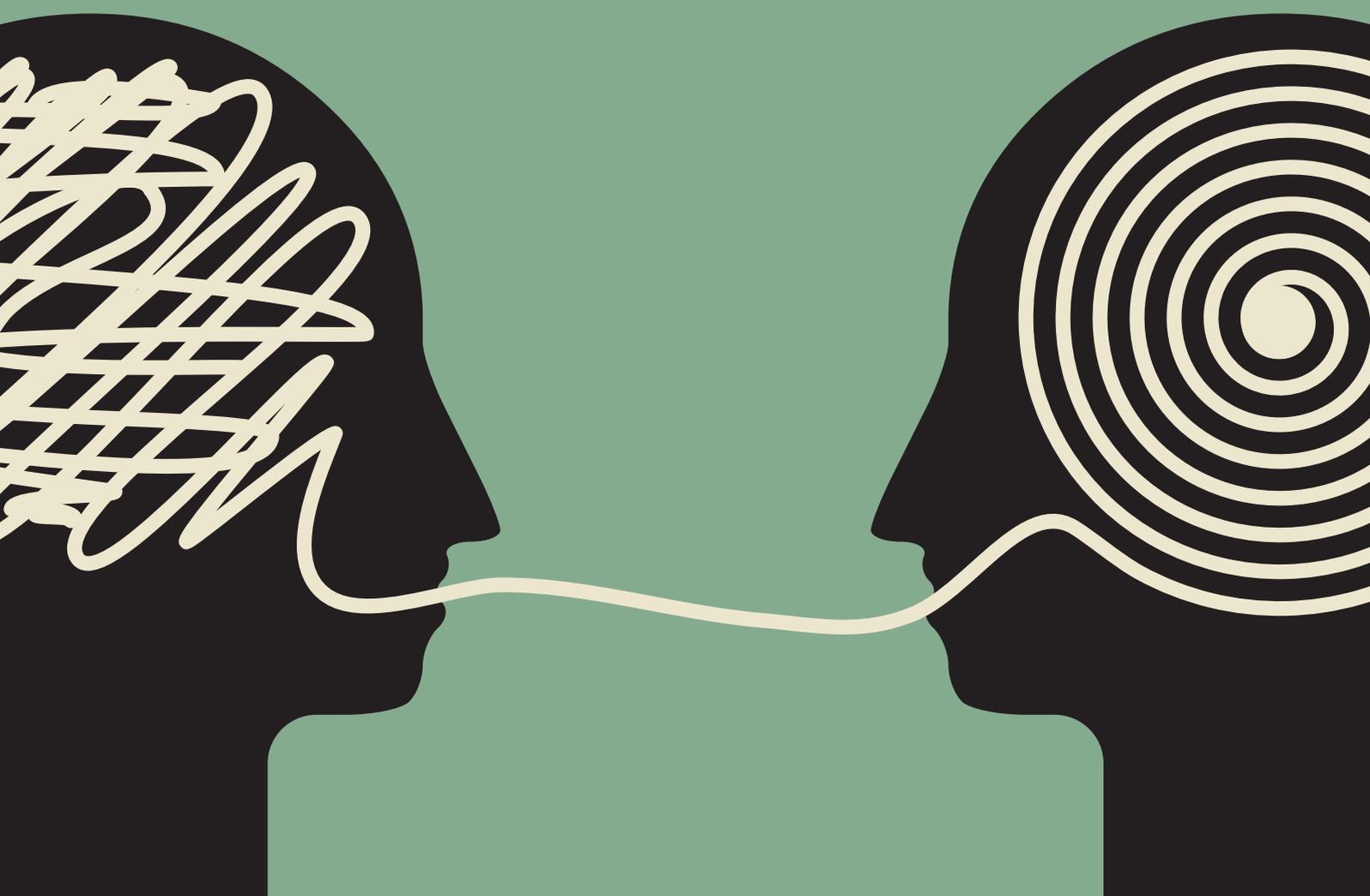

Vulnerability: a guide for advice agencies

12 steps for treating clients
in vulnerable situations fairly



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Foreword

All advice agencies will work with clients who are in a vulnerable situation. This is not a new issue. Nor is there any doubt that advisers will aim to secure the best experience and outcomes for these clients. However, all advisers need support in this area.

No matter how experienced an adviser might be, working with clients who are experiencing not only financial difficulty, but also a combination of personal, emotional, and other life problems, can be challenging and sometimes overwhelming.

In these situations, an ingrained and passionate belief in securing the best outcomes for clients in vulnerable situations is not enough. Belief and commitment alone will not mean that every adviser will 'automatically know' how best to work with such clients, and we should not expect this of ourselves, or others.

Equally, no matter our belief or drive, and regardless of how deeply held or openly expressed this is, we cannot expect clients in a vulnerable situation to immediately trust us, open up to us, or share the full details of their situation.

Instead, the best advice agencies know that these skills need to be honed and developed, rather than taken for granted. The best agencies know that trust needs to be earned with clients in vulnerable situations, rather than being automatically given.

Most importantly, the best advice agencies know this because they listen to the clients that they support, and in reflecting upon this, they continually aim to improve their own knowledge, skill-set, and delivery.

For this reason, this guide has been published for advice agencies working with clients in vulnerable situations. It brings together experience in working with such clients, and recognises the support that advisers deserve to receive on this issue.

Most importantly, the guide is focused on improving experience and outcomes for our clients – regardless of the ways and channels through which we deliver advice.

Consequently, this guide simply aims to help all advice agencies to help their clients. While this can sometimes be a more difficult outcome to achieve than we might wish, we hope the material and experience outlined in these pages will help you in the advice that you give. Our work to support clients in vulnerable circumstances will continue to evolve in the coming year, as we seek to build on our existing experience and drive improvements in practice.

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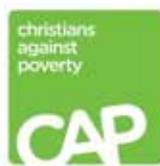
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Executive summary:

12 steps for every advice agency

1. Mental capacity

Double-check that you are complying with FCA guidance – there is evidence that it is being misinterpreted. [Pages 10-13](#)

Why is this important? The FCA requires any organisation that it regulates – including advice agencies – to establish clear and effective procedures to identify and support these clients.

Action: Read our checklist – many agencies, in good faith, believe they are compliant, when in fact they may not be.

Good practice: Plymouth Focus Advice Centre (Case Study 1).

2. Organisational policy

Develop, write and share a vulnerability policy – there is both a legal requirement and staff want clear guidance. [Pages 14-17](#)

Why is this important? The Data Protection Act 1998 requires advisers to explain to clients who disclose sensitive personal data how their information will be used – without a written policy, advisers will be unable to do this. There is evidence that advisers do not provide such explanations.

Action: Write a simple policy which explains how a client who discloses sensitive personal data will be treated, and how their information will be used and shared during this process – our checklist will help.

Good practice: Data Protection Act 1998 (Box 5) and Money Advice Liaison Group (Box 7).

3. Organisational policy

Plan for common situations, but don't overlook rarer, high-impact events. [Pages 18-19](#)

Why is this important? Your policy needs to take account of both common events, and rarer situations. Clients who talk about taking their own life present such a challenge, where advisers need support.

Action: Listen to the client, acknowledge their feelings, take them seriously, refer to helping agencies.

Good practice: Christians Against Poverty (Case Study 2) and The Samaritans (Case Study 3).

4. Frontline staff

Create an organisation where clients are confident to disclose a vulnerable situation, and staff manage disclosures effectively. [Pages 20-23](#)

Why is this important? Firstly, for the client, disclosure to an adviser can be a big step – a point where they entrust an organisation with information about something often highly personal, and in the hope it will be taken seriously into account. Secondly, for the adviser, it represents an exchange which if not properly handled, could result in client engagement being lost, insights not being acted upon, and potential breaches of the Data Protection Act taking place.

Action: First, make it clear to clients that they can disclose a vulnerable situation, and outline the potential benefits of doing so. Second, to help staff, introduce the TEXAS protocol.

Good practice: PayPlan (Case Study 4) and MoneyPlus Group (Case Study 5).

5. Frontline staff

Ensure that carers are not forgotten – they can provide invaluable insights. [Pages 24-25](#)

Why is this important? Clients are not the only people who can disclose. Carers are also in a position to inform staff about situations where a family member or friend is unable to manage their money due to a vulnerable situation. However, invaluable insights from such disclosures are potentially being lost by advisers.

