MERLIN WEALTH PLANNING

Merlin Wealth Planning Ltd's Vulnerable Person' Policy (V06.21)	
Review Date	**July 2024**
Reviewed By	**Compliance Function**
Version	**(V07.24)**
Changes made and by Whom	**Consumer Duty update Ian Ashleigh**

AIM OF THIS POLICY

The aim of this policy is to outline the practice and procedures for staff to contribute to the prevention of detriment to clients who find themselves in vulnerable circumstances or display characteristics of vulnerability.

The policy covers all staff within the firm, and in particular, those operating in areas that deal directly with clients.

Much of the consumer protection legislation is underpinned by the notion of an 'average' or 'typical' consumer, and what that type of consumer might expect, understand, or how they might behave. However, consumers in vulnerable circumstances may be significantly less able to represent their own interests, and more likely to suffer harm that the average consumer. Merlin Wealth Planning Ltd (Merlin) will act to ensure these consumers are adequately protected.

DEFINITION OF VULNERABILITY

The Financial Conduct Authority (FCA) has developed the following definition to guide work in this area:

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

Vulnerability occurs in a variety of ways which may be permanent, temporary, or even sporadic, dependent on its nature. In many circumstances the individual may not recognise themselves as 'vulnerable'.

The FCA identifies four key drivers of vulnerability:

- **Health**: Health conditions or illnesses that affect the ability to carry out day-to-day tasks
- **Life events**: Major life events such as bereavement, job loss or relationship breakdown
- **Resilience**: Low ability to withstand emotional or financial shocks
- **Capability**: Low knowledge of financial matters or low confidence in managing money (financial capability). Low capability in other relevant areas such as literacy or digital skills

We recognise that vulnerability may not be simply due to the situation of the consumer but caused or aggravated by the actions or processes of the firms they may deal with.

We recognise that clients who might be considered as being in vulnerable circumstances could include clients with:

1. mental capacity deficiencies (including language or communication), including mental illness and dementia;
2. stress or subject to financial shock of all types, such as employment concerns, bereavement (or potential bereavement), marital or relationship difficulties;

3. a physical impairment that may not allow them to engage with automated, or other standard process requirements (such as photographic ID, phone keypad recognition, or internet applications);
4. severe and long-term illness (both life-limiting and where recovery is expected);
5. little or no financial experience or have no access to mainstream financial services;
6. low income;
7. an existing distressed financial situation;
8. responsibilities for others, such as 'carers' or acting as power of attorney;
9. no access to the internet or other digital media;
10. poor language skills.

As a firm we must remain mindful of the potential for enquiry by these clients and the potential for any change of circumstance in respect of existing clients.

IDENTIFICATION OF CLIENTS IN VULNERABLE CIRCUMSTANCES

Vulnerability is broad and may occur at any time. It will usually involve the interplay of characteristics of the individual, their circumstances, and static or transitory status. There are many drivers of vulnerability which can include: bereavement, deafness, blindness, the aging process (dementia and other cognitive conditions) a windfall, financial loss or debt, mental health, divorce, births, mental capacity. This is not an exhaustive list and a big driver of vulnerability during the COVID pandemic was loneliness during the various lockdowns.

Where we become aware that a client has characteristics of vulnerability, we will offer appropriate support to ensure we do not cause foreseeable harm. The following is not an exhaustive list:

1. mental capacity deficiencies – mental capacity issues may be permanent or may be gradual. If a client displays a mental capacity deficiency, we will offer support through having a trusted relative attend meetings.
2. stress or financial shock – may be identifiable (facial expression, posture, or stance etc.), but otherwise may be revealed through conversation before and during meetings. A financial shock could include a windfall giving the client more resources than they are used to dealing with.
3. physical impairment – may be identified visually, or through interview. Physical impairments may include deafness or blindness, consider, for example if we need to provide documents in a larger font or even on A3 paper.
4. severe and long-term illness – may be identifiable through conversations or through meetings. A severe or long-term illness may not necessarily mean the client is vulnerable after the initial shock of the diagnosis. Conversations with the client will indicate how they are coping with the impact of the illness.

