"...someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care - vulnerability can come in a range of guises, and can be temporary, sporadic or permanent in nature..."

The FCA views vulnerability as a 'spectrum of risk', with some people having multiple characteristics of vulnerability.

Although not all people with these characteristics will experience harm, they may be more likely to have additional or different needs which, could limit their ability to make decisions or represent their interests. So, the level of care that is appropriate for these consumers may be different from that for others.





What is a detriment?

A detriment is essentially any disadvantage a client could suffer, for example, this could range from being treated unsympathetically or by us choosing the wrong investment product for them. This can occur in particular with clients in vulnerable circumstances because financial products can be relatively complex and, in certain cases, may not be optional.

We shall adopt the FCA's definition as part of this policy.

The FCA's survey of adults with characteristics of vulnerability in February 2020¹ indicates many people were struggling to interact with financial services. Examples include:

- Adults with poor mental health or low mental capacity or cognitive difficulties: 34% were anxious when shopping around for financial products and services
- Adults with a physical disability: 33% of these people faced difficulties getting to a bank branch
- Adults with a hearing or visual impairment: 25% struggled to follow instructions which makes it hard for them to interact with financial services providers.
- Adults who had a relationship breakdown in the previous 12 months: 20% struggled to manage their money.
- Adults with low capability about money and finances: 57% of these people felt nervous, overwhelmed or stressed speaking to financial services providers or found it hard to find suitable financial products or services

At Matrix Capital Limited, our target markets are individuals experiencing sudden wealth, those in vulnerable circumstances and professionals/owner-directors of companies.

Clients in vulnerable circumstances are a key niche market to which Matrix Capital has been able to add value, and one area in which we have developed a range of expertise and have won national recognition. However, we recognise there is potential for considerable overlap between these target market areas and that, for example, experiencing sudden wealth is very likely to contribute to an individual's vulnerability.

5. Impact of COVID-19

The Coronavirus pandemic has had significant effects on clients of all backgrounds, ages and socio-economic groups, including driving many more individuals into vulnerable or potentially vulnerable categories.

Vulnerability as a result of Covid-19 might be clinical (by contracting Covid or suffering from long Covid), mental (due to the stress of the threat of Covid and/or of being in lockdown) or financial (employment issues or the impact of poor economic conditions).

Key findings in the FCA research "Financial Lives 2020 survey: the impact of coronavirus"¹ include:

- The previously positive trend in vulnerability rates has been reversed by Covid-19. There are now 27.7 million adults with characteristics of vulnerability, taking the overall proportion to 53% of all adults.
- Those experiencing a negative life event (such as redundancy or reduced working hours) in the preceding 12 months increased from 10.5 million (20%) in February to 15.3 million (29%) in October.
- Covid-19 has had a disproportionate impact on those of working age with the largest proportional increases among younger adults aged 18-34 and the self-employed. In contrast, retirees have seen a small proportionate decrease in the numbers who have characteristics of vulnerability.
- Covid-19 appears, however, to be having a significant impact on mental health, which can result in a range of difficulties when dealing with financial services.

As the effects of the pandemic continue to be felt as we move into 2022, it is important to consider, when identifying clients in vulnerable circumstances, whether Covid-19 is a contributing factor. If a member of staff is in any doubt about vulnerability arising from covid 19 this should be discussed with either Robin Melley or Gary Matthews.

6. Identifying types of vulnerability

Several factors could result in a client being deemed vulnerable, which may be on a temporary, sporadic or permanent basis.

A person could be considered vulnerable by virtue of their health, age or circumstances, which may render them less able than others to:

1. realistically and objectively identify and prioritise their own needs
2. fully understand the risk, cost or implications of any advice provided, or
3. assess information in the usual format, for example, orally during meetings or visually in respect of written advice

This means that we would consider individuals affected by the following factors to be potentially vulnerable:

1. A change in circumstances – for example, an acrimonious divorce, leading to emotional, mental, financial and physical stress.
2. Sudden and unexpected changes in circumstances, which may include being made redundant, bereavement, being diagnosed with a long-term illness or receiving a large amount of money from Premium Bonds or lottery win
3. Low literacy, numeracy and financial capability skills
4. Physical disability
5. Severe or long-term illness (including COVID-19 or “long COVID” type illness)
6. Mental health problems
7. Low income and/or debt
8. Caring responsibilities (including operating a power of attorney)
9. Being ‘older old’ (for example over 80) although this is not absolute – this could be associated with cognitive or dexterity impairment, sensory impairments such as hearing or sight, the onset of ill-health, not being comfortable with technology.
10. Being young (associated with less experience)
11. Lack of English language skills
12. Not possessing standard documents or credit history (for example armed forces personnel returning from abroad, ex-offenders, care-home leavers)

This list is not exhaustive.

