



Matrix Capital

Financial Planning

Children experiencing sudden wealth guide

Foreword by Keith Richards, Chair of The Financial Vulnerability Taskforce

Robin Melley is, first and foremost, a chartered financial planner and a fellow of the Personal Finance Society, having joined the profession in 1991. However, he is also a registered trust and estate planning practitioner and a full member of the Society of Trust and Estate Practitioners (STEP) an accredited later life adviser and a full member of the Society of Later Life Advisers (SOLLA) and a member of the Expert Witness Institute (EWI).

He has many years of valuable experience of dealing with clients who find themselves in vulnerable circumstances and is one of a very small handful of professional advisers who hold the STEP Diploma in Advising Vulnerable Clients, which is recognised as the 'go to' professional qualification in the field of advising clients in vulnerable circumstances.

Robin's firm, Matrix Capital, was exclusively appointed by National Savings and Investments (NS&I) in 2014 and over the following 8 years, had the enviable task of providing financial guidance and advice to the lucky people who have won the £1m jackpot prize on their Premium Bonds, which included several minors. So, he has significant experience of helping people in this very situation.

As far as Robin's team at Matrix Capital's credentials go, Andrew Pike, Head of Intermediary Relationships at NS&I, said "NS&I would like to place on record our sincere thanks to Matrix Capital for providing an excellent service to the Premium Bonds jackpot winners throughout the life of our partnership. They have gone above and

beyond what was asked of them, and I have been truly impressed by their professionalism throughout, and their unwavering desire to put the customer at the heart of everything they do. There is no doubt that this has resulted in many positive outcomes for jackpot winners."

Robin and his team at Matrix Capital, have that unique blend of experience in advising clients from all walks of life who have had sudden wealth thrust upon them, and have attained the highest levels of professional qualifications in financial planning and vulnerability, coupled with a reputation of being able to provide a safe pair of hands for people in vulnerable circumstances, which includes the parents of child Jackpot winners.

Consequently, this is an extremely valuable guide for any professional practitioner seeking to provide advice in this niche set of circumstances.

transparent.

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

Who should read this guide?

This guide is principally aimed at professional advisers, including financial planners, financial advisers, investment advisers and lawyers.

It is recognised that all professional advisers are well versed and experienced in dealing with a wide variety of circumstances. However, there are a few circumstances where a child can experience sudden wealth, including being the recipient of an NS&I Premium Bonds £1m prize, a large and unexpected inheritance or legacy, a compensation claim or even being a child entrepreneur!

So, whilst there is a range of situations where a child might experience sudden wealth, this guide draws upon our experience of dealing with the parents of children who have received a £1m Jackpot prize on their NS&I Premium Bonds and focusses on that unique set of circumstances. However, many of the principles discussed in this guide are universally applicable.

Hopefully, this will help other professional advisers, to provide a safe pair of hands to the parents or guardians of a child that has experienced sudden wealth who, in some cases, may not be aware of their good fortune and are entirely reliant upon a parent or guardian and their professional advisers for sound advice and ongoing support.

What is the status of the child's NS&I holdings?

Children under 16 are eligible to hold Premium Bonds, Junior ISAs, and Investment Accounts.

While Junior ISAs can only be opened and managed by the child's parent or guardian, there are some different rules for other products, including Premium Bonds. Parents or legal guardians can buy Premium Bonds for a child and look after the child's Bonds (including any cash prizes) until they turn 16. This person is who NS&I call the 'responsible person' who will need to be a parent or guardian.

Once the child reaches the age of 16 years, they take legal ownership of any accounts including their Premium Bonds. Up until that age, the child is the 'beneficial' owner, and the 'responsible person' has 'legal' ownership. The legal and beneficial ownership of the child's NS&I holdings automatically passes from the 'responsible person' to the child on their 16th birthday, giving the child control of the accounts and Premium Bonds, including any interest and/or prizes that have been awarded whilst they held 'beneficial' ownership.

