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Working with vulnerable clients

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In this session we will be looking at:

- Why it is important to provide an inclusive service
- Different vulnerability situations
- Creating a psychologically informed environment for clients in vulnerable situations
- Taking vulnerabilities into account in design stage
- Capacity issues
- Dealing with risk of harm
- Promoting your own wellbeing
- Compliance, evaluation and improvement



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Why it is important to provide a suitable service for clients in vulnerable situations?

Rule of law

Paragraph 3.4 of the SRA Code of Conduct “take account of your client’s attributes, needs and circumstances”

Paragraph 3.1 of the SRA Code of Conduct should not act in cases of undue influence

British Standard BS 18477: 2010 *‘Inclusive service provision – Requirements for identifying and responding to consumer vulnerability’*

Equality Act – “reasonable adjustments”



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Being in a vulnerable situation can affect a client's legal position

- Care Act 2014/ Social Services and Well-being (Wales) Act 2014
- Homelessness
- The Consumer Protection from Unfair Trading Regulations 2008



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British Standard BS 18477: 2010 *'Inclusive service provision – Requirements for identifying and responding to consumer vulnerability'*

- encourage the adoption of fair, ethical and inclusive practices;
- demonstrate best practice for organizations in the identification and treatment of vulnerable consumers in relation to the Consumer Protection from Unfair Trading Regulations 2008 and other relevant legislation;
- assist organizations to understand what consumers have a right to expect from them;
- improve accessibility to services for all; and
- increase consumer confidence.



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Scenario

What issues arise from this scenario?

Mrs Y has a 28-year-old daughter who has Asperger's. The daughter has received advice from an advice agency and is capable of managing her decisions but struggles with your advice agency's client evaluation surveys. For example, every few weeks a volunteer from the agency phones her to ask about any possible "follow up" issues.

On more than one occasion, Mrs Y has been to the advice agency to explain that her daughter has Asperger's and to request that they cease to target her with this sort of client evaluation technique. Although she has received repeated assurances that they would do so, this information is not passed on to other members of staff. Consequently, her daughter is still subject to these phone calls.



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What do we mean by vulnerability?

...a condition in which a consumer is at greater risk of misselling, exploitation or being put at a disadvantage in terms of accessing or using a service, or in seeking redress

British Standard BS 18477



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Different types of vulnerable situations

- Information vulnerability
- Pressure vulnerability
- Supply vulnerability
- Redress vulnerability
- Impact vulnerability



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Risk factors

Characteristics

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	Lone parent	Living alone or in poor living conditions



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Risk factors

Situation	
Threat of harm	Victim of crime or accident
Bereavement	Loss of income
Relationship breakdown	Loss of employment
Having recently left care	Threat of deportation
Concern over access to children	Concern over child welfare
Living alone	Release from prison



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Potential effects of vulnerabilities – old age

May have to interact with your advice agency in a particular way , e.g. through the internet or by phone. This may not be easy for them.



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Potential effects of vulnerabilities – disability

Physical impairments, including sensory impairments and learning disabilities, are often correlated with low disposable incomes, which can cause difficulties accessing a service.

Specific physical impairments such as arthritis might make accessing internet services



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Potential effects of vulnerabilities – mental health issues

Fear of stigmatisation or past experience of discrimination might make client reluctant to disclose their needs to a pro bono adviser



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Potential effects of vulnerabilities – low income

More likely to be forced to use a pro bono service and have no access to any other service



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Potential effects of vulnerabilities – lack of basic skills

May have greater trouble comprehending their situation as may not have been able to access, for example, key documents.

Due to stigmatisation may be reluctant to disclose their needs to you.



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Questions to ask about vulnerability

Do you have any particular requirements, such as needing help moving around or communicating?

How and when would you prefer I communicate with you?

Could you tell me a bit more about your background?

Do you take any medication? [If so] How does this affect you?

Do you have any help to manage your money or bills?