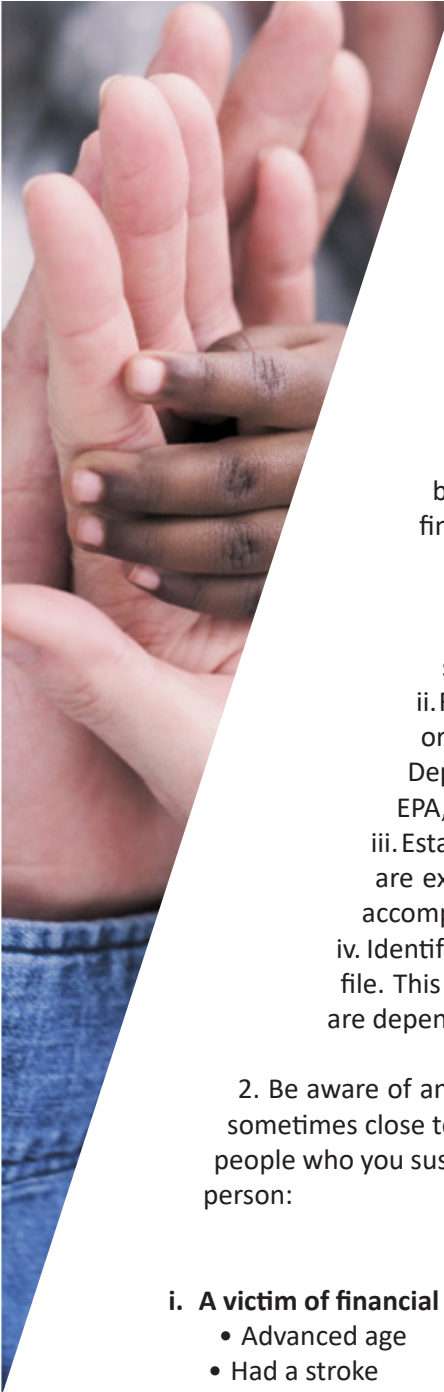
Think, and draw upon your own life experiences to consider whether any other factors would prompt you to consider a client to be vulnerable.

Also, please remember that the presence of one or more of the above factors does not necessarily mean that the client is vulnerable. Each team member plays an important role in assessing the client’s personal circumstances and ensuring that every client is treated individually and with respect and empathy.

The initial contact with a person is often the person answering the telephone or receiving a communication. Consequently, each team member has an equal part to play in helping clients in vulnerable circumstances.

That aside, any concerns around the assessment of clients should be referred either to Robin Melley or Gary Matthews.





7. How to spot if someone is vulnerable

This requires each team member to utilise their 'soft' skills as well as obtaining 'hard' facts about the person you are dealing with. Listening and observing the person (and carefully reading correspondence) are critical in picking up clues. These will be covered as part of our in-house and external training.

However, there are certain key points to consider when dealing with clients and prospective clients:

1. Using the indicators listed in Section 6 above, make a note of any information provided by the person that may indicate vulnerability in the relevant section of their personal financial planning file. For example:

- i. Identify any physical or mental health issues and record them in the 'Health and Habits' section. Include as much detail as possible – e.g., date of diagnosis, medication and any surgical procedures.
- ii. Find out whether the person has established either an Enduring Power of Attorney (EPA) or a Lasting Power of Attorney (LPA) or whether the Court of Protection has appointed a Deputy, and record this information in the 'Power of Attorney' section. Obtain a copy of the EPA, LPAs or Deputyship order and retain it on file.
- iii. Establish whether there has been a recent change in their circumstances or whether they are expecting things to change. The 'Personal Details' section should be marked as such with accompanying notes attached.
- iv. Identify dependents and record the details in the 'Dependents' section of their financial planning file. This would typically include children, but you should include any other family members that are dependent upon them. This may reveal that they are caring for an elderly parent, for example.