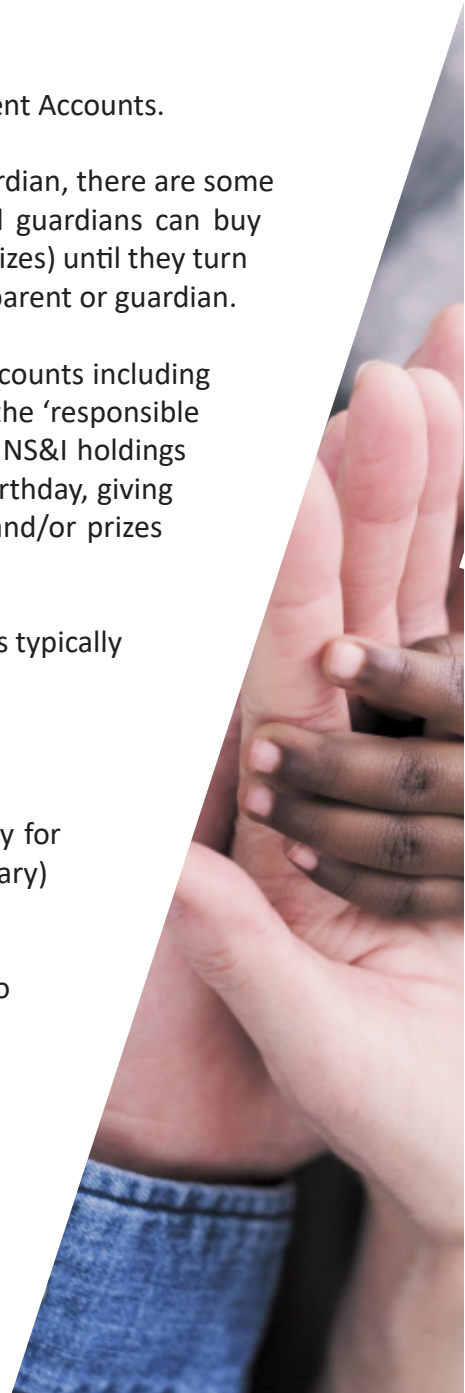
This situation places a fiduciary obligation upon the 'responsible person,' which is typically the mother or father of the child.


What does 'fiduciary obligation' mean?

Very simply, the responsible person has a duty to look after their child's money for the benefit of the child. This establishes a trustee and beneficiary (i.e., a fiduciary) relationship between the parent and child.

It goes without saying that someone in a fiduciary position has a general duty to be loyal, honest, and to have integrity; and to act in good faith, be transparent and accountable. A fiduciary must not allow their personal interests to conflict with the interests of the person(s) to whom they owe a fiduciary duty.

It is especially important for a person in a fiduciary position to take their duties and responsibilities seriously. They also need to understand that it is a personal duty, and one that cannot normally be delegated.





The duties are set out in law⁸ (and clarified through case law) and there may be grave consequences if someone in a fiduciary position fails to carry out their duties.

What if the child has won the £1m Jackpot prize on their Premium Bonds?

Once a fiduciary obligation has been established, the duties apply regardless of the amounts involved. However, if the child is for example in the extremely fortunate position of winning the £1m Jackpot on their Premium Bonds, then the 'responsible person' should be aware that they need to apply even greater care and diligence.

A person in a fiduciary position is effectively acting as a trustee and will need to consider their powers and duties, which include the power to invest.⁹ They should also be made aware that they have certain other obligations in relation to investments, which include considering the suitability of any investment¹⁰ and the requirement to take advice from a suitably qualified adviser¹¹.

At some point, the trustee may wish to pay income or capital out for the benefit of the child. There are several important considerations that they should be made aware of which are also set out in legislation^{12,13}.

What could go wrong?

Although this is a negative topic, it is important that we cover it. Hopefully, nothing will go wrong though.

Where a trustee fails to fulfil their fiduciary duties towards a beneficiary, there is a breach of duty under the law. Typical examples of breaches include:

1. Investing in an unauthorised manner
2. Making an unauthorised or secret profit
3. Failing to distribute the correct amounts to the correct people
4. Making a substantial unauthorised purchase, such as buying property

Where a breach occurs, a beneficiary has the right to seek legal redress. Whilst this may seem an extreme possibility, apart from the financial implications of a trustee being sued, in these circumstances, it would be a child suing a parent. It is not difficult to imagine the negative impact that this could have on family relationships in future.

Notwithstanding the rights of the child, in circumstances where the child's funds are misappropriated by the parents, in doing so the parent/guardian may also be committing a crime¹⁴. Also, anyone assisting the parent/guardian in the misappropriation of a child's funds may themselves be committing a criminal offence.