Action: Help your staff by introducing the CARERS protocol.

Good practice: Financial Ombudsman Service (Case Study 6).

6. Specialist staff

Help your specialist staff by introducing the IDEA protocol. [Pages 26-27](#)

Why is this important? The 'TEXAS drill' is designed for managing initial conversations about a client's vulnerable situation – but what support can be given to advisers who want to 'go deeper' and find out more? Introducing the IDEA protocol will provide advisers with a 'compass' to help structure and manage more in-depth conversations, listen out for relevant information, and ask key questions.

Action: Introduce the 'IDEA' protocol (Figure 2).

Good practice: PayPlan (Case Study 7).

7. Building staff capacity

General vulnerability training will not deliver – provide training that recognises the type of work advisers do. [Pages 28-29](#)

Why is this important? There is a large difference between ‘knowing about vulnerability’, and having the skills, strategies and techniques to work closely with clients in vulnerable situations. Consequently, adviser staff need to receive training that both reflects the situations that they will encounter at work, and which also provides them with the specific skills and tools to manage this within the advice service.

Action: Review our checklist of knowledge, skills, and strategies to ensure your training delivers positive outcomes for your clients and your service.

Good practice: Money Advice Trust (Case Study 8) and Institute of Money Advisers (Case Study 9).

8. Contact with the NHS and social care

Only collect medical evidence where it makes a difference. It is not needed for every client who discloses a vulnerable situation. [Pages 30-31](#)

Why is this important? ‘Medical evidence’ is information about a client’s health provided by a nominated health or social care professional that knows the client. Advisers need such relevant and clear evidence to inform decision-making about the best action to take for a client. But it is not always needed for every client – doing this may waste time, incur unnecessary costs, and delay needed action.

Action: Use the Debt and Mental Health Evidence Form or other methods to collect evidence where relevant, but do so on a case-by-case basis, rather than as an automatic action. Staff should ask: is more information really needed?

Good practice: Debt Advisory Line (Case Study 10) and Citizens Advice Camden (Case Study 11).

9. Contact with the NHS and social care

Ensure that you use the evidence that you collect to its full effect. [Pages 32-33](#)

Why is this important? Even when sound reasons exist for collecting medical evidence, some advisers find it extremely challenging to use the collected medical evidence for decision-making.

Action: Follow our suggested framework for ensuring that your investment in collecting evidence is optimised, and that you have a full and fair understanding of the client’s needs.

Good practice: Atlantic Finance (Case Study 12).

10. Quality improvement

Make full use of routine data and monitoring to improve performance and prevent problems. [Pages 34-35](#)

Why is this important? Basic monitoring of vulnerability data allows advice services to firstly identify the volume of clients reporting such situations; understand and categorise the strategies put into place by staff in response; and evaluate the outcome of these interventions.

Action: Advisers need to record and then use basic vulnerability monitoring data.

Good practice: The Money Advice Service (Case Study 13) and Harrington Brooks (Case Study 14).

11. Dealing with difficult news

Be prepared to deal with disclosures of terminal, life-threatening or long-term conditions. [Pages 36-39](#)

Why is this important? Even for the most experienced adviser, being told that someone has a serious condition or illness can be daunting.

Action: Advisers need to remember they can make the biggest difference in terms of stabilising a client’s financial situation. At the same time, they should be able to handle initial disclosures of a serious condition, and allow clients the space and time to explain their difficult situation.

Good practice: MoneySave Solutions (Case Study 15).

12. Partnership

Work with financial firms that are as equipped to deal with vulnerable clients, as you are. [Pages 40-41](#)

Why is this important? If clients are to be supported, then it is not only essential for advice agencies to follow the steps outlined in this briefing, but to also consider the degree to which partner organisations also have similar systems and structures in place.

Action: Advice agencies should seek assurance that creditor agencies have the expertise and structures to provide similarly high-quality support to vulnerable clients.

Good practice: Barclaycard (Case Study 16) and StepChange (Case Study 17).

Introduction: just what is vulnerability?

What is vulnerability?

The Financial Conduct Authority:

- **define** a vulnerable consumer as “*someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care*”¹
- **recognise** that vulnerability is never solely about the characteristics or situation of the individual, but also involves the actions of firms (importantly, the term ‘firm’ includes creditors and advice agencies – see ‘Other notable definitions’ below).
- **emphasise** the fact that everyone is potentially vulnerable to detriment, while also requiring creditors and advisers to think about individuals who are currently ‘vulnerable’ and ‘particularly vulnerable’².

Defining vulnerability on paper is straight-forward. However, in real-life situations, vulnerability is rarely a ‘pen and paper’ exercise, and helping frontline staff to identify and support vulnerable clients can be challenging.

In particular, for every client who discloses a potential vulnerability to you, there will always be other clients who do not. This means that some vulnerabilities will remain ‘unspoken’, unless you can identify them.

What makes someone vulnerable?

Vulnerability is a complex issue – it’s not always obvious who is or isn’t vulnerable and a simple list of conditions isn’t necessarily helpful. So how can you identify signs of vulnerability?

There are three factors you need to take into account for each client.

- A Individual factors** – the first thing to consider is whether there are any individual factors that may be putting your client in a position of vulnerability.
For example, Michael has tinnitus. People often assume that he’s completely deaf and offer the wrong solution, when instead they should simply ask Michael what would help make the situation better.
- B Wider circumstances** – often there are wider relevant factors at play, such as a sudden change in household or social circumstances.
For example, Kurum left his job due to illness and his benefit application has just been rejected, which is a shock. Kurum is tempted to take out a high-interest loan to pay his rent, but his emotional state means he may not be able to weigh-up the benefits and costs of taking this approach.

C Creditor or adviser action (or inaction)

– the third factor that can contribute to a client’s vulnerability is the action (or inaction) of their creditor or adviser.

For example, Joyce can only speak with the aid of a valve in her throat, which she finds very tiring. However, this isn’t what makes her vulnerable – it’s the action of her creditors and debt adviser. Joyce prefers to communicate in writing, but when she tried writing to her creditor and advice service to notify them of her condition, the creditor replied asking her to contact them via their telephone helpline, while the advice service invited her to a face-to-face appointment to sort the situation out.

These three factors can interact – it is important to consider all three factors, as they can all play a part in creating a vulnerable situation.

For example, Monica has permanent hearing loss [an individual factor]. However, her hearing loss is only one part of the story. Instead, the recent death of her husband [a wider circumstance] has led to extreme distress and confusion, which in turn has meant that she has misplaced her hearing aid. This is the reason she cannot communicate effectively. These two factors mean that Monica needs a little extra support at the moment. However, her adviser and creditors do not identify these factors, and fail to provide support with filling in forms and extra explanations [creditor and adviser action]. This further distresses Monica, and she experiences significant personal and financial detriment.

Are there different levels of vulnerability?

The Financial Conduct Authority make reference to both ‘vulnerable’ and ‘particularly vulnerable’ clients in their regulations. But what does this actually mean? And how should it affect our practice?

While the FCA do not provide an absolute definition of particularly vulnerable, the simplest way to think of this is like a set of traffic lights (see Box 1 opposite).

Other notable definitions

In this document, the following definitions are used:

- **‘advice agency’** – for simplicity, the term ‘advice agency’ is used in this guide to describe both free and fee-charging advice services. However, it is recognised that the FCA (in CONC) use ‘firm’ to describe agencies (charitable or profit-making), including any firm providing debt advice. (CONC 1.2.1R)
- **‘client’** – again for simplicity, the term ‘client’ is used. However, it is noted that the FCA tend to use the term ‘customer’ throughout their documentation. (CONC 1.3.1G)

BOX 1: different types of vulnerability



GREEN
LIGHT

Potentially vulnerable – If a client is currently able to manage their finances, make informed decisions, and is not at risk of detriment due to their situation, then they are neither vulnerable or particularly vulnerable. Instead, they simply remain as *potentially vulnerable*. Why is this? At present we might be able to manage our finances, make informed decisions about these finances, and not be experiencing harm, loss or disadvantage. However, in the future, this could change.

We could, for example, develop an unexpected health condition which affects our ability to earn money (an individual factor), experience an unwelcome change in our wider circumstances (such as the need to provide regular care to a family member), or be disadvantaged through the actions of our 'creditors' and 'advice agencies'. While we may be fine at present, things can change – and in this respect, we are all potentially vulnerable to detriment.