2. Be aware of any signs of possible financial abuse; bear in mind that perpetrators of financial abuse are sometimes close to and trusted by the victim. These are the areas to consider during your interactions with people who you suspect to be in vulnerable circumstances, and anyone accompanying or associated with the person:

i. A victim of financial abuse may have the following characteristics:

- Advanced age
- Had a stroke
- Dementia or cognitive impairment
- Physical, mental or emotional stress
- Depression
- Recent bereavement or divorce
- Social isolation
- Middle- or upper-income bracket
- Taking multiple medications
- Frailty

ii. A potential perpetrator may have the following characteristics:

- In the 16-64 age range
- In paid employment
- Lives with the victim
- May have financial, relationship, alcohol or gambling problems

III. Indicators of irregularities:

- **Lack of care – be aware of:**
 - Evidence of lack of care (e.g., lack of clothing, food or other necessities)
 - An unkempt house where the victim used to be house proud
 - Untreated medical problems
 - Provision of unnecessary services
- **Social isolation – look for:**
 - Discontinued relationships with friends and family
 - Increased dependence on the perpetrator
 - Sudden heavy traffic in and out of the house
 - New acquaintances
 - Caregivers or family members who have an excessive interest in the amount of money being spent on the person
 - Mutual dependence on another person
 - Someone acting as the 'gatekeeper' without proper authority (i.e., deputyship)
- **Healthcare observations:**
 - Unmet physical needs
 - Missed medical appointments
 - Dropping out of treatment
 - Declining physical and psychological health
 - Defensiveness by a caregiver during visits or on the telephone and unwillingness by a caregiver to leave the victim alone during appointments
- **Financial:**
 - Missing paperwork
 - Missing belongings or property
 - Evasive or implausible explanations
 - Unawareness or confusion by the person of a recent transaction
 - The client being afraid or worried about talking about finances
 - Unpaid bills
 - Eviction notices
- **Conduct of banking transactions:**
 - Unexplained transfers out of accounts
 - Unusual and unexplained sudden activity
 - Large withdrawals when the person is accompanied by another
 - Frequent transfers or ATM withdrawals
 - Change of address for statements and cheque books
 - Suspicious signature
 - Inclusion of other names on bank cards
 - Suspicious credit card activity
 - ATM withdrawals by a housebound person
 - Online banking by a person with no internet connection enabled device nor IT experience
 - An unusual number of cheques written to cash
- **Legal transactions:**
 - Powers of attorney where the person is confused or does not remember or understand the document.
 - Forged signatures
 - Changes in their property, wills, or other documents where they are unexpected, sudden or in favour of new acquaintances.
 - The sudden appearance of previously uninvolved relatives claiming rights to a person's affairs and possessions.
 - An unexpected change in legal advisers





8. How to deal with clients and prospective clients in vulnerable circumstances

1. Obtain verbal consent at the outset that we may record their data and reassure them that we adhere to the General Data Protection Regulations (GDPR). Ensure they are presented with a consent form, which should be returned and retained on file. If they have an attorney or a deputy acting on their behalf, obtain written consent from them also.

2. Ensure that we meet the anti-money laundering requirements with any attorneys and deputies.

3. Where a client discloses a mental health issue, adopt the TEXAS approach. This can also be adapted for other areas of vulnerability such as numeracy or literacy problems or organic conditions such as dementia:

- Thank them (what they have told you could be useful for everyone involved in the advice process and the provision of ongoing service) “Thanks for telling me, as it will help us tailor our advice and provide better ongoing service.”
- Explain how their information will be used “Let me just explain how we’ll use that information, so you know” NB This includes why the information is being collected, how it will be used to help decision making, and who the data will be shared with/disclosed to.
- Explicit consent -Now ask the individual for their permission to use their information in this way
 - Ask three key questions (these will help you understand the situation better):
 1. Does your mental health problem make it difficult to deal with your finances? If so, how?
 2. Does your mental health problem affect your ability to deal with or communicate with us? If so, how?
 3. Does anyone need to help you manage your finances such as a carer or relative? If so, how?
- Signpost to internal or external help (where this is appropriate)