8 S.1 Trustee Act 2000

9 S.3 Trustee Act 2000

10 S.4 Trustee Act 2000

11 S.5 Trustee Act 2000

12 S.31 Trustee Act 1925

13 S.32 Trustee Act 1925

14 S.4 Fraud Act 2006

If a trustee commits an actionable breach of trust, technically an action can be brought by the child through a litigation friend, or the child waits until they are over 18 and in adulthood to seek a legal remedy. A litigation friend can be a friend, someone related to or connected with them (an older sibling or grandparent, for example). However, as the child might not even be aware that they are a beneficiary of a trust, and any breach of trust may well have been concealed from them and the other adults around them, the breach of trust may not come to light for many years (if ever). It is, therefore, suggested that you as the professional adviser keep detailed notes in case you are called to give evidence in court or assist the Police in their enquiries should an action be brought by a disappointed child winner either in adulthood or in childhood via a litigation friend.

Common mistakes and pitfalls

With reference to the section above, these are examples of mistakes that potentially lead to a breach of trust or, otherwise, leave the child in a detrimental position:

Sharing the child's prize with siblings

From a parent's perspective, it is easy to understand the desire to share a child's £1m prize with their siblings. This may have been underpinned by a protocol that has been adopted for many years of sharing smaller prizes where Premium Bonds have been purchased equally for each child, for example.

The parent viewing the prize as theirs and not the child's

There have been circumstances where the child's Premium Bond account has been funded with the parent's money because they have invested the maximum of £50,000 in their own account; and seek to use their child's account as an 'extension' of their own.

You may also encounter situations where the parent simply keeps some or all the child's prize to, for example, to clear their mortgage and loans or purchase a more expensive family home. They may seek to rationalise their actions by adopting the belief that the child will inherit the estate eventually, or the child will benefit from a better overall family lifestyle.

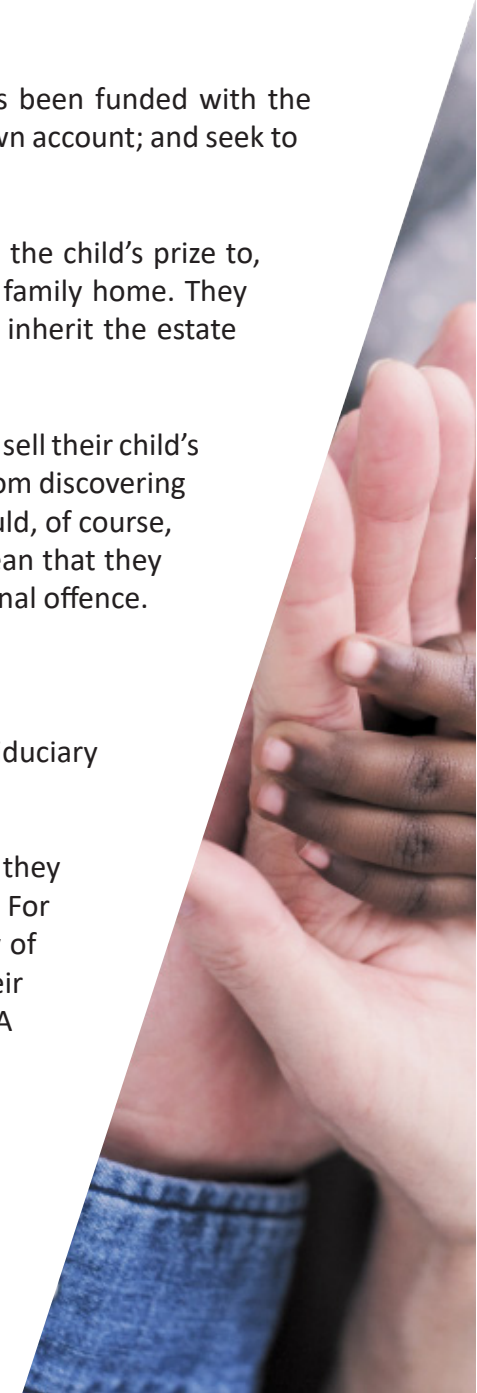
Furthermore, you may even see evidence of the 'responsible person' planning to sell their child's Premium Bonds before they reach aged 16 years to possibly prevent the child from discovering in adulthood, they had been the recipient of a large prize in childhood. This would, of course, be an extremely unwise step for the 'responsible person' to take and could mean that they (and any other person encouraging them to do so) would be committing a criminal offence.