AMBER
LIGHT

Vulnerable – these are clients who are currently in a situation which means they are more likely to experience harm, loss, or disadvantage than other consumers. These clients will hopefully be identified as being in a vulnerable situation by their adviser and creditors, and will also hopefully receive help and assistance to avoid detriment to them. The creditor or adviser's aim here is to return the client back to the potentially vulnerable category (although this may take time).



RED
LIGHT

Particularly vulnerable – these are clients who are currently at a greatly heightened risk of experiencing detriment compared to the majority of vulnerable clients. This detriment could also be far more serious in terms of its negative impact on the client's situation, and could also be far more imminent. These clients need to be quickly identified by advisers and creditors, and action needs to be swift and effective to avoid significant harm. While the FCA do not provide a definition of particularly vulnerable, the FCA regulations do identify clients with mental capacity limitations and mental health problems as particularly vulnerable to detriment.

Like traffic lights, clients can move from green to red status, as well as from red to green.

Rationale: why should advice agencies care?

Five reasons

Advisers can often feel like unpaid social workers, with indebted clients frequently sharing a range of personal, emotional, and other 'life problems'. This can be overwhelming and challenging for even the most experienced of advisers.

Consequently, in these situations, advisers must remember their unique expertise lies in identifying debt solutions – this remains their key contribution. However, advisers also need to consider whether the client is in a vulnerable situation because:

- A** it will **help the adviser** resolve the debt situation
- B** it will **benefit the client** in terms of the support that can be given
- C** clients tell us that **advisers need to improve their practice** in this area
- D** advisers have legal **and regulatory** responsibilities
- E** there is an over-arching need to **treat the client fairly**

A Better for the adviser

If advisers do not:

- know clients are in a vulnerable situation
- encourage clients to tell them this
- ask basic questions about the impact of a client's vulnerable situation on finances

They will be missing out on:

- a vital piece of information
- an opportunity to impress upon clients that this can be taken into account
- an opportunity to impress upon clients that they can clear their arrears
- an opportunity to identify, anticipate and manage any related challenges
- an opportunity to refer clients with complex needs to a colleague with specialist expertise, or to seek support from external agencies

Which could result in:

- poor engagement
- additional costs of chasing these clients
- potential financial impacts on clients through additional penalty charges or fees
- potential worsening of the client's vulnerable situation (either reported or verified)
- reinforced sense that 'no-one really understands' what the client is going through

The importance of such information and insight, can make the difference between successful and unsuccessful debt resolution.

B Better for the client

The reason each of our advice agencies exist, is to support indebted individuals with appropriate debt solutions.

If clients receive both support for their finances and wider socio-economic support from other providers, they are less likely to fall back into financial difficulties.

On the other hand, if clients don't receive appropriate debt solutions and wider support, they are more likely to face the same issues again.

C Advisers need to improve their practice

There is no doubt that most advisers will aim to take the best possible course of action for all their clients, including those in a vulnerable situation.

However, an ingrained and passionate belief in securing the best outcomes for clients in vulnerable situations is not enough.

Belief alone does not mean that every adviser will somehow 'automatically know' how best to work with such clients.

Nor will passionate belief (no matter how deeply held, or openly expressed) mean that clients in a vulnerable situation will immediately trust an adviser, open up to them, or share the full details of their situation.

The best advisers know that these skills need to be honed and developed, rather than taken for granted.

The best advisers know that trust needs to be earned with clients in vulnerable situations, rather than being automatically given.

Critically, the best advisers know this because they **listen to the clients that they serve** – and as shown in Figure 1, this is the most important point for us all.

As Figure 1 reminds us, individuals with financial difficulties and mental health problems report that:

- a sizeable number of advisers may not be providing the response and support that might be expected
- a large number of individuals decide not to disclose their mental health problem to their advice service with reasons including that they felt they would not be believed, or that it would make no difference.

As always, all research findings should be scrutinised and debated. However, what is clear from these data is that when working with clients who are in potentially vulnerable situations, advisers should take nothing for granted – instead skills need to be developed and applied, while trust and disclosure needs to be earned and worked at.

FIGURE 1: Perceptions of advice agencies

Survey of people with mental health problems and financial difficulties

Think about the last occasion you told an advice organisation about your mental health problem:

41%

Staff did not ask questions about how my mental health problem(s) were affecting my financial situation and ability to make repayments

35%

Despite telling the organisation about my mental health problem(s), I felt this wasn't taken into account

If there were occasions when you did not tell an advice organisation about your mental health problem(s), what were the main reasons for this?

44%

I wasn't aware that it would make any difference to how the organisation dealt with the debt

21%

I thought I would not be believed

Source: Money and Mental Health Policy Institute: 2016 survey.

Notes: Further details are provided in Appendix 1.

D Legal and code responsibilities

Advice agencies are expected to comply with a range of industry regulations and codes of practice, as well as having a legal duty to comply with wider laws that support good practice. These include:

- individual trade or membership body codes
- various FCA regulations including the Consumer Credit Sourcebook (CONC)
- the Data Protection Act (1998)
- the Mental Capacity Act (England & Wales, 2005) and/or Adults with Incapacity Act (Scotland, 2000)
- the Equality Act (2010).

New requirements for advisers: CONC

Since April 2014, CONC has also placed new requirements on every advice agency:

'A firm must establish and implement clear and effective policies and procedures to identify particularly vulnerable customers and to deal with such customers appropriately.' [Ref 8.2.7R]

Hence there is a legal requirement on all advice agencies to have a policy that (i) identifies particularly vulnerable clients and (ii) supports them appropriately.

This is absolute regulation that applies to all advice agencies authorised to provide debt advice.

E Treating the client fairly

The Financial Conduct Authority (FCA) requires all regulated firms to abide by a number of key principles (PRIN).

PRIN 6 is perhaps a helpful summary:

'A firm must pay due regard to the interests of its customers and treat them fairly.'

The FCA website also has a summary of six consumer outcomes that every firm (advice agency) should consider within its own model of operation (Box 2).

BOX 2: Consumer outcomes

There are six consumer outcomes that firms should strive to achieve to ensure fair treatment of customers. These remain core to what we expect of firms.

- **Outcome 1:** Consumers can be confident they are dealing with firms where the fair treatment of customers is central to the corporate culture.
- **Outcome 2:** Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly.
- **Outcome 3:** Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.
- **Outcome 4:** Where consumers receive advice, the advice is suitable and takes account of their circumstances.
- **Outcome 5:** Consumers are provided with products that perform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect.
- **Outcome 6:** Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

For every advice agency: 12 questions, 12 steps

Overview

In this section, we outline **12 questions** that every advice agency should ask themselves, and describe the accompanying **12 steps** that every advice agency can take to improve their work.



When considering vulnerability are you complying with the FCA on mental capacity?

What is the issue?

The Financial Conduct Authority states that any client with a mental capacity limitation may be *particularly vulnerable* to detriment.

The FCA therefore requires any organisation that it regulates – including advice agencies – to establish clear and effective procedures to identify and support these clients. (CONC 8.2.7R)

What is 'mental capacity'?

The FCA says that:

- the ability to make an informed decision at a specific point in time is called mental capacity (CONC 2.10.3G).

Clients with the mental capacity to make a decision can understand, remember, and 'weigh-up' information which is presented to them, and then communicate their decision.

What is a 'mental capacity limitation'?

In contrast, the FCA says that:

- people with a mental capacity limitation are unable to understand, remember, or weigh-up information presented to them, or to communicate a decision (CONC 2.10.8.G).

Who has a mental capacity limitation?

Mental capacity limitations are caused by "impairments or disturbances in the functioning of the mind or brain"³.

This can therefore *potentially* include clients experiencing a range of conditions (Box 3). This includes, but is not limited to, clients experiencing mental health problems.

Advisers, however, should not automatically assume that a client with a particular health condition will have a mental capacity limitation. The reality is more complex – many clients with these conditions will be able to make their own decisions.

Instead, advisers will need to actively work to identify clients with mental capacity limitations, and to provide them with reasonable and appropriate support.

What does the FCA require from advisers?

The FCA believes that clients with mental capacity limitations may be particularly vulnerable to detriment.

