

Practice Note on Meeting the Needs of Vulnerable Clients



Introduction

1. This Practice Note is designed to assist OISC authorised advisers to identify how a client might be vulnerable and to assist advisers in meeting the needs of such clients.
2. The Code of Standards requires that all advisers act in their clients best interests. This includes the requirement that advisers take into account that clients may be vulnerable for a variety of reasons. That vulnerability should not prejudice the client's position or place them at risk.

Identifying a Vulnerable Client

3. Registered organisations and authorised advisers must be constantly engaged in assessing and responding to any factors which might identify a client as being vulnerable. The onus here is on the adviser and not the client. Whilst some factors might be obvious, such as the client not being able to speak the same language as the adviser, others will be less so. Advisers should not assume that their client will always tell them of any difficulties that they may have.
4. Such characteristics might include, but are not necessarily limited to those who:
 - have mental health conditions;
 - have experienced domestic violence or abuse;
 - are victims of torture;
 - are victims of trafficking;
 - are minors;
 - are in detention;
 - are unable to communicate with the adviser due to a language barrier;
 - have physical disabilities; or
 - have learning disabilities.

Enabling a Vulnerable Client to Access the Services of the Registered Organisation

5. It is important for authorised advisers to anticipate the possibility that any client may be vulnerable and to ensure tailored reasonable adjustments are in place to allow the client to access the services provided by the organisation. This will allow the registered organisation to be able to properly take instructions from a vulnerable client, and to allow the client to receive appropriate advice and services.
6. Such adjustments might include, but are not necessarily limited to:
 - scheduling extra time to meet with clients who may have difficulty in understanding

the advice given, or who may have difficulty in explaining their instructions due to them communicating through a third party, or due to a speech impairment, for example;

- using terminology that the client will understand and avoiding the use of legal jargon wherever possible;
 - being able to provide information, such as advice in a client care letter, in large print format or Braille;
 - being able to contact and provide an interpreter, sign language interpreter, or deaf-blind interpreter where required;
 - being able, and willing, to enlist the help of an appropriate third party;
 - not requesting clients to communicate to the organisation in writing where it is difficult for them to do so; and
 - being aware of the most appropriate form of communicating advice where the client is illiterate.
7. It is important therefore for registered organisations to consider different aspects of the services they offer. This might include:
- considering whether the office premises are suitable for meeting with clients who are vulnerable for a variety of reasons. This might include ensuring that clients with mobility difficulties are able to access the building, and whether there is enough space in the meeting room to accommodate clients who bring a third party with them;
 - providing training for staff who are likely to come into contact with vulnerable clients. This particularly includes authorised advisers, but can include all staff; and
 - offering flexible hours for appointment times and locations.

Factors to Consider when Dealing with a Vulnerable Client

8. When an adviser identifies that the client may be vulnerable, they can then begin to help the client to be able to instruct the organisation and to overcome any disadvantage they may be facing. The adviser should consider the issues in paragraph 9 below when representing a potentially vulnerable client.

Interviewing the client and communicating instructions

9. When first meeting with a client, and in subsequent meetings, advisers must be tactful when trying to identify the needs of the client. This will allow the adviser to find out if the client:

- has any requirements to access the services, for example, to overcome hearing or sight difficulties;
 - has any requirements in terms of how information is provided to them, such as documents written in clear and plain language or in large font; and
 - fully understands and can act on advice provided, or whether they may need support to do this, such as from an interpreter, friend or responsible adult.
10. Code 10 says that registered organisations and authorised advisers must not take advantage of a client's or prospective client's vulnerability. The Commissioner would view it as a serious breach of the Code of Standards if an authorised adviser did so.
 11. Registered organisations and authorised advisers are in a position of trust. They should not seek to take advantage of that position and should prevent others from doing so.
 12. For example, an authorised adviser must not accept instructions that they suspect have been given by a client under duress or undue influence. In such circumstances, it may be necessary to arrange to take instructions from the client independently to avoid pressure being placed upon them by third parties. Such a course of action may be appropriate where a client is party to a suspected proposed or actual forced marriage.
 13. When dealing with vulnerable clients, authorised advisers must consider any potential or real conflict of interest, not just regarding acting for the client but in relation to who may attend the meeting with the client.

Appropriate advice following instructions

14. There may be circumstances where, following instructions, the authorised adviser believes that the client is vulnerable in some way and gives consideration to referral to a government agency. However, discussions with the client may indicate that they are supported by family, friends, or a suitable third party and referral is not necessary. For example if a client has language difficulties but the client and adviser are happy that a suitable interpreter can assist with the case, then the client can proceed with instructions.
15. Where a registered organisation is able to continue to act for a client without making a referral to an appropriate body, it should record in writing on the client's file the reasons why a referral is not appropriate and ensure that this is explained clearly to the client, in writing.
16. However, there may be instances where the registered organisation will have an obligation to refer the client to an appropriate government agency, for example, where the client is a potential victim of trafficking. Registered organisations can see below for

relevant bodies to contact when dealing with a vulnerable client:

- **victims of human trafficking:**

The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring that such individuals receive appropriate support through one of the two competent authorities in the UK; the Modern Slavery Human Trafficking unit (MSHTU) or the Home Office Immigration and Visas (UKVI).

Where a registered organisation has reasons to suspect that a client may be a victim of human trafficking, the first step is to refer the client to a First Responder. A list of these can be found on the National Crime Agency website.

- **victims of torture**

Freedom from Torture: <https://www.freedomfromtorture.org/make-a-referral>

Helen Bamber Foundation: <http://www.helenbamber.org/referrals/>

- **those who have experienced domestic violence**

There are a variety of different bodies to which you can refer someone who has experienced domestic violence including:

Refuge: <http://www.refuge.org.uk/what-we-do/our-services/helpline/>

Womens Aid : <https://www.womensaid.org.uk/about-us/>

Mens Advice Line: <http://www.mensadvice.org.uk/>

- **unaccompanied minors**

If the client makes an authorised adviser aware, or the adviser has reason to suspect that the client is a minor, the adviser should discuss these welfare needs with the client and to refer them to an appropriate body. This might include the authorised adviser contacting the social services department of the local authority for guidance and also to ascertain if there are any other support groups suitable for the client in the local area.

December 2016