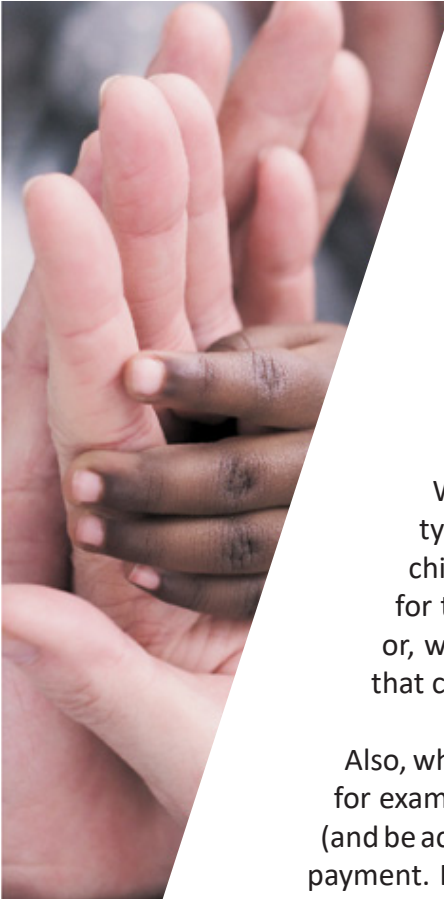
Not taking advice from a suitably qualified adviser

This often stems from a lack of understanding on the part of the parent of their fiduciary obligations contained within the Trustee Act 2000, which are discussed above.

Unless the responsible person has the relevant knowledge and experience, they are unlikely to be aware of their obligations set out in the Trustee Act 2000. For example, they may not be aware of their obligations to consider the suitability of the proposed savings or investments they intend making (S.4 TA 2000) or their obligation to seek professional advice from a suitably qualified adviser (S.5 TA 2000).

In consequence, there is a risk that the parent does not adhere to their obligation to ensure that the child's funds are 'suitably' invested. For example, it is likely to be unsuitable for a 4yr old child's funds to be invested in cash; conversely, it may be unsuitable for a 15yr old child's funds to be invested in asset backed funds, targeting a long-term return when funds





may be needed at aged 18 years. Without professional advice from a suitably qualified adviser, this is a potential pitfall for parents of child winners, particularly where they are not used to dealing with larger amounts of capital.

Typical guidance and advice points and the need to collaborate

There are clearly several aspects to advising clients in this niche set of circumstances.

Where children acquire sudden wealth through a gift or a will, the funds are typically already held under an express or, sometimes, an implied trust. Where a child is, for example, a minor beneficiary under a will, the will typically has provision for the appointment of trustees and the terms of the trust are already clearly set out or, where the will is unclear or a will does not exist, there may be statutory provision that can be invoked.^{8,9}

Also, where a child is the recipient of a large compensation payment for clinical negligence, for example, the courts will invariably either appoint a deputy to handle the child's assets (and be accountable to the court) or a trust is established at the outset to hold a compensation payment. In these circumstances, trustees (often professional trustees) are appointed with clear instructions on how the trust assets are to be dealt with for the benefit of the child.

However, in the unique and comparatively rare circumstances where a minor receives an NS&I Premium Bonds £1m jackpot prize, there is no trust deed already in place (because NS&I do not currently allow Premium Bonds to be held by formally appointed trustees) and the parent is often overwhelmed by their child suddenly becoming a millionaire and has not understood the need for early professional advice.

There are three simple steps that we would suggest that you advise the client to take, which will help safeguard them and help them avoid some of the potential pitfalls that confront them:

1. Deposit the funds in a safe place:

Cash held in a high street bank or building society account is only protected under the Financial Services Compensation Scheme (FSCS) to the extent that it does not exceed £85,000 per individual account holder and per banking licence. The NS&I Direct Saver Account may be a suitable account for the £1m prize to be deposited, at least whilst the 'responsible person' takes professional advice.

NS&I are in the unique position of having all their accounts fully guaranteed by the UK Government, which means that the £1m would be protected if deposited in an account with them – in other words, they would not have to be concerned about the FSCS compensation limits.

It is also worth considering the anonymity that the NS&I accounts afford; as account holders will not need to worry about unwanted sales approaches that could be received from high street banks and building societies.

2. Refrain from telling others:

The 'responsible person' may feel overwhelmed by the sudden news and have a desire to share the news with other members of their family, friends, or colleagues.

8 S.33 Wills Act 1837

9 S.47 Administration of Estates Act 1925

It is suggested that, as part of your initial guidance, you encourage the 'responsible person' not to divulge the news to others, at least until they have taken more detailed advice and have properly understood the potential consequences of telling others.