Therefore advice agencies are required to "establish... procedures to identify particularly vulnerable [clients] and deal with [them] appropriately." (CONC 8.2.7G)

The FCA's regulatory position on mental capacity is informed by the Mental Capacity Act (2005) for England and Wales, and the Adults with Incapacity (Scotland) Act 2000. (CONC 2.10.2G)

Critically, just as the FCA expects lenders to comply with the law and its regulatory frameworks, it also places the same expectation on the practice of advice agencies. (CONC 8.2.7R)

What is the happening on the frontline?

Despite this, reports exist that translating these regulatory requirements into practice is proving challenging, and clients with 'limited mental capacity' may not be receiving the support required from advice agencies and lenders alike.

What is the evidence?

The evidence comes from work we've undertaken with these organisations to overcome these difficulties. While the majority of this work has been with creditors, a number of common problems have been encountered.

The most commonly reported problems have been the instinct of organisations to 'work this out ourselves', rather than engaging organisations with relevant expertise. Unfortunately, this has often resulted in procedures which organisations believe comply with law and regulatory guidance, but which actually:

A conflate 'mental capacity' with 'mental health problems' – resulting in only individuals with mental health problems being focused on, rather than the wider list of conditions that can affect mental capacity (Box 3). This is potentially discriminatory and inefficient.

B rely solely on disclosure – individuals with a potential mental capacity limitation may not disclose this to an organisation. Consequently, if organisations do not actively encourage such disclosure (by looking for signs of a potential and relevant mental capacity limitation), these clients will not receive the support they need to make an informed decision. Instead, organisations need to encourage disclosure, and look for signs of a potential and relevant mental capacity limitation.

BOX 3: What is a mental capacity limitation?

A mental capacity is a person's ability to make an informed decision at a specific point in time. It is determined by a person's ability to:

- understand information
- remember information
- weigh-up information
- communicate an informed decision.

B mental incapacity is a person's inability to make an informed decision at a specific point in time due to an *'impairment or disturbance in the functioning of the mind or brain'*.

This, for example, includes:

- some forms of mental illness
- dementia
- significant learning disabilities
- the long-term effects of brain damage
- physical or medical conditions which cause confusion, drowsiness, loss of consciousness
- delirium
- concussion following a head injury
- the symptoms of alcohol or drug use.

C law and regulatory guidance expect lenders to presume that all clients have the mental capacity to make an informed decision, **unless** the agency also knows or reasonably suspects that a mental capacity limitation exists.

D advisers therefore need to look out for signs of a mental capacity limitation, and to act accordingly to support the client.

C neglect the legal need to support decision-making – it is not uncommon for organisations to focus on the assessment of a mental capacity limitation, but neglect the need to support individuals with such limitations to make an informed decision.

D treat mental capacity limitations as a life-long state – some organisations have wrongly assumed that a person who currently lacks the mental capacity to make an informed decision will also be unable to do so in the future. It is equally important to remember that individuals with a mental capacity limitation may be unable to make some decisions at that specific point in time, but not others.

E overlook mental capacity issues entirely – law and regulatory guidance expects organisations to presume that each individual has the mental capacity to make an informed decision, unless there is an understanding (or indication) that this isn't the case. However, some organisations wrongly conclude that this means they do not have to actively look or check for any indicators of a mental capacity limitation.

From our training programmes and work with the advice sector, it is clear that adviser organisations often make the same mistakes.

Further evidence

Evidence is also available from a 2011 Mind study with 450 people with experience of debt and mental health⁴.

When asked about the effect of these mental health problems on their decision-making during loan applications in the last 12 months:

- one-in-three reported feeling unable to make a 'reasonable decision' about taking out the loans on offer
- one-in-four reported being unable to understand the terms and conditions of these loans
- one-in-three reported being unable to ask questions about, or being able to discuss the loan with, the lender.

These findings indicate that mental capacity limitations are not uncommon in situations involving financial decisions, and that agencies need to support such clients with their decision-making.

What should advice agencies do?

There are four steps that organisations can take.

Firstly, advice agencies should encourage clients to disclose any potential mental capacity limitation – as these individuals may be reluctant to disclose for a number of reasons, agencies should reassure clients that such a disclosure can potentially result in additional support being provided. As long as this reassurance is clear and easy to understand, it can be given on the phone, or through written notice or letters inviting disclosure:

We want to meet your needs

We aim to provide accessible services for all our clients. This includes clients who require support to make their own decisions, or need information in different formats. If you find our information difficult to understand, we can help:

- meet your needs
- support you to make your decision.

If you would like to talk to someone, you can call XXXX between X and X. Or you can visit any office and speak to an adviser.

Secondly, organisations should actively ‘look out’ for indicators of a potential mental capacity limitation – a policy of solely relying on client disclosure will be ineffective. Instead, advice agencies need to be vigilant for any signs of a limitation on a client’s ability to make a decision. Box 4 provides examples of indicators of a potential capacity limitation.

Thirdly, when an organisation understands or suspects a mental capacity limitation, they should take reasonable steps to establish this and document it – this will require advice agencies to assess the client’s ability to:

- understand information
- remember information
- weigh-up information
- and communicate a decision.

To help with this assessment, advice agencies may wish to develop questions specifically related to the decision in question.

These questions could aim to get the client to reflect on what they have been told about the debt solution they are considering, and to ascertain whether they have understood, retained/remembered, and weighed-up this information, as well as being able to communicate a decision.

BOX 4: Indicators of a potential mental capacity limitation

A The client:

- clearly does not understand what debt solution they are applying for
- becomes upset when struggling to understand what they are asking for
- is clearly unable to understand/retain the information and explanations you provide
- appears confused about the personal or financial information you are seeking
- appears unable to recall or communicate basic personal information
- provides conflicting answers to questions
- asks the same question repeatedly
- appears to have no awareness of their own financial circumstances
- makes decisions that are unexpected and/or out of character (only effective where a prior relationship exists with the client)
- is known to have previously been diagnosed with an impairment or disturbance of the mind or brain, and it was established that the client lacked the capacity to make certain decisions at that time
- is unable to assess information provided for the purpose of helping him/her to make an informed decision
- is unable to communicate the decision by any reasonable means.

B Or a third-party raises concerns with you, which needs to be investigated further (e.g. relative, close friend, carer, clinician, police or social services).

Such questions could include:

- can you please reflect back the main risks and benefits of what has been explained to you?
- can you summarise the key consequences of entering into this debt solution?
- can you tell me how or when you will make repayments/instalments?
- can you tell me what the consequences will be if you start to miss the agreed repayments?
- can you tell me what the total amount is that you owe? What is the total amount you have to repay (including interest)? How long will you have to pay it back? How many payments will you have to make?



CASE STUDY 1

Plymouth Focus Advice Centre

Plymouth Focus Advice Centre works closely with a number of agencies working with vulnerable clients. PFAC volunteers seek to support all clients, but we recognise that some may have 'mental capacity limitations' that can lead to mental incapacity if not managed well. We recognise that we can both mitigate this by finding appropriate levels of support that find a solution for the client, but equally if we ignore or overlook the issues we could exacerbate the problems, leaving the client even more vulnerable than before.

Example: Mr A is referred by his Psychiatrist. Given this valuable information, the adviser recognises that a discussion about his health is the logical starting point.

The client shares that he has a diagnosis of schizophrenia: he has episodes every morning. This is overcome through his medication, but he usually feels quite unwell until around 9:30–10:00 each day. The adviser explains that this is really helpful to understand as the advice centre would want to communicate with him when he feels at his best. The client agrees. The information is stored with his consent. Any phone calls will be after 11:00.

The adviser asks more questions about the condition and builds up a picture of what an episode looks like for this client. This enables the adviser to recognise key signals, should it ever occur. This includes the fact that a number of other voices that he hears make communication very confusing for him, thus impairing his ability to make an informed decision.

The adviser is proactive and asks the client if anyone else helps him. The client explains that his Mum does. His Mum's name and contact number is taken with agreement, so if he was ever unwell we could then ring her up to intervene. The client is happy with this too and records are annotated accordingly. The adviser then continues with a discussion about the debts.

The discussion about Mr A's health takes place because the adviser recognises that if the client has a schizophrenic episode, he will be 'particularly vulnerable'. The client will almost certainly be unable to deal with his finances at this point and may also require external intervention. The adviser wishes to gain the client's consent whilst he is capacitated today, so that it is clear what actions the advice centre will take in the future should the client ever present as mentally incapacitated.

