ICAEW guidance for legal services accredited firms

Consumer vulnerability in probate and estate administration

INTRODUCTION

Purpose and context

This guidance aims to help accredited legal services firms (firms) recognise and respond to vulnerability in a way that supports effective engagement and good consumer outcomes.

Supporting vulnerable consumers is an important aspect of ethical behaviour, good client care, and meeting legal and regulatory obligations. This includes the:

- Fundamental principles in the ICAEW Code of Ethics,
- ICAEW Legal Services Regulations; and the
- regulatory objectives in the Legal Services Act 2007.

Research published by the Legal Services Board (LSB) on vulnerabilities consumers face when using legal services and the Legal Services Consumer Panel (LSCP) highlights that many consumers are more likely to experience vulnerability when accessing legal services. This is partly because legal issues often arise during stressful or significant life events, and also because legal services involve specialist knowledge, complex processes and uncertainty about outcomes.

This is particularly relevant in probate and estate administration work, as consumers are often dealing with bereavement and other significant pressures while navigating unfamiliar legal processes. Understanding and recognising vulnerability and providing appropriate support can play an important role in helping consumers engage effectively with legal services.

In practice, firms should be able to take reasonable and proportionate steps to:

- Identify where vulnerability may affect client engagement
- Adapt communication and processes where necessary
- Take reasonable steps to support clients to make informed decisions
- Monitor whether services create avoidable barriers.

UNDERSTANDING VULNERABILITY

Vulnerability is not a fixed characteristic and may affect anyone, regardless of their usual confidence, knowledge, or experience.

Vulnerability may be:

- permanent (eg, disability or long-term condition)
- temporary (eg, short-term illness or stress)
- fluctuating (varying at different stages of a matter)
- situational (triggered by a specific life event or legal issue)

Evidence from the LSB and LSCP shows that vulnerability is common in legal services and is not limited to particular groups. It can arise from personal circumstances, but also from aspects of legal service design such as complexity, poor communication, or lack of transparency.

The LSB's research identifies three broad sources of vulnerability in legal services. Understanding how these different forms of vulnerability interact is important in ensuring that probate and estate administration services are accessible, responsive, and tailored to the needs of consumers.

Situational vulnerability

In probate and estate administration, vulnerability is often situational because consumers are dealing with bereavement alongside unfamiliar legal responsibilities. Situational vulnerability arises from the circumstances that create the legal need.

For example, an executor dealing with the estate of a recently deceased family member may be coping with grief while also managing unfamiliar legal responsibilities or someone with a serious illness or other life changing event may need urgent estate planning advice.

Market-related vulnerability

Vulnerability is not solely determined by someone's personal circumstances. It can also be created or exacerbated by the way legal services are designed and delivered. For example, probate consumers may be unfamiliar with legal processes and reliant on professional support. This vulnerability may be exacerbated by financial difficulty and estate administration delays.

Consumers may also move in and out of vulnerability during the course of a matter, depending on the stage of the matter, their circumstances or the decisions required. They may also be vulnerable because they have difficulty judging the quality of the service they receive.

Personal circumstances and risk factors

The following factors and circumstances may increase the likelihood that a consumer will experience vulnerability in a legal services context:

- Bereavement
- Age
- Physical or mental health conditions
- Cognitive impairment, learning disabilities, or neurodiversity
- Relationship breakdown
- Low literacy or numeracy
- English as a second language
- Low income, financial hardship or low financial capability
- Social isolation or lack of support networks

- Caring responsibilities
- Release from prison
- Leaving care
- Digital exclusion
- Domestic abuse.

Vulnerability is often dynamic and cumulative
Consumers may experience multiple factors at once, and it is this combination that affects their ability to engage effectively. For example, a bereaved client may be experiencing financial pressures, have low confidence in legal matters and limited digital skills. It is often this combination of factors that affects a person's ability to engage effectively.

RECOGNISING VULNERABLE CONSUMERS

Recognising vulnerability early on supports better client engagement, trust, and outcomes. However, consumers may not always recognise their own vulnerability or may not wish to disclose this to firms. Encourage open dialogue with consumers and create opportunities from the outset and throughout the matter to disclose support needs, as vulnerability may emerge or change over time.

However, responsibility for identification does not rest solely with consumers. Consider asking open questions such as:

- "Is there anything that would make this process easier for you?"
- "Would you like information in a different format or more time to consider options?"

Be alert to indicators that may suggest additional support may be required. For example, this might include situations where a client:

- appears distressed, anxious, confused, or overwhelmed
- struggles to understand or retain key information
- repeatedly asks for clarification of the same points
- has difficulty making or communicating decisions
- shows signs of disengagement
- relies on a third party to communicate or make decisions on their behalf
- expresses uncertainty or worry about costs, processes, or outcomes despite explanations.