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IDEA

Impact

Duration

Experiences

Assistance



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Handling Disclosures – TEXAS

Thank the client

Explain

Explicit consent

Ask

Signpost



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Advocates

- the Mental Capacity Act 2005 (independent mental capacity advocates IMCA)
- the Mental Health Act 1983 (independent mental health advocates IMHA)
- the Care Act 2014 in England
- Part 10 of the Code of Practice (Advocacy) under the Social Services and Well-being (Wales) Act 2014



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Advocates

- IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions: including making decisions about where they live and about serious medical treatment options.
- IMHAs support people with issues relating to their mental health care and treatment. They also help people understand their rights under the Mental Health Act.
- Care Act advocates support people to understand their rights under the Care Act and to be fully involved in a local authority assessment, care review, care and support planning or safeguarding process.
- Part 10 of the Code of Practice (Advocacy) under the Social Services and Well-being (Wales) Act 2014 advocates work with people to ensure that their rights and responsibilities are promoted and defended. An advocate can help someone to access information and services or might accompany someone to a meeting and provide support. An advocate might write a letter on a person's behalf, or speak for someone in situations where the person does not



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Possible indicators of undue influence

Did someone ask for advice on the client's behalf 'the initiator'?

Is the initiator reluctant to "stay completely out of the way" when instructions are taken?

Is the initiator a dominant personality?

Does the client appear to be very influenced by the initiator?

Is the client keen not to upset the initiator or other friends or family members?

Are there references to family disunity?

Is the client expressing different, or even contradictory, wishes?



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Some undue influence scenarios

Type A: Capable client making own independent decisions, has justified faith in competence and trustworthiness of proposed appointee.

(Capacity and no undue influence)

Type B: Client dominated by accompanying friend, nevertheless capable and friend motivated to act properly.

(Capacity and influence, influence not undue or malign)

Type C: Client capable and not subject to undue influence, but instructions seem unwise. (The advisor's role is to advise, perhaps in strong terms, but in this situation there are no grounds for refusing to act. It is wise to record concerns, advice given, and reasons for acting.)

Type D: Client subject to influence which is undue and malign, not benign, and unable to resist it through incapacity or facility or the dominance of the influencer(s).

(Regardless of level of capacity to consult and instruct, the adviser will not be able to implement instructions.)



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Creating a Psychologically Informed Environment

relationships;
staff support and training;
the physical environment and social spaces;
a psychological framework;
and evidence generating practice.



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Staff training

- accessibility
- disability and deaf awareness
- reasonable adjustments
- mental capacity
- recognising vulnerability
- conflicts between clients and carers
- safeguarding
- financial abuse
- dementia awareness (such as the Dementia Friend scheme)



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Tailored and appropriate communications

- allowing extra time for meetings with clients who may need longer to understand what you are explaining, or who have a speech impairment, or who are communicating through a third party
- visiting the client in a place that they feel most comfortable. However, this may be difficult for some pro bono operations such as university law clinics
- breaking down an interview into many parts to allow them to rest
- arranging a meeting for a time of day where the client feels most alert and aware. Note the effect of medication, which may mean some clients want to avoid certain times in the day.
- explaining issues without using legal jargon
- getting the help of an independent third party
- providing information in large print, Braille, audio, video, infographics, simple drawings by hand, or easy-read format
- providing written text on a coloured rather than a white background (this can be particularly helpful for dyslexic clients or those with a visual impairment and they can tell you which colours to use)



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Tailored and appropriate communications

- facilitating a sign language interpreter, lipspeaker or deaf-blind communicator
- facilitating a reader for clients with visual impairments
- installing an induction loop or having a portable one available
- conducting conversations with clients using the text relay system
- using an electronic translation tool, where the client does not speak English
- recording the meeting
- providing a written note of the points raised in the meeting in a format that works best for the client
- not requiring the client to make complaints or other requests in writing
- make sure that your written communications, such as client care letters, letters of advice and costs information, are written clearly, with headings, in clear fonts and free from legal jargon.



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Working in communities which have severe socio-economic challenges

Intergenerational trauma

Cultural awareness



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Does the client have capacity?

Mental Capacity Act (MCA) 2005 - the statutory principles

Section 1 MCA 2005 contains the first three principles that are the starting point for assessing capacity:

1. A person must be assumed to have capacity unless it is established that he lacks capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.



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Does the client have capacity?

Section 2(1) of the MCA 2005 states that:

'... a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.'



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Does the client have capacity?

Although there is one test of capacity, the statutory Code of Practice which supports the MCA 2005 identifies two elements: the 'diagnostic' and the 'functional' elements.

- Does the person have an impairment or disturbance that affects the way their mind or brain works?
- Does the impairment or disturbance mean that they are unable to make a specific decision at the time it needs to be made for one or more of the reasons set out in section 3 MCA 2005?