These questions are only examples – they will need to be adapted for different options or services offered to the client as part of their solution.

Fourthly, where a mental capacity limitation is suspected or established, firms should take reasonable steps to support clients to make an informed decision – a client with a mental capacity limitation may be able to make an informed decision if provided with appropriate help and assistance.

Advice agencies can therefore help by:

- asking the client what type of support they need to achieve this
- asking the client if it is helpful for a third-party (such as an authorised friend or relative) to be present when they make a decision
- offering clients further information or explanations about debt solutions available and any associated risks

- offering clients further time to decide (including 'pausing' the process) so they can consider the information provided. This support should aim to help clients overcome the effect of any mental capacity limitation, and place them on an equivalent footing to individuals who do not have such limitations.

Clearly, throughout all four of the above steps, firms should work to determine whether the client can maintain the repayments needed without adverse financial consequences.

Useful resources

Office of Fair Trading (2011). *Mental capacity – OFT guidance for creditors*. OFT 1373.

Financial Conduct Authority (2014). *Detailed rules for the FCA regime for consumer credit*. Policy Statement PS14/3.

2

Does your policy on vulnerability cover disclosures of 'sensitive personal data'?

What is the issue?

Clients in a vulnerable situation – such as those with health conditions – will often disclose information which includes *sensitive personal data*.

Under the Data Protection Act (DPA) 1998, when a client discloses to an adviser any form of 'sensitive personal data', the adviser has a **legal duty** to clearly explain to that client how their information will be recorded, used, stored and shared.

While this is well known by advisers and creditors, staff do not always handle these types of disclosures effectively or legally.

The most common reason for this is that an organisation has not developed a detailed and workable policy on handling the disclosure of sensitive personal data.

Consequently, in these situations, staff are left without the knowledge or tools to explain to clients how relevant information about their vulnerable situation will be used.

'Explain to gain'

Consequently, a strong practical and legal incentive exists for every advice agency to:

- develop a written policy on working with clients who disclose sensitive personal data
- communicate and share this policy with staff
- support staff to clearly explain relevant aspects of this policy to clients who disclose any sensitive personal data

We refer to these three points as the 'explain to gain' approach. This is because taking these steps will not only ensure compliance with the DPA, but will also deliver three further benefits:

- staff will get the clear guidance on sensitive personal data that they need
- clients will receive reassurance about the consequences of disclosing any sensitive personal data
- the organisation will have a policy framework which they can develop to consider other potential clients affected in similar circumstances, creating better outcomes for everyone.

What is the evidence?

Evidence that this is important comes from both clients and advisers.

Firstly, there is evidence from clients in vulnerable situations that explanations are not given by advisers. In a 2016 study undertaken by the Money and Mental Health Policy Institute, only 47% of individuals who disclosed sensitive personal data about their mental health to an advice agency reported being clearly told what would happen to this information (see Appendix 1).

Secondly, advisers have also confirmed this situation. Participants in the Money Advice Trust's Wiseradviser Mental Health course have reported that explanations are often given as the exception rather than the rule. This is not confined to advisers either – research with the creditor sector, for example, indicates that 39% of frontline collection staff reported never explaining to clients how their disclosed health information would be used, or why it was being recorded⁵.

Thirdly, clients in vulnerable situations indicate that a clearly communicated policy may encourage them to disclose a vulnerable situation. Once again, 2016 research by the Money and Mental Health Policy Institute with people with experience of mental health problems found that 44% of respondents who did not tell their adviser about their mental health problem, said that this was because they thought it would not make any difference to how they would be supported (see Appendix 1).

Taking these three points as a whole, it is possible to contend that the presence of a clear and well communicated DPA policy about 'sensitive personal data' will increase the likelihood of compliance and also help clients and staff taking these issues into account.

BOX 5: The need for a clear explanation: the Data Protection Act 1998

Collecting relevant data is good practice

Overall, it is critical that organisations do collect relevant data about an individual when information about a vulnerable situation is disclosed or made available. Collecting relevant information is good practice as it:

- allows debt advisers, creditors and their agents to make informed decisions
- enables subsequent dealings to proceed as efficiently as possible because all the information is readily available
- is especially beneficial with issues such as mental health, where it can be difficult or intimidating for individuals to disclose a mental health problem, or for staff to identify, ask about, or discuss such mental health problems
- allows advisers, creditors and their agents to be more responsive to an individual's circumstances
- saves individuals from having to repeatedly disclose this information (which can be traumatic, difficult, and runs the risk of a disclosure not being recorded)
- allows an individual's situation to be taken into account in a way which assists both the resolution of the debt and which also contributes to the personal and health recovery of the individual concerned.

However, the processing of any information which constitutes sensitive personal data must comply with the Data Protection Act and in a manner which builds trust and rapport with the client.

What does the Data Protection Act say?

Under the DPA, there is a fundamental and over-arching requirement for organisations to always collect, use, retain, or dispose of personal data both fairly and legally. One aspect of this requires the organisation receiving the data to tell individuals providing such information how it will be processed and used.

Guidance accompanying the Data Protection Act indicates that the duty to explain is strongest when the information is likely to be used in an unexpected, objectionable or controversial way, or when the information is confidential or particularly sensitive (which includes health data – see opposite).

Source: www.ico.org.uk/for_organisations/data_protection/the_guide/principle_1.aspx

What are the practical implications of this?

Establishing a written vulnerability policy which pays attention to sensitive personal data will help ensure that all staff in an organisation clearly and consistently explain to the individual how their data will be used and processed.

What does the Information Commissioner's Office say?

Following discussions between the Money Advice Liaison Group and the Information Commissioner's Office from May 2012 onwards, the following statements were made by the ICO:

"Processing personal data must be fair, and fairness generally requires you to be transparent, clear and open with individuals about how their information will be used.

"If [we] want consumers to communicate with [us] and be open and honest about the difficulties they face in repaying their debts then [we] will need to be upfront about how [we] will process the data when it is volunteered to [us]..."

Why is it necessary to explain – isn't it obvious to clients?

Guidance on the DPA does state that it is not necessary to provide an explanation in situations where it would be obvious to the individual how that data will be used, or in ways that individuals might reasonably expect.

However, there are three reasons why this would not apply to individuals sharing information about a health problem, and potentially other forms of sensitive personal data:

- robust evidence exists that it is neither obvious to individuals with problems (such as mental health problems – see 'What is the evidence?'), nor how such data would be processed
- the collection of health data by advisers, creditor and debt collection agencies is a relatively new development, and it is arguably neither obvious to individuals (nor reasonably expected) why such information would be collected
- clients in vulnerable situations may experience difficulties in understanding how such information will be processed due to the details of their condition or situation, or may not have the mental capacity at the time of contact with the adviser to understand.

Where does 'explicit consent' come into all this?

'Explicit consent' is not defined by the Data Protection Act itself. However, it is commonly understood to refer to the client (a) receiving an explanation of how their data will be used, stored, and shared and (b) giving their permission for their data to be processed in this manner. Consequently, advisers need to pay attention to both the 'explanation' and 'permission' (or consent) aspects of their processes.

The need for such attention is underlined by one further critical fact: the Data Protection Act requires data which are of a very private or sensitive nature to be treated with greater care than other personal data. Importantly, data on a person's physical or mental health is classed as such 'sensitive personal data' (sitting alongside data, for example, on race or ethnicity, religious beliefs, sexuality, offending and criminal history).

Before advisers can begin to process such sensitive personal data, the Data Protection Act therefore requires them to (a) meet at least one of nine conditions for processing and (b) also process that data in a fair and legal manner. Significantly, the first of the nine conditions in the list is that the individual who has provided the sensitive personal data has given their explicit consent for it to be processed.

Again, this underlines the importance of advisers paying attention to both the 'explanation' and 'permission' (or consent) aspects of their processes, in order to meet the requirements of the Data Protection Act.

BOX 6: Sensitive personal data

- physical or mental health condition
- racial or ethnic origin
- political opinions
- religious beliefs (or similar beliefs)
- membership of a trade union
- sexual life
- offending behaviour (actual or alleged)
- proceedings for offences committed/ alleged to have been committed, the disposal of such proceedings, or the sentence of any court.

What should advice agencies do?

