

This guide has been developed to help promote inclusion and accessibility of legal services. It includes information to assist practices in identifying consumers who may be vulnerable or where circumstances exist which may give rise to risks, and highlights good practice, case studies and links to other resources to support practices in delivering services that are inclusive and meet the needs of vulnerable clients. This guide should be read with the CLC Equality Code and Guidance.

Why focus on consumer vulnerability

We know that many consumers in need of conveyancing and probate services are inherently vulnerable because of the situation or circumstances which prompts their legal need (i.e. 'situational vulnerability'). For example, a death or divorce which necessitates the urgent sale of a home, or a diagnosis of end-stage cancer which prompts someone to want to write a will.

Consumers seeking legal services can also feel disadvantaged or intimidated by the perceived power and knowledge imbalance between themselves and legal professionals. For some consumers, there may further factors which can exacerbate the imbalance and further impact how consumers feel, for example low literacy, language barriers or other communication difficulties.

A client's vulnerability and their emotional state when engaging with legal professionals can impact them in different ways including anxiety and stress, difficulty understanding complex legal issues, an inability to make decisions, execute requests or complete legal forms.

Particularly for vulnerable consumers, how well they rate their experience of engaging with legal professionals is often impacted by whether the professional recognises their vulnerability, how effectively they communicate with the person and how they respond to factors such as their client's emotional state or disability, or other personal circumstances etc.

When and how to use this guide

Legal services should be accessible and inclusive to everyone and to ensure that this is the case, at times it will be necessary for practices to identify, understand and respond to broader factors that may exist in relation to some clients.

Early identification of any broader factors which exist in addition to a client's direct legal needs will not only ensure practices meet their Equality obligations but also makes good business sense. Being responsive to the needs of clients, particularly vulnerable clients:

- builds trust and is shown to result in more positive client experiences and better outcomes
- can reduce complaints and enhance your and your firm's reputation
- will help to mitigate the risk of claims against PII
- makes your services more accessible and inclusive
- means staff will feel confident in their engagement with clients.

What do we mean by vulnerability

The British Standard on Inclusive Service Provision defines a range of circumstances (risk factors) that could contribute towards making a client vulnerable; these include individual risk factors, situational and market risk factors (see the Table below for examples of these factors).

Every client has the potential to be vulnerable at any stage of life and in a variety of circumstances, and we know that conveyancing and probate services are often required by clients who are situationally vulnerable. The existence of one or more of risk factors may increase the likelihood of a client being vulnerable, at a disadvantage or suffering loss or detriment when receiving legal services. It is therefore important that practices identify any risk factors at an early stage (ideally during client on-boarding) and respond appropriately.

Risk factors can be long-term or permanent (e.g. physical disabilities or cultural barriers) or temporary or short term (e.g. loss of employment or short-term health problems) and may fluctuate or change over time (e.g. transitory situations such as episodic mental health problems, relationship breakdown or caring responsibilities for children or elderly relatives).

It is important to bear in mind that even if risk factors are identified, vulnerability is considered by many as stigmatising or detrimental, meaning some may be reluctant to recognise or disclose their vulnerability. It is therefore important that discussions around vulnerability and what practices can do to provide an accessible and inclusive service that meets any identified needs are managed sensitively, and in collaboration with clients.

What should practices do when risk factors or potential risk factors have been identified

When actual or potential risk factors are identified, practices should engage with clients to understand more about their personal circumstances, whether the factors identified give rise to any practical needs and if so, how those are best met.

Depending on the client's circumstances, practices may need to adjust the way they would usually do things and tailor service delivery accordingly to make services accessible and inclusive, or to mitigate any risks. Adjustments could be as simple as offering clients multiple channels of communication or providing information verbally rather than by email. However, the important point is that adjustments should address the client's needs and support them to understand and act on your advice, or give clear instructions.