There are some compelling reasons for this, including reducing the risk of financial abuse, scams, and fraud. Also, it helps to avoid kneejerk actions that may lead to a breach of trust or create some form of detriment for the child or the family.

3. Take professional advice at an early stage:

Apart from the numerous technical pitfalls that the 'responsible person' can fall foul of, there are several potential emotional difficulties that can arise, particularly for clients who have no experience of dealing with substantial amounts of capital and have never taken professional advice.

Put simply, there is a strong possibility that the child and the 'responsible person' find themselves in highly vulnerable circumstances, needing a safe pair of hands to help them navigate through the complexities they now face.

4. Collaboration between professional advisers

Having access to a professional adviser who has the requisite skills, and is suitably qualified to deal with the vulnerabilities and the technical issues that this situation invariably demands, is extremely valuable to the client.

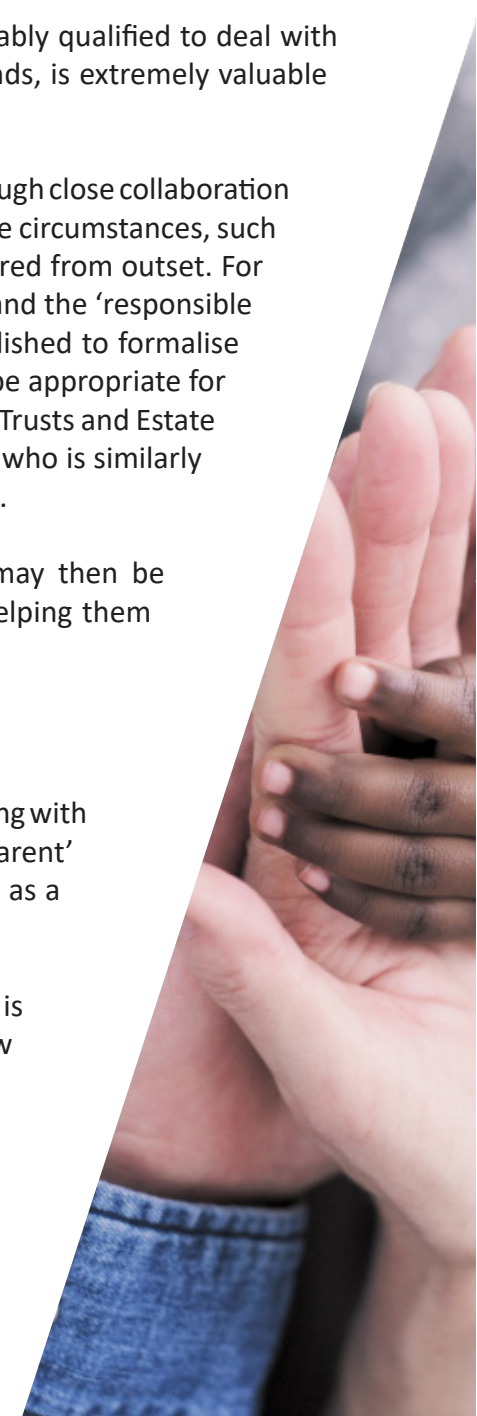
Whilst it is generally accepted that the best outcomes for clients are achieved through close collaboration between professional advisers, this is even more critical with clients in vulnerable circumstances, such as minors. So, collaborating with other professional advisers should be considered from outset. For example, as there is a fiduciary relationship between the child (as beneficiary) and the 'responsible person' (as trustee) a typical approach is for a declaration of trust to be established to formalise the implied trust that has already been created. In these circumstances, it will be appropriate for the financial planner themselves to be suitably qualified (e.g., a STEP Registered Trusts and Estate Practitioner) and for the financial planner to closely collaborate with a solicitor who is similarly qualified to assist with the legal work and create a robust outcome for the child.