If organisations are going to be able to offer an explanation to clients disclosing any sensitive personal data, they will need to:

- look at how they currently handle information collected from clients who disclose any sensitive personal data
- improve this (in line with the Data Protection Act requirements, and other guidance)
- write a policy that explains how a client who discloses any sensitive personal data will be treated, and how their information will be used and shared during this process (see Box 7 for an outline of the potential content of such a policy)
- communicate this to all staff – make it a live policy (if the policy isn't simple to understand or isn't shared with staff, it will not work)
- check whether staff know what they have to do – each staff member needs to (a) understand where they fit in the process of the advice agency's approach to DPA, (b) know what other team members can offer and (c) know how to access support
- train staff to explain and discuss this policy in clear and straightforward language to clients when needed as well as provide adequate answers when queries arise

In addition, organisations should:

- routinely audit their policy and practice – as gaps will inevitably develop between the ambition of a written policy and its practical implementation by frontline staff, it is important that organisations regularly audit and measure their actual practice
- develop quality improvement programmes – through routine audit, organisations will be able to identify their areas of strength and weakness in relation to sensitive personal data. This will provide an opportunity to improve both frontline practice and also improve the written policy on the experience of the frontline staff implementing it.

Finally advice organisations should recognise that the DPA has been replaced by the General Data Protection regulation ('GDPR'), with a final deadline for compliance of 2018⁶. Industry commentators observe that this move will raise the data protection compliance bar higher than the DPA. While under the DPA and GDPR any information relating to an individual's physical or mental health will continue to be classified as sensitive personal data ('special categories of data' under Article 9 GDPR), it cannot be assumed that all other data-processing requirements will also remain the same. Consequently, it will be appropriate for advice agencies to review what both the DPA and GDPR mean when advising vulnerable individuals.

Useful resources:

The Money Advice Liaison Group's Briefing Note 4, *Appropriately processing data from individuals with mental health problems under the Data Protection Act (1998)*.

Money Advice Liaison Group (2015). *Good Practice Awareness Guidelines for Helping Consumers with Mental Health Conditions and Debt*. London: MALG.

BOX 7: Vulnerability policies – key elements



In developing such a written policy, agencies are encouraged to consult their own trade membership or umbrella body 'Code of Practice', regulatory guidance and legal frameworks.

In addition, the Money Advice Liaison Group guidance document, *Good Practice Awareness Guidelines for Helping Consumers with Mental Health Conditions and Debt*, may also prove invaluable as this was produced with reference to the Information Commissioner's Office. This states that a written policy should consider:

- issues around mental capacity limitations
- working with difficult or challenging situations, including guidance on the use of third-party supporting agencies
- handling initial client disclosures of sensitive personal data
- encouraging clients to disclose sensitive personal data where this is relevant
- complying with the DPA in relation to (a) providing clients with a clear explanation of how their information will be processed, (b) obtaining the client's explicit consent to process any sensitive personal data and (c) recording this in line with DPA requirements
- the collection and use of medical evidence, including reasonable timescales for clients or debt advisers to collect this information and the acceptance of evidence from a range of health and social care professionals
- how to deal with requests for charges in relation to any medical evidence sought
- the monitoring of key account indicators on clients with any sensitive personal data
- the composition, function and operation of specialist teams (if they exist), including referral mechanisms with frontline staff
- working with third parties including (a) creditors and their representatives, (b) carers and family members and (c) agencies providing health or social care support
- a focus on sustainability, client engagement and quality of service provision
- composition and provision of training for staff

Other considerations

Any work with third parties should include some analysis of their policies in this area. An agency will also need to determine:

- under what circumstances information will be provided to third parties, without the agreement of the client
- how long sensitive personal data will be retained and how it will be kept up to date
- relevant criteria for the disposal of such information at a future point.

3

Does your vulnerability policy address clients who talk about taking their own lives?

What is the issue?

The majority of advisers will only rarely have to deal with situations where a client talks about taking their own life.

Despite their rarity, such situations are precisely where a clear and known policy on what to do is required. Without this, both staff and clients are susceptible to uncertain action or poor judgement.

There is a consequent need for all agencies to include these clear lines of action within a policy on suicide. To do this, agencies will need to consider:

- what their staff should practically do when a client talks about taking their own life
- a safe-guarding policy on when they should break client confidentiality and call the emergency services
- the support that staff will need both during and following discussions with clients who talk about taking their own life
- how best to utilise the skills and experiences of external agencies in the wider marketplace.

What is the evidence?

From our courses with over 200 creditor and advice agencies, it is clear that:

- a frequent concern staff have is about how to deal with a client who says they are suicidal
- some staff have needed to actively intervene when some individuals have pursued a course of suicide
- individuals that are perceived to be extremely emotional, and also unpredictable due to an accompanying mental health problem, are also a concern to staff.

It is important to remember that:

- suicide is when a person decides to take their own life
- suicide isn't a mental health problem – however, people with mental health problems are at a greater risk of thinking about or taking their own lives
- suicide is not the same as self-harm (when someone deliberately tries to harm or injure themselves, but not with the intention of taking their own life)

- around 1 in 6 people report having suicidal thoughts every year, while 3% report thinking of self-harm
- in 2013, over 6,000 suicides occurred, while between 2003-2013, more than 18,000 people with mental health problems took their own lives.

What should advisers do?

Firstly, if a client says they want to take their own life:

- **Help them by listening** – the first thing advisers can do if a client is feeling suicidal is to encourage them to talk about their feelings and situation, and to listen to what they say. You do not have to provide a solution – you just have to listen. This shows that you care and you want to know more.
- **Acknowledge circumstances and feelings** – reflect back to the client what they have shared about their situation and emotions. Again, this shows that you are listening, that you care, and that you are willing to spend time with them. Feeling suicidal is often a *temporary state of mind* (the Samaritans estimate that these feelings could pass in 40-45 minutes), and while a person may be distressed or depressed for a considerable time, the actual period in which they may consider taking their own lives can be short. Providing support and listening can help prevent people dying by suicide.
- **Refer to the Samaritans** – the Samaritans have a range of services available to support the clients of such agencies (see Case Study 3).
- **Make it clear you are taking them seriously** – always make it clear that you are taking the client seriously. Some clients may talk about suicide as a means of getting attention, but equally people who take their own lives have often told someone about this before they took this action.

“

“I dealt with a call where the person stated he was going to kill himself then hung the phone up. I found this very distressing as I had no training on how to deal with such individuals”

CASE STUDY 2

Christians Against Poverty



While assisting Maria with her debts, CAP received text messages that made it apparent that she was feeling suicidal. By asking some further questions, we became aware that her child was in the property with her and that there was a serious risk of her also harming herself. We then lost contact with her and were not able to get a response over the telephone.

We contacted the police. They were able to go immediately to the client's property and establish that she and the child were safe. The caseworker who dealt with Maria was supported through this process by a caseworker from our Vulnerable Client Team (who receive extra training to enable them to provide this support) and given a chance to debrief once the situation had been resolved.

Secondly, advice agencies need to have safeguarding policies on what to do in emergency situations. Agencies differ in their approach to this, but staff should know whether they are required to call 999 (see Case Study 2), or if a different action should be followed.

Thirdly, agencies should encourage staff members to seek support following a suicide call – this can include staff having the space to openly talk about these challenging calls with supervisors and colleagues, which can be good for the individual, but equally others in a wider team can learn from these experiences. The Samaritans will also take calls from staff who are experiencing distress following a call.

Fourthly, when developing policy or staff skills, external assistance should be sought:

- the Money Advice Trust offers courses that deal with suicide and a range of challenging issues
- other training programmes exist from external agencies such as the Samaritans.

Useful resources

Money Advice Trust's training programme:
www.moneyadvicetrust.org/vulnerability
Samaritans workplace training:
www.samaritans.org

CASE STUDY 3

The Samaritans: working with distressed and suicidal customers

The Samaritans is a national charity that aims to reduce the number of people in the UK dying through suicide. Critically, only 20% of calls to the Samaritans involve assisting with someone who is at a point of suicide. Instead, the Samaritans prefer to offer support at a much earlier stage to reduce personal distress.

Stage 1 – the client calls

If an adviser identifies someone suffering from personal distress, then the Samaritans actively welcome the client being encouraged to call the Samaritans directly on **116 123** (free to call from mobiles and landlines, and does not show up on bills).

