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Providing advice and services to potentially vulnerable clients.

The Financial Conduct Authority (FCA) has stated:

'A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care'.

When advising any client I need to ascertain whether they are mentally capable to understand my advice. If I am in any doubt, then I might suggest or indeed insist another person is present at any meeting. I am grateful to my own experience as a care worker and my work with Safeguarding Adult Finance officers at local authorities

When fact finding, or even during initial interaction with the client some factors might indicate vulnerability:

- Poor literacy, innumeracy, and financial capability skills.
- Physical disability.
- Severe or long-term illness.
- Mental health problems.
- Low income and/or debt.
- Caring responsibilities (including operating a power of attorney).
- Being 'older old' for example over 75, although this is not absolute (may be associated with cognitive or dexterity impairment, sensory impairments such as hearing or sight, onset of ill-health, not being comfortable with new technology).
- Being young (associated with less experience)
- Change in circumstances (e.g. Job loss, bereavement, divorce).
- Lack of english language skills.
- Non-standard requirements or credit history (e.g. Armed forces personnel returning from abroad, ex-offenders; care-home leavers, recent immigrants).

This list is not going to cover every possibility, but illustrates the kind of issue I am aware of.

Any advice given to a person which I consider vulnerable will be referred to the Compliance Monitoring Unit (CMU). If a client does not wish to have someone else present at the meetings, we might send copies of correspondence to a third party, and this might be a family member, a friend, solicitor, accountant, or social worker. If a client insists they do not want anyone else to know about their finances, I would carefully document this but if in my view they were vulnerable I would not proceed with the advice, and if I was fearful they were exposed to financial abuse or a risk of mis-selling by another adviser, I might refer the matter to social services via the local Safeguarding Adults Board.



Some clients may initially appear to be vulnerable based upon their age, physical disability, or other reason, however based upon their activities can be shown to be not vulnerable at all, e.g. Professor Stephen Hawking.

I believe advisers need to offer a choice of ways in which clients can communicate, designed in an inclusive way so that they are clear, easy to understand, jargon free, complex terms explained and meet the needs of both the client's and the adviser. This could relate to the method of communication (e.g. face-to-face, phone, post, email) or multiple short meetings but always to fit in with demands of care or medication etc.

Handling vulnerability disclosure and navigating the Data Protection Act.

The Information Commissioner's Office (ICO) has recently communicated to the FCA that, in the right circumstances, and for the right reasons, data protection should not act as a barrier to the recording of information, when this recording would lead to a fair outcome for the customer.

The Financial Ombudsman Service is clear that data protection is not a barrier to recording relevant information: 'Our opinion is that if you ask a proper question, record factual information (not your opinion) and explain to the customer why you're recording this information down (to meet their needs/provide best level of care) there's no issue with DPA'.

Investment term.

Some banks / companies do not now accept investments from clients over a certain age and some restrict how much of a client's investable wealth should be invested in funds, rather than deposit based investments, based upon their age. Senior Judge Denzil Lush of the Court of Protection provides excellent guidelines in his judgement Court Of Protection Case No. 12228697.

To demonstrate this, in my records I will document that the beneficiaries in the client's Will, have been made aware of the discussion and would be happy to receive the investment as part of their legacy.

As stated above, CMU routinely check any case where the client is over age 75 or I have indicated that they are a potentially vulnerable client.

Power of Attorney, Court of Protection Deputy or Appointee.

I will need sight of an original court sealed copy of any order. If a client loses mental capacity without having a POA document in place, then the family / local Authority would have to apply to the Court of Protection to become a Court Appointed Deputy. There can be a long delay in this application process and it can be quite costly, therefore I will discuss Lasting Power of Attorney with clients whilst they are mentally able.

John C. Carlidge.