4. IDEA:

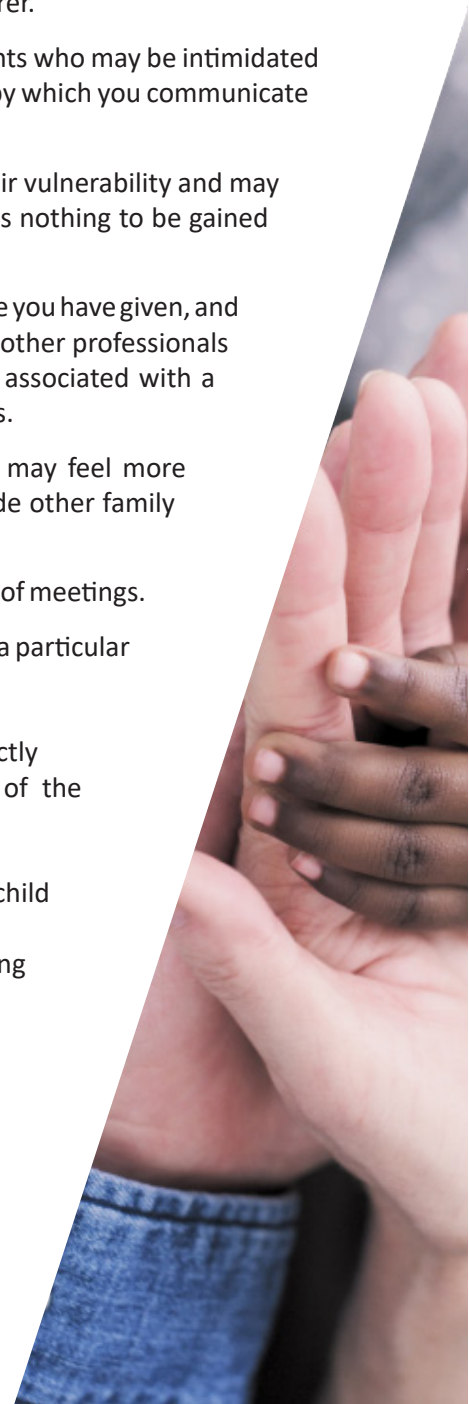
Where we are made aware that a client has a mental health issue, all team members involved in the gathering of client information should then adopt the IDEA approach to gathering further information:

- Impact – team members should ask what the mental health problem either stops the client from doing concerning their financial situation, or what it makes harder for them to do. This will help provide insight into both the severity of the condition and its consequences.
- Duration – team members should discuss how long the client has been living with the reported mental health problem, as the duration of different conditions will vary. This can inform decisions about the amount of time someone needs to be given to retake control of their situation.
- Episodes – some people will experience more than one episode of poor mental health in their lives. We and/or providers will need to take such fluctuating conditions into account when providing advice or making decisions.
- Assistance – you should consider whether the client has been able to get any care, help, support or treatment for their condition. This may help with collecting medical evidence.

5. General guidance on client interaction:

- Where a client may be considered vulnerable, an offer for them to be accompanied during the meeting should be made, i.e., a friend or relative present to support or assist them. The client should however be seen on their own in the first instance, so an assessment can take place as to whether the person accompanying them at the next meeting is placing any pressure upon them concerning their finances.