When beginning to speak with clients about this, the Samaritans suggest that advisers refer to them as a 'partner agency', so that the client agrees to make contact. Once this has been achieved, the number and name of the Samaritans can then be used. If the client appears to get 'cold feet', advisers should reassure them that 80% of calls to the Samaritans are for callers like this.

Stage 2 – the advice agency arranges a 'call back'

If an adviser feels that a client needs support but may be unlikely to call the Samaritans themselves, the adviser can refer the client to the Samaritans for a 'call-back'. Again, the Samaritans recommend that they are referred to as a 'partner agency' in the first place, until agreement has been reached with the client to arrange a 'call-back'. Once this agreement has been achieved, the adviser will need to contact the Samaritans with the following details:

- the client's name
- the client's contact details
- the day and time that the call-back is required (based on the client's choice/availability) – a call-back will occur within 30-120 minutes (depending on the availability of Samaritans volunteers)
- confirmation that the client has given their permission for these details to be passed to them.

Stage 3 – situations where an adviser might call the emergency services

A client might be so distressed that they indicate that they intend to commit suicide. Having a mental illness is the most significant risk factor for suicide. The two other key risk factors in helping frontline staff decide how real this threat is are:

- the client has a credible plan and can discuss it in detail
- the client indicates they have attempted to kill themselves before.

If staff believe that a real threat exists, they may need to break confidentiality for the benefit of the client. Depending on their organisational policy, adviser staff may want to ensure that the client is not left alone, while a colleague seeks immediate help for the client by contacting third-party emergency services. Adviser staff may be advised by their organisational policy to keep the client talking (making sure not to deny the person's feelings, avoiding giving advice, and always focusing on a favourable outcome to the situation).

4A

How well do your staff manage client disclosures of vulnerable situations?

What is the issue?

The disclosure of a vulnerable situation marks a critical moment:

- for the client, disclosure to an adviser can be a big step – a point where they entrust an organisation with information about something which is highly personal, and with the hope it will be taken seriously and into account
- for the adviser, it represents an exchange which if not properly handled, could result in client or carer trust being lost (hindering future discussions with the client, including any financial reviews), or the adviser potentially breaching the Data Protection Act.

Effectively managing client disclosure is therefore key.

What is the evidence?

In 2016, the Money and Mental Health Policy Institute conducted a survey of people with experience of financial difficulty and mental health problems.

Receiving over 5000 responses, the survey asked respondents about a number of issues, including their use and views of advice services (covering both the free and fee-charging advice sectors).

The survey findings on these issues are detailed in Appendix 1. However, in relation to disclosure, the survey asked respondents about the last occasion they told an advice service about their mental health problem, and their experience of this. Among the nearly 1000 people who answered this question:

- 40% said they **were not asked** for their consent for the adviser to record details about their mental health problems
- 47% said they **were not clearly told** what would happen to any information they provided about their mental health problem(s)
- 41% said that **advisers did not ask** questions about how these mental health problem(s) were affecting their financial situation and ability to make repayments
- 39% said that **advisers did not ask** whether they were receiving any support from family and friends
- 32% said they **had to explain to various people** in the organisation about their mental health problem
- 35% said that they **did not feel their mental health problem was taken into account**, despite telling the advice organisation about it.

As noted earlier, research findings should always be scrutinised and debated. We should also note that these findings relate to mental health, and may not reflect the handling of disclosures of other types of vulnerable situation (although there is nothing specifically about a mental health disclosure that is uniquely challenging). However, what is clear from these data is that when working with clients who are in potentially vulnerable situations, advisers should take nothing for granted – instead skills need to be developed and applied, while trust and disclosure needs to be earned and worked at.

What should advice agencies do?

To help ensure that client disclosures are handled effectively and legally, advisers should follow the 'TEXAS' model outlined in Box 8 and ensure staff are aware of the roles of others within their organisation.

Importantly, the FCA includes TEXAS in its Practitioners' Pack (Appendix 4, pages 112-113).

Useful resources

Financial Conduct Authority (2015). *Consumer vulnerability. Practitioner's Pack* (Appendix 4). London: FCA

BOX 8: TEXAS drill

T Thank the client (what they have told you could be useful for everyone involved):

"Thanks for telling me, as it will help us deal with your situation better"

E Explain how the information will be used (it is a legal requirement):

"Let me explain how we'll use that information, just so you know"

This explanation should include why the information is being collected, how it will be used to help decision-making, and who the data will be shared with/disclosed to.

X eXplicit consent should be obtained (it is a legal requirement):

"I just need to get your permission to..."

A Ask the client questions to get key information (these will help you understand the situation better):

- *"How does your situation make it difficult to manage your finances?"*
- *"How does your situation affect your ability to communicate with us?"*
- *"Does anyone help you manage your finances such as a carer, relative or other third-party?"*

S Signpost or refer to internal and external help (where this is appropriate):

At this point, staff and organisations might:

- need to internally refer the individual to a specialist team/staff member in their organisation
- want to consider external signposting to an organisation such as:
 - a different advice agency if that would help the client more
 - NHS 111 (dial 111) for more help with a mental health problem
 - the Samaritans (116 123) for suicidal or despairing people.

CASE STUDY 4

PayPlan



One particular client approached us and when explaining their background story openly disclosed they had multiple mental health conditions. Our adviser used the TEXAS model to handle the conversation by:

T Thanking them for sharing the information and reassuring them that it was useful to be aware of his conditions. This put the client at ease and encouraged an open and honest conversation.

E We Explained that the information was important as it helped us manage their arrangement better. We also explained that by recording the information they didn't have to keep repeating themselves unnecessarily, and we can explore what adjustments they may need to fully engage with their arrangement.

X We gained their eXplicit consent to record the information on our case management system and clarified who else would see the information.

A Questions were Asked on how the conditions impacted his ability to communicate with us and manage his debts. In particular the client struggled to make decisions or communicate effectively in the afternoons due to medication and feeling tired, so this was noted so we could communicate at a preferred time and take additional measures to support his decision-making process.

We discussed what support the client had in place and whether they would like to seek additional wellbeing support by

S Signposting or referring to a specialist organisation. The client didn't feel the need to at that stage, however did share they had help from a family member.

4B

How well do your staff encourage client disclosures of vulnerable situations?

What is the issue?

For every client who discloses a vulnerable situation, there will be other clients who do not. This will vary depending on the situation, but if the matter remains 'unspoken' about, advisers cannot take these factors into account.

What is the evidence?

In 2016, the Money and Mental Health Policy Institute survey described previously, also focused on those respondents who decided *not to tell* an advice service about their mental health problem. Among the nearly 3500 people who answered this question, the following reasons were given by respondents for not disclosing their potentially vulnerable situation:

- wasn't aware that it would make any difference (44%)
- disliked generally telling people about their mental health problems (42%)
- felt that they would not be treated sensitively or sympathetically if they told the adviser about their problems (28%)
- felt they would not be believed (21%)
- worrying how this information would be used (26%)
- feared that disclosure would affect future access to credit or other financial services (18%)
- expected they would be treated unfairly (16%)
- concerned that debts would be recovered from their welfare benefits (5%)

Identifying how to overcome these 'trust barriers' is key to engagement.

Advisers who do this will gain invaluable insights into the reasons why a client is struggling financially and the steps to address this.

What should advice agencies do?

Advisers who wait for clients to take the initiative to disclose may ultimately end up working with a small minority of this group, particularly in more sensitive areas such as mental health.

Clients will be more likely to disclose a vulnerable situation if they feel it will make a positive difference and won't have negative consequences. One method is to simply get into the habit of reminding clients that disclosures of a vulnerability are welcome. Staff can do this when they are speaking directly with clients, as well as in client correspondence, in standard information leaflets, on websites, or other resources. This can include:

Firstly, inviting clients to inform them about any relevant difficulties, health or otherwise:

"Just to remind you, any information you share – including health or other issues – will be kept confidential."

"Are there any health or other issues we should know about, as we will treat these confidentially and they will help us to provide you with a better service?"

Secondly, including 'welcoming' statements

in any 'how we use your information' leaflets or webpages about how health and other data will be collected, used and stored:

You can tell us

If you have a personal, health or other issue that is making it harder to manage your finances, you can tell us.

If you tell us, it could help us to provide you with a better service. We'll also keep the information confidential.

This will help overcome the common client concern about how disclosed information will be used by agencies.