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Does the client have capacity?

Section 3 MCA 2005 defines what it means to be unable to make a decision.

- Does the person understand the information relevant to the decision?
- Can the person retain the information?
- Can the person use or weigh up the information as part of the process of making the decision?
- Can the person communicate their decision (whether by talking, sign language, or any other means)?



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Dealing with risk of harm - possible indicators of suicide

Feeling worthless	History of abuse
Shame	Recent self-harm
Cannot see a future	Significant life change
Feeling numb	Past history of suicidal ideation
Change in behaviour, including becoming suddenly cheerful	Putting affairs in order
Reckless behaviour	Looking for a way out
Recent bereavement	Talking/hinting about suicide



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Asking about suicidal ideation

“Sometimes when people are [insert the reason why you are concerned, e.g. you say you have no future] they may be thinking of suicide. Are you thinking of suicide?”



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safeTALK

T: What's telling you that the client is thinking about suicide?

A: Ask about suicide

L: Listen.

K: Help the person plan to keep safe.



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Talking to someone with suicidal ideation

ALGEE

A: Assess risk of harm

L: Listen non-judgmentally

G: Give reassurance and information

E: Encourage the person to get help

E: Encourage self-help strategies



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Suicidal clients and confidentiality

- consider whether the appropriate course is to discuss your concerns with the client to gain agreement to steps to prevent the harm
- consider the most appropriate person to disclose your concerns to, for example a family member, the client's doctor, social worker, police or other public authority
- limit the amount of information being disclosed to that which is strictly necessary
- keep a careful attendance note detailing your concerns and the factors that you considered prior to making the disclosure - this should include the reasons why you considered that it was not appropriate or practicable to obtain your client's consent to the disclosure
- after you make a disclosure, you should consider whether it is appropriate to disclose to the client that you have passed confidential information to a third party. Where you believe that disclosure would result in risk of harm to your client or a third party, or would prejudice an investigation, you may feel it would not be appropriate to inform the client



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Scenario

Anna comes to reception and demands to see someone immediately. She is agitated and frustrated. She tells you this is the second time she has come for advice.

Her benefit claim for Personal Independence Payment was rejected. She was dependent on this to live on, and she does not have money to pay the rent.

Anna tells you she is seeing her GP for depression and anxiety. She tells you she has had this problem since she was a teenager. When it's bad she does not want to eat or leave her room.

She's been living off her overdraft, but that has now reached its maximum. She has no money left for food or medication. Her tablets ran out this week, and she has been feeling worse since then.

She wants your help to appeal the benefit refusal. She says if you do not help her today, she could not take coming back again. She says she's had enough. If she had the choice, she would just go to sleep and never have to wake up again



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Compliance, evaluation and improvement

The organization shall regularly and systematically:

- a) collect information needed for the effective and efficient evaluation of its procedures for identifying and managing the needs of consumers in vulnerable circumstances;
- b) evaluate the effectiveness of its procedures; and
- a) classify and analyse enquiries and complaints to identify systemic, recurring and single-incident problems and trends to be fed into the processes



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Culture of continuous improvement

- a) continually improve the effectiveness and efficiency of the process, using such means as preventive and corrective actions and innovative improvements;
- b) take action to eliminate the underlying causes of existing and potential problems leading to complaints to prevent recurrence and occurrence, respectively;
- c) explore, identify and apply best practices in the process;
- d) foster a client-focused approach within the organization;
- e) encourage innovation in the development of services and procedures;
- f) recognize examples of outstanding performance and practices related to the process;
- and g) engage with organizations which represent the needs of vulnerable consumers to promote inclusion.



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Resources

- Law Society guidance on [meeting the needs of vulnerable clients](#)
- SRA guidance on [providing services to people who are vulnerable](#)
- Law Society of Scotland [vulnerable clients' guidance](#)
- Bar Standards Board [identifying and assessing vulnerability and clients' needs](#)
- Rethink factsheet on [how to support someone with suicidal thoughts](#)
- Samaritans guidance for [if you are worried about someone else](#)
- LawWorks guidance: [designing accessible services](#)

Signposting references:

- [Refuge, Women's Aid, Respect Men's Advice Line](#) support with domestic abuse
- Mind website for [mental health information and support](#)
- C.A.L.L. helpline [confidential listening and support service](#) (Wales)
- [Step Change](#) for support with debt and finances



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