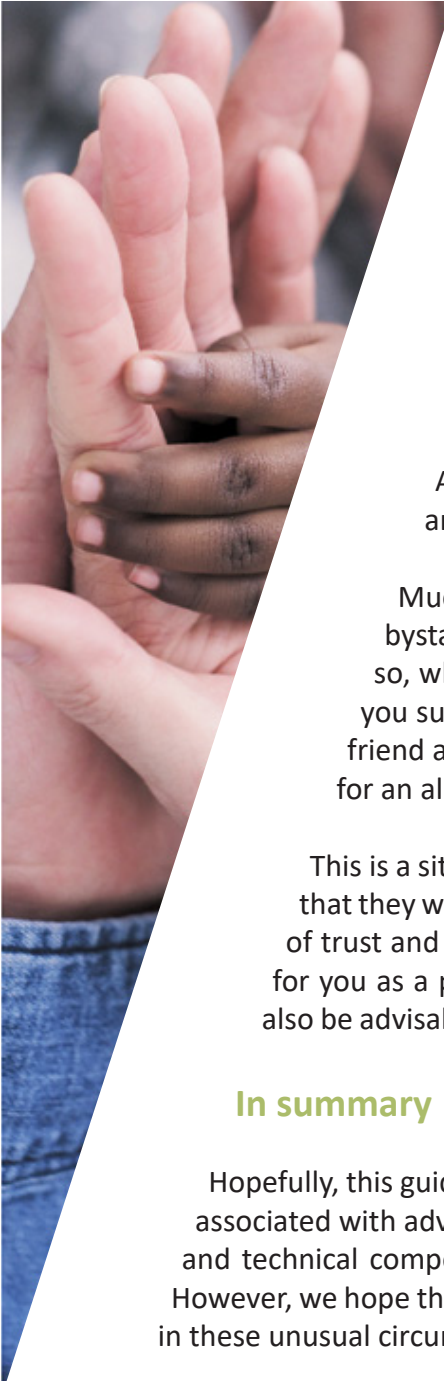
Once proper legal structures have been established, the financial planner may then be appointed by the trustee(s) to provide advice and to support the trustee in helping them meet their long-term obligations set out in law, which are referred to above.

Handling tricky situations

There are several potential difficulties that a professional adviser may face in dealing with children experiencing sudden wealth. These can range from the 'responsible parent' not taking professional advice and unwittingly breaching their legal obligations as a trustee to possibly committing fraud.

It is beyond the scope of this guide to cover every scenario. However, it is important to emphasise the need for you to have a good understanding of how to recognise issues of financial abuse and any conflicts of interest that may arise, and how to handle them professionally. There is a very useful guide that may be downloaded from The Financial Vulnerability Taskforce website, entitled, 'Financial abuse – warning signs,' https://www.fvtaskforce.com/_files/ugd/2c5374_ca30472920064d528e13d6c6495d739c.pdf.





That aside, we all like to assume that most people have a desire to do what is right and they simply need a safe pair of professional hands to ensure they fully understand their changed circumstances and what steps they need to take to ensure they fully meet their fiduciary obligations. Consequently, there is typically a need for the professional adviser to initially inform the 'responsible person' of their fiduciary obligations and to provide advice that ensures they fully comply with their statutory obligations, particularly under the Trustee Acts 1925 and 2000 referred to above.

Where there is evidence of a crime being committed (e.g., under S4 of the Fraud Act 2006) then you have a professional obligation to report the matter to the Police and allow them to investigate and to take appropriate action.

Much has been written about whether a professional adviser should remain a bystander where there are suspicions of financial wrongdoing, or whether to act, and if so, what action should be taken. However, where a crime has not been committed but you suspect there has been a breach of trust, it will be the child in adult life or litigation friend acting on their behalf that will need to consider legal recourse against the trustees for an alleged breach of trust.

This is a situation that could occur many years into the future, perhaps when the child learns that they were the recipients of a £1m jackpot prize and decides to pursue an action for breach of trust and financial redress from the trustee. Therefore, as mentioned above, it is advisable for you as a professional adviser to maintain accurate contemporaneous notes on file. It may also be advisable to notify NS&I of your concerns, so they can investigate the matter themselves.

In summary

Hopefully, this guide has provided you with valuable insight into some of the issues and practicalities associated with advising clients in this particularly vulnerable set of circumstances. Many of the skills and technical competencies that you use in your everyday professional work will, of course, apply. However, we hope that this guide has made you aware of some of the unique aspects of advising clients in these unusual circumstances.

Apart from the soft skills required in dealing with the sensitivities involved, there are some additional technical capabilities that you may wish to consider acquiring if you have not already done so. We would refer to the benefit of having achieved additional advanced qualifications on dealing with vulnerability and on the fiduciary nature of the advice needed.

We would also emphasise the need for collaboration with other suitably qualified professionals, particularly specialist solicitors in dealing with these unusual circumstances of vulnerability.

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

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