- The client's financial planning records should confirm that an accompanied meeting was offered to them and whether the client felt comfortable and able to proceed without anyone else being present or preferred to invite someone to any subsequent meetings.
- The Impact Report should confirm that an accompanied meeting was offered to the client along with confirmation as to whether this option was accepted or declined.
- Provide choice for clients in the means of communication. This may include the method of communication (e.g., use of braille or interpreting services if appropriate) and the service delivery, for example adjusting the time of an appointment to account for issues with the client's medication.
- Be aware that the vulnerable client may need short, plain English communications, both in writing and in meetings.
- Be aware of possible modifications to improve accessibility to clients, this could include physical access but also access to information e.g. Large font to support a visually impaired client, avoiding online meetings/telephone calls for a hearing-impaired client, meeting a wheelchair user in their own home rather than asking them to come to the office.
- Recognise that a sudden change in circumstances will require a flexible and tailored response. Be prepared to listen and have a heightened awareness of any signs of vulnerability.
- Clients need to feel confident that whilst we encourage disclosure of vulnerable circumstances, that information will be recorded properly so that repeated disclosure is not required. It is also important to ensure confidentiality is maintained. If you are speaking to staff in a caring capacity, listen and make a note of their concerns although keep in mind that we may not have the authority to divulge information to the carer.
- Recognise that digital exclusion can also be a major issue particularly for older clients who may be intimidated by the reliance on computer-based communication. Allow flexibility in the means by which you communicate with our clients.
- Be sensitive to the fact that some clients may struggle to accurately 'diagnose' their vulnerability and may be reluctant to disclose the information. This could be because they think there is nothing to be gained from the disclosure or they fear negative repercussions.
- Be prepared for vulnerable clients to take longer to assimilate information and advice you have given, and for the possibility of requiring additional meetings. They may also wish to involve other professionals or other people supporting them but make them aware of the additional costs associated with a lengthier advice or implementation process that might involve other professionals.
- Be prepared to facilitate meetings in a location other than our offices. Clients may feel more comfortable in their own homes, may not be able to travel or may need to include other family members or an attorney in the decision-making process.
- Be aware that clients in vulnerable circumstances may require written confirmation of meetings.
- Recognise the importance of checking that a vulnerable client has understood how a particular product works and what your advice is. Ways of achieving this are:
 - i. Structuring your meetings so you can deal with each part of the advice distinctly
 - ii. Providing mini recaps and summarising information following each part of the meeting
 - iii. Asking the client to summarise in their own words what you are suggesting
 - iv. Using open-ended questioning to check for understanding. E.g. if your adult child asked you to explain x to him/her, what would you say?
 - v. Finishing the meeting with a quick recap of the actions you have agreed, anything the client needs to do, or the next steps involved
 - vi. Providing accessible copies of notes of the meeting for the client rather than expecting them to take their own notes
 - vii. Following up the meeting with a telephone call or email to check for receipt of documents, inviting queries or further questions.





6. Establishing that the client has mental capacity

Mental capacity is essentially the ability to make a decision. In determining whether the client is unable to make a decision the following four factors should be considered:

- Do they understand the information relevant to the decision?
- Can they retain the information?
- Can they use or weigh up the information as part of the process of making the decision?
- Can they communicate their decision (whether by talking, sign language, or any other means)?

It is the responsibility of the medical profession to conduct full mental capacity assessments and to be able to certify whether a client has full mental capacity or not. For clients with no previous record of having mental health issues, the above factors can help us to determine whether a full mental capacity assessment is required or not.

A client must have mental capacity, and the ability to make financial decisions, on each occasion you meet where decisions need to be taken. This is a requirement of the Mental Capacity Act 2005.

You should only proceed with the provision of advice when:

- the client has the capacity and can understand the advice, or
- an appropriate Power of Attorney (a registered Enduring Power of Attorney or a registered Lasting Power of Attorney (LPA) for finance and property) or Deputy appointed by the Court of Protection can assist the client in this regard.

An attorney operating under an LPA for Health and Welfare does not have the authority to make decisions about the donor's finance and property. We are only concerned with our dealings with an attorney operating under an LPA for finance and property.

Where an individual does not have the capacity to understand advice (and there is no attorney or deputy appointed) advice should not be given. In some circumstances, it may be necessary to contact the Court of Protection for assistance in proceeding with the advice process and await the instruction of a Deputy.

The Mental Capacity Act 2005 (MCA) has five principles, which are:

- i. Assume a person has mental capacity unless there's evidence otherwise
- ii. Do not treat people as incapable of making a decision unless all practicable steps have been taken to help them
- iii. A person should not be treated as incapable of making a decision because their decision seems unwise to anyone else
- iv. Always act in the best interests of someone who lacks mental capacity
- v. Before making a decision on someone's behalf, always consider whether the outcome could be achieved in a less restrictive way

Even with an Attorney/Deputy in place, you should consider on a case-by-case basis whether the person has capacity or not and their wishes should be documented and taken into account in all recommendations.

Whenever possible, you should assess the client's capacity with them on their own and you should not assume that anyone accompanying them (including family members) genuinely has their best interests at heart. You should endeavour to observe how any relative or friend, who has accompanied the client, behaves towards them and vice versa, as that may help to identify whether there is the risk of undue influence or pressure being imposed on the vulnerable client by third parties.