Good practice when providing legal services to vulnerable clients

1. As early as possible in the client journey, ideally during on-boarding, identify any relevant factors including known or potential risk factors. It is good practice to do this in consultation with the client.
2. Engage openly and sensitively with clients about their circumstances or needs, if necessary, explain why identified risk factors may make them vulnerable and explore whether these give rise to any needs (e.g. a need to change when or how you communicate, or facilitating face to face on-boarding rather than online).
3. Using lay language, explain options for tailoring services to meet the client's needs. Be mindful of the possibility that procedures in themselves may create or exacerbate a client's vulnerability (e.g. a non-English speaking client with low literacy may not be able to complete electronic identity checks without support from the practice).
4. Where necessary, seek support and draw on the expertise of others (e.g. from charities, support services or specialist organisations working with particular groups).
5. Review and if necessary, reassess risk factors during the lifetime of a matter and check-in with your client regularly to ensure you are meeting their needs. If necessary, make further adjustments or accommodation.
6. Ensure ongoing communication with clients throughout the process using lay language and accessible means of communication. Importantly, ask your client for feedback and use this feedback to help make improvements for them and for other clients in future.

Individual & Situational Risk Factors	External Risk Factors
<p>Age Low Income Inexperience or low literacy Learning disabilities Cultural barriers Physical disabilities (including visual or auditory impairments) Mental health English as a second language Poor health or health diagnosis Being a carer or single parent/guardian Leaving care Bereavement Loss of income Relationship breakdown Living alone Release from prison Lack of internet access or digital literacy</p>	<p>Market practices and access: do clients face any difficulties or barriers in trying to access probate or conveyancing services at the point of need.</p> <p>Legislative or policy change: does legislative or policy change impact clients; do clients understand what such change means for them. E.g. changes to SDLT and how that might impact them, the timing of their transaction or that of others in their chain.</p> <p>Quality: is there any risk that the quality of services provided to clients could vary depending on which practice or which lawyer provides the service to them.</p> <p>Choice: do clients have a genuine choice in which lawyer they instruct and in shaping how legal services are delivered to them? E.g. offering hearing impaired clients the choice to work a lawyer who has experience working with other hearing impaired clients.</p> <p>Information asymmetry: do clients have the right information to identify and understand their legal needs, do they have information to help them decide what sort of legal service is right for them, is information provided to clients in a manner that is understandable to them (lay explanations of legal terms), are clients provided with information about price and do clients understand what services they will get for that price?</p> <p>Redress: is there access to redress and do clients know how to make a complaint. E.g. is the practice's complaints process accessible to every client and are clients signposted to the Legal Ombudsman?</p>

This guide is based on the Legal Services Board Consumer Panel (LSCP) Guide to Consumer Vulnerability which incorporates the British Standard on Inclusive Service Provision (BS18477).

Useful resources for practices

[Inclusive language: words to use and avoid when communicating about disability](#)

[Downloads | Lifetime Lawyers](#) (offers resources for lawyers (membership required) who are advising vulnerable clients, as well as resources for clients who may be vulnerable)

[FCA Guidance on the fair treatment of vulnerable customers](#)

[A guide for advice-workers](#)

[Office of the Public Guardian](#)

[Office of The Public Guardian Safeguarding Policy - protecting vulnerable adults](#)

[Age UK information guides and factsheets](#)

<https://www.carersuk.org/>

[Reasonable Adjustments for Service Users](#)

[EHRC Code of practice for service providers](#)

[Mencap Resources](#)

The following case studies illustrate risk factors arising in different scenarios and the sorts of things practices can do to mitigate the risks and make their services more accessible and responsible to their client's needs:

Case Study 1: Potential risk factor - English as a second language

A non-English speaking couple instructs a conveyancing practice to deal with the purchase of their first (leasehold) flat in the UK. The flat is in a block higher than 18 meters which is yet to be made safe after fire safety surveys identified that the building is clad with Aluminium Composite Material.

The practice manager identifies the language barrier as a risk; it presents a communication difficulty and could impact on the couple's understanding the fire safety risks, the complexities of leasehold, and the protections and options for remediation under the Building Safety Act etc.