5. financial inexperience – may be identified through the factfind process and their credit profile. We need to be careful to explain all technical terms and consider providing a 'jargon buster' that gives the client a written point of reference for after our meetings.

6. low income – may be identified through interview and credit profile. We may need to treat low-income clients in the same way as clients with financial inexperience. Suggest they focus on building cash reserves before investing.

7. in financial distress – may be identified through meeting and credit profile. We may want to refer clients in financial distress to the Citizens Advice Bureau. We should be looking to suggest clients repay debt and build cash reserves before investing.

8. carers – may be identified through meetings or conversations. Carers may be the key contact point for working with vulnerable clients. We should be mindful that the potential stresses of caring may cause the carer to have vulnerabilities themselves.

9. digital exclusion – identifiable through meetings or via routes of engagement (or non-engagement) with the firm. Some clients may not have access to digital means of communication, and we need to find other ways to give them access to financial services.

10. poor language skills – may be audible or identifiable via routes of engagement with firm. Some of our client may have English as a second language and may not be as fluent as others. Some of our clients may have poor language skills due to mental capacity. We should be careful to ensure that these clients fully understand our products and services and offer that a trusted relative, friend, or carer accompanies the client to meetings.

The nature of the need area to be addressed may also indicate vulnerability. For example, people wanting to arrange:

- An equity release product
- Right-to-buy
- A first-time buyer of mortgages
- Debt consolidation or further credit
- Debt management
- The provision of long-term care
- Excessive monetary withdrawals from investments

These could be some indicators of vulnerability, but this is not designed as an exhaustive list. In the circumstances that apply to our firm we will apply additional safeguards, as appropriate, to ensure fair treatment and good customer outcomes. This will apply to each individual but where we identify groups of the same people we may established a process aligned to the needs and circumstances of that group.

ASSESSMENT AND MANAGEMENT OF RISK

Just because somebody is vulnerable does not automatically mean that they are unsuitable for the advice and services that Merlin provides. As soon we think we may be engaging with a vulnerable client we will make a record of this and ensure we adhere to this policy. When speaking to the vulnerable consumer we will**:**

- Provide additional opportunities for the customer to ask questions about the information we have provided.
- Continuously seek confirmation that they have understood the information that has been provided.
- Ask if there is anybody with them who is able to assist them, and offer them the opportunity to have a family member or friend present during the conversation

We will not discriminate against clients in vulnerable circumstances. Where the vulnerability is mutually recognised we will only adjust our fees where our services require extra resource to treat the client fairly. Any additional costs will not seek to profiteer from the situation and will be fully disclosed to the client before any subsequent work is carried out.

Where we feel we do not have the expertise to deal with the client due to their personal situation we will make every attempt to refer them to another firm or third party for the appropriate level of support to be provided.

Understanding the benefits to our firm

Supporting clients who are in a vulnerable position is not just a regulatory but is also a moral responsibility. We intend to fulfil our duties in this area and as a firm we see the benefits in adopting the right approach. These include:

- Reduction in complaints
- Delivering good outcomes for all clients
- Engagement from a particular client set
- Reputational benefits
- Regulatory dividend

We will review our practices periodically for consistency and to determine adherence to the stated policy.