It is important to consider the best times and circumstances to see a client. For example, choosing the time of day when they are most alert and seeing them in the place where they feel most comfortable. There may be times or intervals in the day when they may be more lucid than others; capacity can fluctuate significantly during the course of one day.

You should put the client at ease before discussing the business that you intend to carry out. It is also helpful to know from other sources (such as family or carers) something of the family background and their past career so that you can verify the client's recollection and also ask a few questions about current affairs and past events. You should prepare and retain detailed notes of any meetings, where possible recording questions asked and the response, using the client's own words.

At any subsequent meeting, or later in the same meeting, you should seek to discuss some of the same matters and see if there is consistency in what the client says. At this time, it is more important than ever not to use closed questions, such as "Did you understand what I just said", but to ask the client to explain the process fully, in a way that will allow an assessment of the person's capacity to make a decision. You need to ask the client more open questions and ask them to relay information back to you. Check they understand a few minutes after the discussion and ask the same questions in a different way to check their response is consistent.

It should be appreciated that there may be some occasions where there is no alternative to asking closed questions, for example where there are major communication difficulties. In this case, you should check their understanding of the issues by asking the question again in a different way further into the conversation.

You should also seek detailed instructions about the clients' objectives again. If they are materially different there is a good chance that the client may lack capacity in respect of that particular transaction.

It should be remembered at all times that you are judging the client's understanding of the decision to be made at that time, not whether you agree with the clients' opinions.

If the client has had contact with the local authority social services, you should ask for the client's consent to view any completed pro forma assessment of capacity that they may have undertaken.

If you believe that the client has lost capacity, you should either suspend proceedings until capacity returns or seek the advice of the Attorney/Deputy of the Court of Protection.

We will make sure that in all cases, a client has the capacity to understand the advice they are being given. If they don't and there is no attorney or deputy in place, the advice process will be suspended, and the case will be referred to Robin Melley or Gary Matthews.

7. What if you suspect that the person is a victim of financial abuse?

As a professional firm of chartered financial planners, we have an overarching duty to act in the client's best interests. There is a potential conflict between 'poking our noses into things that don't concern us' and helping to safeguard people in vulnerable circumstances by intervening where there is evidence of possible abuse.

Nevertheless, where there is evidence of possible financial abuse, report your concerns to either Robin Melley or Gary Matthews, who will:

- i. Make notes of your concerns on the client's financial planning records and retain copies of any evidence supporting your concerns.
- ii. Speak to the client in private and keep notes of the discussion on the client's financial planning file.
- iii. Takes steps (if possible) to protect the client's finances and property against further misappropriation
- iv. If there is evidence of a criminal offence has taken place, inform the Police.
- v. Consider signposting the client to other agencies including Citizens Advice, the Adult Safeguarding Team at the local authority or Action on Elderly Abuse.
- vi. Where either an EPA or an LPA has been registered (or a Deputy appointed by the Courts) refer to matter to the OPG, who will investigate without revealing identity.



9. Internal processes, systems and controls

In addition to our usual systems and controls, to make sure that we treat all vulnerable clients fairly, we have the following additional processes in place:

1. Robin Melley and Gary Matthews have overall responsibility for dealing with clients who have been identified as vulnerable.
2. All transactions arranged on behalf of vulnerable clients will be signed off by either Robin Melley or Gary Matthews before implementation.
3. All meetings with vulnerable clients will be attended by either Robin Melley or Gary Matthews.
4. All cases involving a vulnerable client will be subject to a file review.
5. Data protection - as part of delivering advice and service to vulnerable clients, we will gather detailed information from them, especially about their physical and/or mental health. This information will be dealt with following our data protection policy.

10. Training

All team members will be required to review this policy when they join our firm and annually thereafter.

All team members will be required to undertake the Consumer Vulnerability in Later Life (2021) training provided by the Society of Later Life Advisers in collaboration with Just. This should be undertaken as part of the induction process and then refreshed on an annual basis.

11. Policy review

This policy will be reviewed at least annually by a suitably qualified team member.

References:

1. Financial Conduct Authority. (2021). Financial Lives 2020 Survey: the impact of coronavirus.

<https://www.fca.org.uk/publications/research/financial-lives-2020-survey-impact-coronavirus#If-chapter-id-consumer-trends-from-2017-to-early-2020-consumers-with-characteristics-of-vulnerability>



(STEP and SOLLA logos are attributed to Robin Melley only)

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