SUPPORTING VULNERABLE CONSUMERS

To support vulnerable consumers effectively, ensure your services are accessible, the information you provide is understandable and you record relevant support needs appropriately to ensure continuity.

Practical actions include:

- having policies or procedures for identifying and recording client support needs.
- providing clear escalation arrangements for complex or sensitive matters.

- checking understanding at key stages, particularly where important decisions are required or complex information is being communicated.

Where family members, carers or other third parties are involved, ensure that the client's wishes remain central, that instructions are taken appropriately, and that any risks of undue influence, financial abuse or conflicts of interest are considered where relevant. Where there are such indicators, consider whether additional safeguards or escalation to relevant bodies or authorities is required in line with internal policies or risk procedures.

Reasonable adjustments

Some consumers may be disabled within the meaning of the Equality Act 2010 and may therefore be entitled to reasonable adjustments. Firms should not wait for a client to request adjustments before considering whether they are needed. They should be considered throughout the client relationship.

Examples of adjustments may include:

- allowing additional time for decision-making
- offering alternative communication formats
- arranging meetings with trusted third parties (with client consent).

Concerns about a client's ability to provide instructions

Most vulnerable consumers will have full capacity to make decisions and give instructions. However, on occasion, firms may encounter situations where there are concerns about a client's ability to understand information, make decisions, or provide instructions depending on the circumstances.

Avoid making assumptions based on age, disability, illness, or other personal circumstances but take reasonable steps to support the client to participate in decision-making where concerns arise. You may need to consider whether specialist advice is required. Further information is available here: Mental Capacity Act: making decisions - GOV.UK.

MEASURING CONSUMER OUTCOMES

Your focus should not only be on policies and processes but on overall consumer outcomes. Monitor outcomes by reviewing complaints and client feedback to identify any potential barriers and improve service design and accessibility. For example, consider whether vulnerable consumers:

- complete matters with a clear understanding of outcomes
- experience delays, disengagement or complaints at higher rates; and
- whether adjustments improve engagement and decision-making.

RESOURCES

Support needs prompts

Vulnerability	Questions to consider
Circumstances	Is the client experiencing bereavement, illness, financial difficulties, family conflict, or another significant life event?
Understanding	Does the client appear to understand the information being provided and the decisions they need to make?
Communication	Are there any language, literacy, sensory, digital, or communication barriers?
Decision-making	Does the client need additional time, support, or explanations before making decisions?
Support networks	Is the client relying on family members, carers, or others to communicate or make decisions?
Service barriers	Could any aspect of our process, communication, or service delivery be creating unnecessary difficulty?
Adjustments	Are there any practical adjustments that would help the client engage more effectively?

Self-assessment: assess how accessible and inclusive your services are

Area	Good practice
Communication	☐ Offer non-digital options (phone, post, in-person) where appropriate ☐ Do not assume clients can use online systems confidently ☐ Use plain English and explain next steps clearly ☐ Provide written summaries of key advice and decisions ☐ Offer information in different formats ☐ Check understanding at key points ☐ Ensure websites and client communications are accessible. ☐ Clearly explain likely costs and any changes to estimates or uncertainties.
Processes	☐ Break matters into clear, manageable stages ☐ Simplify onboarding and initial information gathering ☐ Clearly explain what will happen next at each stage ☐ Use checklists, summaries, or visual aids where helpful
Third parties	☐ Ensure the client's wishes remain central when third parties are involved ☐ Be alert to risks of undue influence, financial abuse or conflicts of interest ☐ Confirm authority where someone is acting on behalf of a client

Engagement	Keep clients informed proactively, not just on request Help clients feel in control of decisions and progress Listen actively and respond with empathy Encourage questions and make it easy for clients to seek clarification Allow sufficient time for clients to make decisions Offer reasonable adjustments proactively where needed
Training	☐ Train staff to recognise indicators of vulnerability ☐ Reinforce that vulnerability can be situational and change over time ☐ Develop clear, empathetic communication skills ☐ Ensure staff know when and how to make reasonable adjustments ☐ Provide ongoing supervision and support
Systems and culture	☐ Allocate named contacts ☐ Maintain continuity where staff changes occur ☐ Have clear escalation routes for complex or sensitive matters ☐ Maintain a vulnerability policy ☐ Use complaints and feedback to improve services

Other resources

- Transparency guidance for accredited legal services firms
- FAQs: Complaints handling requirements for legal services accredited firms
- Client satisfaction: do you really know what your clients think?
- Engagement letters for accredited legal services firms
- Legal Ombudsman guidance on handling complaints
- Legal Ombudsman guide to consumer vulnerability
- Consumer vulnerability: challenges and potential solutions - GOV.UK