For the first client meeting, the practice manager arranges a video translation service to facilitate the practice's onboarding process and AML checks etc. During the discussion the practice manager says that the video translation service will be available for all calls with the couple and that following every call, a transcript will be shared with the couple. The couple has access to an independent translation service which is equipped to translate legal documents. Having transcripts available to them means the couple can review what was discussed on the call, ask further questions if they need clarification from the practice, and be able to provide clear instructions with full understanding of their legal position.

It is also agreed that the practice manager will be the couple's nominated point of contact, saving them the difficulty of trying to communicate with anyone else in the practice.

Putting these arrangements in place helps mitigate risks both for the couple and for the practice which exist due to the language barrier and gives the practice assurance that they are fully discharging their legal and regulatory obligations in the circumstances.

Case Study 2: Potential risk factors – age, bereavement and living alone

87-year old Mrs P is recently widowed. She is a longstanding client of your probate practice and contacts you asking to meet to discuss changes to her Will. Mrs P arrives for the consultation with her two neighbours. Out of earshot of Mrs P, one of the neighbours tells you that they think she has dementia and is very confused and that they are having to help her with everything because her sons seem disinterested.

During the consultation, Mrs P is unusually subdued. Her neighbours do all the talking explaining that Mrs P would like to change her will because her sons are doing nothing to support their mother. The changes would result in the neighbours receiving almost all her savings, a detached house and a holiday apartment.

During the consultation you endeavour to ask Mrs P several questions to understand her reasons for wanting to change her will and establish her capacity to instruct you, but her neighbours interject each time.

Once they have left, you consider the situation identifying that Mrs P's age, her recent bereavement and the fact that she lives alone are all factors which potentially put her at risk of financial loss and undue influence from her neighbours.

To mitigate the risks, you take several steps including a further phone call with Mrs P during which you explain to her your concerns about her neighbours and why you feel she may be at risk of undue influence to alter her Will. When

you call Mrs P, you ask her to confirm that her discussion with you is not being overheard by anyone. You arrange to meet again with Mrs P without her neighbours present and ask her to agree to having one of your colleagues present to assess her capacity to instruct you and make changes to her will, should that remain her intention.

When Mrs P next attends your offices, you and your colleague explore her reasons for wanting to change her will, you discuss again the risk factors that have been identified and the concerns you have about her neighbours possibly exerting undue influence over her. You also provide Mrs P with a Factsheet from a charity which explains the risk of financial abuse and undue influence that older people may face and what can be done to avoid those risks.

You explain to Mrs P that, although your colleague's assessment suggests she has capacity to make decisions about her will, given the circumstances, you would like her to reflect on her wishes and consider discussing with her sons before returning for a further consultation. You clearly document your concerns, the risks identified and the steps you have taken to mitigate the risks and make a detailed note of the discussion with Mrs P's.

Case Study 3: Potential risk factor – visual impairment

You have a client who is blind. In advance of his first consultation, you review your practice's accessibility procedures. You identify the fact that there are practical and operational barriers to accessing your services for this and other visually impaired clients.

The practice's offices are on the 3rd floor of a building that has no lifts, and current procedures require identity and AML checks to be done in person at the practice, with clients providing hard copies of all relevant documentation. Operationally, the practice's procedures present an impediment for this client because all the forms he must complete are paper based.

You therefore arrange a call with your client to understand his accessibility needs and discuss how the practice can tailor services to meet his needs. He explains that he can do most things like completing forms and reading relevant information online using his Screen Reading software.

You therefore consult with the RNIB to help convert the relevant forms to electronic format that is compatible with your client's Screen Reader, enabling you him to complete and submit them online.

The practice requires clients to attend in person for identity and AML checks and to bring hardcopies of relevant documents with them. Your practice has been considering moving to an online platform that will enable the identity and AML process to be done digitally but, with the prospect of a new instruction from this visually impaired client, the practice decides to implement the digital system they have been considering.

The new digital identity and AML checking platform enables the practice and clients to use a secure portal which is compatible with accessibility software to conduct the necessary checks and provide assurance regarding source of funds and source of wealth.