The following table illustrates mitigating actions for clients with mental capacity deficiencies (for the avoidance of confusion "competent person" means an individual without the limitation presented by the client):

Capacity Issue	Risk	Mitigation
Language	Client cannot fully understand important features of their agreement with us, their recommendation or the consequences of that recommendation	Client to instruct a competent person to act as interpreter.
Other communication problem created by disability	As above	Client to instruct a competent person to act as interpreter. Client to nominate a reasonable communication medium suitable for their disability.
Mental incapacity (temporary) e.g. intoxication, mental illness	As above plus the potential for reckless disregard for consequence	Client to instruct a competent person to communicate on their behalf. Legal agreement must be reached outside of any period of incapacity. Client should be encouraged to seek independent professional advice. If legal agreement cannot be reached outside of any incapacity, client must provide "Power of Attorney" for a competent individual to act on their behalf.
Mental incapacity (Permanent)	As above plus the possibility that any agreement might be unenforceable as a result of known incapacity.	Client must provide "Power of Attorney" to a competent individual to act on their behalf.

RIGHTS & RESPONSIBILITIES

Our responsibilities:

- To abide by the FCA's principles and rules in this area

  FCA Principles for Business 2,3,6,7 & 9;

  TCF Outcomes 1,2 & 4;

  Conduct of Business Rules;

  DEPP 6.5A.2 (calculation of enforcement fines);

  Senior Manager Conduct Rules;

Individual Conduct Rules.

- To ensure staff are aware of this policy and are adequately trained to identify and deal with clients who are or may appear "vulnerable"
- To support individuals in relation to identified risk and vulnerability
- To provide means of reporting any instance where they believe that a client might be in vulnerable circumstances

Responsibilities of our employees:

- To be familiar with this policy and procedures, and be able to recognise where additional support or signposting to other agencies may be required
- To take appropriate action in line with this policy
- To report any instance where they believe that a client might be in a vulnerable circumstance, and act accordingly in line with the policy

Identification of and treatment of vulnerable clients – Client Evaluation

The table below sets out our approach to dealing with all individuals and help us to determine their circumstances and if they are in a permanent or temporary vulnerable situation. These guidelines will be distributed to all staff, and each will be trained on the areas relevant to their role.

Client evaluation

All clients will be assessed, as a minimum, against the following criteria. This is in addition to any processes we have in place for different vulnerability groups;

OUR CLIENTS' BEST INTERESTS	Assess the client against our vulnerability policy
	Actively seek to encourage disclosure about potential vulnerability
	Ensure the approach taken is accurately reflected in the business records
	Consider whether to discuss the approach with colleagues/other professionals
	Ensure the know your client information gathers sufficient details to support the advice and uses additional questioning where appropriate
	Consider any unusual aspects – e.g. if someone else is accompanying a client, is there the potential for undue influence from that person
	Understand who the client is, and the extent of the instructions needed to act on e.g. Power of Attorney
	Consider whether the client is acting differently/showing signs of a change of character
	Set a list of questions to check client memory recollection, where appropriate
	When working with more than one person, is there the potential for any conflict of interest or undue influence
	Confirm any change in circumstances which might lead to vulnerability e.g. taking on caring responsibilities
	Establish whether the client's stated needs and objectives align with their current circumstances
	Consider whether the standard advice process or specific vulnerability group process is appropriate to the client's needs
	Identify products/solutions that are clear and easy to understand for those showing signs of vulnerability
	Consider whether there is a need to adjust the delivery and format of communications e.g. providing a report in large print
	Explain all matters with no or limited use of jargon
	Try to accommodate flexibility around appointment locations and times e.g. visiting the client at their home at their preferred time of the day
	Try to determine if the duration of the meeting will need extending to accommodate more detailed explanations and delivery of information
	Determine if the complexity of the advice will require delivery over a greater number of meetings
	Considered the accessibility of office visits for those with health conditions/disabilities

Summary

The approach you take will vary from individual to individual and the below list is not exhaustive:

- Do not make assumptions.
- In some circumstances, you may decide it would be prudent for clients whose vulnerability is temporary, for example caused by a life event, to have extra time, or have further appointments, before they decide to go ahead with any recommendation.

This might be because the client lacks the capability to decide at that point in time or is faced with an unexpected or complex decision.

