



# *ICAEW guide to dealing with vulnerable clients*

## **Introduction**

One of the regulatory objectives of the Legal Services Act 2007 (the Act) is that of supporting the constitutional principle of the rule of law. It is important that accredited firms and authorised individuals providing legal services address the issue of the vulnerability or potential vulnerability of clients and ensure their legal services are accessible to all. The rule of law is undermined if someone is not able to obtain legal advice because of barriers such as cost or is unable to use legal services effectively.<sup>1</sup>

The Act's regulatory objectives also include improving access to justice and protecting and promoting the interests of consumers and authorised individuals and accredited firms must also comply with the professional principles set out in the Act one of which is to act in the best interests of their clients.

## **Risk factors**

Consumers of legal services are often dealing with life-changing events. Some may also feel vulnerable and recognise they have limited knowledge. For example, writing a will, dealing with probate or getting a divorce are all important events in people's lives.<sup>2</sup> Therefore good, understandable and accessible advice can make a big difference to them.

It is possible and therefore important to reduce consumer vulnerability. In order to ensure you act in a way that is compatible with the objectives of the Act, authorised individuals and accredited firms have the responsibility to review and, where necessary, adjust their practices to ensure that vulnerable clients are able to use their legal services effectively.

The Legal Services Consumer Panel's guide – *Recognising and responding to consumer vulnerability – A guide for legal services regulators* (the guide) refers to the following risk factors which expand on the list contained in the British Standard on Inclusive Service Provision (BS18477) (the British Standard). The guide refers to 'risk factors' which are defined in the British Standard as circumstances that could contribute towards making a consumer vulnerable. The presence of one or more of these risk factors could increase the likelihood of a consumer being at a disadvantage or suffering loss or detriment during a transaction or communication with an organisation:

Individual risk factors	
Age	Low income
Inexperience	Low literacy
Learning disabilities	Cultural barriers
Physical disabilities	Mental health issues
English as a second language	Health problems
Location	Being a carer
Lack of internet access	Leaving care
Lone parent	Bereavement
Loss of income	Relationship breakdown
Living alone	Release from prison

The guide states that ‘some people’s ability to participate effectively in the legal services market may be affected by certain individual characteristics. These can be short-term or long-term, might fluctuate over time, and may not be obvious at first glance. It is also important to recognise that not all the risk factors will be relevant all the time.’ The guide gives age as an example stating that ‘older people may typically be described as more likely to be at a disadvantage. In many situations this may be true. However, in others, such as having the time to search for a good provider, this might not be the case at all. Older people can be well educated, savvy and have enough time to spend on the search. On the other hand a working age consumer, employed full time may well be more vulnerable to making a poor choice as they may be extremely time poor.’

## Costs

In relation to costs, the guide points out that some consumers may worry how long things will take and that the cost of the legal service could spiral out of control. People may therefore disengage from obtaining legal advice entirely as their fear over the final cost may lead to inertia in dealing with the legal need which may mean they do not access advice even if they need it.

## Good practice

The guide identifies the following areas of good practice:

- Ensuring easy access to buildings – for example, a problem that deaf clients can encounter is their inability to hear the entry phone.<sup>3</sup>
- Consider the communication needs of certain vulnerable clients as such groups may need clearer more easily understandable advice.
- Being aware that people with a learning difficulty might find everyday tasks difficult such as filling in forms, concentrating for long periods and remembering or explaining things. Legal service providers can take simple steps such as allowing extra time for meetings, finding a quiet space to meet without noise or distractions, and explaining things using clear and simple language.<sup>4</sup>
- Being aware that short-term characteristics causing vulnerability could be things related to sudden changes in circumstances like loss of employment or income, bereavement, relationship breakdown, or caring responsibilities. These situations are often strongly linked to the legal services market. It is therefore important to help consumers overcome a sense of powerlessness and access legal services with confidence.<sup>5</sup>

The guide recommends that in order to recognise the needs of vulnerable consumers when providing services directly to members of the public, accredited firms should consider the risk factors outlined above and also ask themselves:

- Have staff been trained to recognise and respond to the needs of vulnerable consumers?
- Have staff been trained to recognise and respond when carers want to deal with a problem in place of the vulnerable individual?
- Are staff aware of legal requirement such as the Data Protection legislation when processing and recording information about individuals, and are they able to comply with those arrangements?
- Are websites and other consumer facing communications accessible?
- Are standard communications sent to consumers appropriate?
- Are feedback mechanisms in place to check whether the needs of vulnerable consumers are being met?
- Is there a process for assessing how effectively the needs of vulnerable consumers are addressed when providing services to the public?

<sup>1</sup> Legal Services Consumer Panel – *Recognising and responding to consumer vulnerability – A guide for legal services regulators*

<sup>2</sup> Vanilla Research for the Legal Services Consumer Panel, *Risk and the Role of Regulation*, January 2013

<sup>3</sup> Deaf Studies Trust, *Legal Choices, Silent Process*, March 2012

<sup>4</sup> Legal Services Consumer Panel Fact Sheet, *Consumers with Learning Disabilities*, July 2013

<sup>5</sup> Legal Services Consumer Panel – *Recognising and responding to consumer vulnerability – A guide for legal services regulators*