- Do not use financial jargon, either written or verbal, and frequently check understanding.
- Offer accompaniment for the client if they feel additional support would be helpful with their vulnerability.
- Consider the communication channels you are using. For example, if the client is deaf, telephone calls may not be appropriate, depending on their hearing levels.
- Use resources from specialist organisations and/or put the client in touch with relevant third-party organisations who may be able to assist and can offer support on how the needs of vulnerable clients can be met.
- If you identify a client with the characteristics of vulnerability, you must document the characteristics in your client file, along with the steps you have taken to assist and support the client.

Appendix: Vulnerability Disclosure

TEXAS, IDEA, CARERS, and BRUCE

These are practical tools to assist you in dealing with conversations around vulnerability.

TEXAS drill

The TEXAS protocol can help all frontline staff manage disclosures effectively which is a key part of creating an organisation where customers are confident to disclose. It can be used as a training tool for managing initial conversations.

T – thank the customer

E – explain how their information will be used

X – explicit consent to use their data

A – ask three key questions

1. does your mental health problem make it difficult for you to repay your finance, if so, how?
2. does your mental health problem affect your ability to deal with or communicate with us, if so, how?
3. does anyone need to help you manage your finances such as a carer or relative, if so, how?

S – signpost to internal or external help where this is appropriate

IDEA

The IDEA protocol can be used by specialist staff to help structure and manage more in-depth conversations, ask the right questions, and identify relevant information.

Impact – staff should ask what it is that the mental health problem either stops the customer doing (in relation to their financial situation), or what it makes harder for them to. This will help provide insight into both the severity of the condition, and its consequences.

Duration – staff should discuss how long the customer has been living with the reported mental health problem, as the duration of different conditions will vary. This can inform decisions about the amount of time someone needs to be given to retake control of their situation.

Episodes – some people will experience more than one episode of poor mental health in their lives. You will need to take such a fluctuating condition into consideration and assess what impact this has in a customer's decision making.

Assistance – you should consider whether the customer has been able to get any care, help, support, or treatment for their condition. This may help in relation to collecting medical evidence.

Throughout, creditors should keep in mind not only the commercial outcomes they wish to achieve, but also the steps that would bring about better customer outcomes for their health and wellbeing.

CARERS

This drill was developed to assist with handing disclosures from carers to ensure that helpful information is not due to staff concerns about data protection.

Check for authority – if the carer can supply evidence of their authority to act on the customer's behalf, a more detailed discussion can be arranged once this is received.

If the carer cannot supply this evidence, or needs to share information about the customer now, the following steps should be taken.

Avoid discussing any account details, making sure to explain to the carer why this is not possible.

Reassure the carer that their concerns can be recorded as observations on the customer's account, and these can be considered.

Explain to the carer that their observations will need to be shared with the customer, colleagues, and potentially any clients. Carers will need to give their consent for this.

Record the carer's observations, listening carefully and ensuring:

- you have checked why the customer is unable to speak directly with the creditor about these issues (is there, for example, a communication issue?)
- you are clear how the customer's mental health problem affects their ability to repay
- you have confirmed with the carer what information has been recorded, and how long these unverified observations will be held on file while they are being checked

Summarise the available next steps, which might include:

- you (or a colleague) speaking with the customer concerned to establish if there is a problem, including checking the unverified observations made by the carer
- the carer discussing with the customer a potential mandate to act on their behalf
- the carer and customer working together to collect supporting medical evidence.

Vulnerability can be sporadic, temporary, or permanent, there are some signs to look for, meet **BRUCE**:

Behaviour: has their behaviour changed in a way that concerns you.

Remembering: does your client not remember things you expected them to.

Understanding: are there signs that they do not understand what you are telling them in a way they once did.

Communication: how is your client communicating with you, are they able to.

Evaluation: can your client process the information you are giving them in a way you are used to.

Signs can be verbally explicit, or verbally implicit, there may be non-verbal signs or behavioural indicators, stopping regular premiums or unexpected withdrawals, not returning phone calls or emails