Thirdly, drawing on the advice service's

organisational policy – as noted in Step 2, all advice services should have a policy that allows staff to clearly explain how information disclosed by a client about a potentially vulnerable situation may be used, shared, stored and recorded. Staff should be aware of this, and be able to reassure clients how any information about a potentially vulnerable situation will be processed – this can help overcome clients' often serious concerns about how this type of information will be used by the service.

Fourthly, listening out for 'little red flags' –

clients may already be disclosing information about a vulnerable situation, but in small and subtle ways which an adviser could easily overlook. These 'little red flags' represent cues, clues, and pointers that might indicate an underlying vulnerability (see Box 9).

BOX 9: Little red flags

From speaking with clients, advisers will already know that some clients will share a lot of information. Because of this, advisers often train themselves to identify and focus on the absolutely key pieces of information that allow them to do their jobs well.

One down side of this, however, is that advisers can become far too good at this focusing. This can mean that advisers end-up 'filtering out' information that doesn't initially sound important or relevant, but which is actually providing us with an important clue about customer vulnerability.

What advisers need to do therefore is try and look and listen out for these clues – these are like 'little red flags'. If an adviser can spot them, they can often highlight a vulnerable situation that would otherwise be missed. And if advisers identify these situations, they can support and treat the client more fairly.

So what 'little red flags' might an adviser look out for?

We are looking out for glimpses of a potential vulnerability, that can then be explored further with the client. These can include:

- **individual factors** – passing mentions of illness, disability or impairment; reference to contact with the health sector (doctors, nurses, advocates, carers and others) or social care sector (social workers, key workers, support workers); reference to the receipt of specific benefits (such as sickness or disability benefits)
- **wider circumstances** – excessive or unusual expenditure, life events (such as time in hospital, imprisonment, or change in family structure such as a new child), income shocks (such as unemployment)
- **creditor or adviser actions** – reference by the client to things that 'have been done' that have caused difficulty (such as a change in the mode of communication), or things that 'haven't been done' (such as consideration of a third-party/carer, different payment methods). Critically, these actions might relate to both the creditor, or the advice agency – consequently there is a need to look at external organisations, as well as reflect on internal actions or processes.

As you will note, these factors (or 'drivers' of vulnerability) mirror those already described in Box 1 (page 5).

CASE STUDY 5 MoneyPlus Group

MoneyPlus

GROUP

Following the move into the FCA regime and the release of the FCA Occasional Paper on Consumer Vulnerability, MoneyPlus Group committed to enhancing their systems and controls in relation to the identification and handling of vulnerable consumers. Central to this change was the adoption of the 'TEXAS' approach and the implementation of a new, dedicated 'Specialist Care Team' who could triage cases and determine the right course of action, as well as handle the most sensitive cases.

In order to support the successful implementation of the TEXAS approach and the Specialist Care Team, MoneyPlus Group's in-house training department developed a comprehensive training programme whilst engaging with external organisations such as the Samaritans and the Money Advice Trust to provide additional support and to utilise their specialist knowledge and experience.

The TEXAS approach has now been embedded into the organisation's business day-to-day activities and culture through implementing: clear and effective policies and procedures; ongoing monitoring and reporting; continuous feedback, coaching and training of employees and instilling an attitude that puts customers' best interests at the heart of what we do. The impact of these changes has been significant; MoneyPlus Group employees are now far better equipped and confident in handling sensitive, emotive and often challenging cases.

The information gained from consumers that give explicit consent through the TEXAS approach has been invaluable in enabling MoneyPlus Group to work more closely with both consumers and many creditors; challenging perceptions, reducing creditor contact, alleviating pressure and in some cases even working towards creditors writing off sums of money in relation to the most sensitive cases.



When a third-party discloses a problem, do your staff handle this effectively and legally?

What is the issue?

Clients are not the only people who can disclose information to advisers. Carers are also able to inform advisers about situations involving vulnerable clients (see Box 10).

This type of information from carers concerned about a family member or friend can be incredibly helpful. This can be particularly important where an adviser is having trouble contacting, or speaking with, the client.

However, valuable insights from such carer disclosures are being lost by advisers who:

- **correctly believe** they are unable to discuss a client's case with a carer who does not have the appropriate authority to do so
- **but who feel unable** to record observations reported by such carers as they believe that either (a) the Data Protection Act 1998 requires them to always obtain the explicit consent of the customer in question, or (b) they have a concern about breaching their advice service's confidentiality policy
- and who **subsequently lose the opportunity** to:
 - **engage with carers** (with the risk that conversations with carers are 'shut down', and carers feel they are not listened to)
 - **take appropriate action** in the light of the information offered
 - **prevent a larger crisis** from unfolding from an original difficulty that was potentially manageable.

This need not happen – while advisers should never **discuss** a client's case with a carer who does not have the appropriate authority, this does not mean that advisers should immediately stop listening to anything that such a carer might have to share. Instead, there are other options available, which every adviser should at least consider the feasibility of taking.

BOX 10: definition of carers

We define 'carers' as including both those family members or friends who provide support to an individual, as well as those 'official carers' who claim Carer's Allowance for someone they provide care to.

What is the evidence?

The Financial Conduct Authority – in its Consumer Credit Sourcebook – recognises the importance of listening to the views of carers.

Emanating from its guidance on working with clients with mental capacity limitations (who can – as seen in Step 1 – include individuals in a range of vulnerable situations), the FCA state that organisations should always consider:

"a person who is likely to have an informed view of the matter, such as a relative, close friend, carer ...raising a concern" (CONC 2.10.8.G).

Importantly, in doing this, the FCA do not state that advisers should discuss a case with a carer, but instead that advice organisations should at least listen to the information that is being provided.

This viewpoint has, understandably, also been raised in our discussions with carer groups. These carer groups report that despite genuine attempts to alert advice agencies to the vulnerable situations that clients may find themselves in, carers often find themselves ignored or 'shut down' on the basis of Data Protection or confidentiality concerns. This can result in critical information being overlooked, and larger crises or pressing situations rapidly unfolding.

What should advice agencies do?

Advice agencies should review their existing confidentiality policies.

In doing this, they should consider whether the following drill outlined in box 11 could be used by advisers to better handle disclosures from CARERS.

Useful resources

Financial Conduct Authority (2015). *Consumer vulnerability. Practitioner's Pack* (Appendix 4). London: FCA

BOX 11: CARERS

- C** Check for authority:
- if the carer **can** supply evidence of their authority to act on the client's behalf (such as a Power of Attorney), a more detailed discussion might be able to be arranged once this is received
 - if the carer **cannot** produce this evidence, the following steps can therefore be taken:
- A** Avoid discussing any case details or indeed that a case even exists with the carer.
- R** Reassure the carer that their concerns will be listened to, and considered, in full.
- E** Explain to the carer that if a note is taken of their concerns, these will be recorded as observations (unverified) at the agency.
- R** Record the carer's observations and concerns, listening carefully, and ensuring:
- checks are made why the client referred to is unable to speak directly with the adviser (for example, a communication issue)
 - it is clear how the reported situation has a direct impact on the case moving forward, and what action is required by the agency and the carer
 - you have confirmed with the carer what information you have recorded as unverified observations, and how long these will be held while the agency considers the matter
- S** Summarise what you have agreed and make sure the carer can confirm this.

Throughout this process, the adviser should avoid any reference to the client's case – the aim here is simply to capture information from concerned carers which could prevent a crisis occurring for the client.

The CARERS protocol provides a means of doing this, and has been shared and discussed with the Information Commissioner's Office to ensure compliance with the Data Protection Act 1998.

CASE STUDY 6

Financial Ombudsman Service: working with carers



Over the last year, we've been running a drop-in advice service. This allows people to meet face-to-face with an ombudsman to talk about their money worries. We met Robert and Sarah when they came to visit us. This is their story.

Robert and Sarah

We first met Robert when he stood outside our office deeply distressed. He was on his own and wouldn't talk to us. We didn't see Robert again until two months later. This time he was with Sarah, his partner. Sarah told us that Robert's mental health "was really bad", that he had run up significant debts, and that she'd had to leave her job to care for him.

Sarah hits a brick wall

On discovering Robert's debts, Sarah tried to contact his lenders. However, she came up against a 'brick wall' as she had no official authority to act on Robert's behalf. Sarah said that the banks made her feel like she didn't matter, that the information she offered was irrelevant, and her motives for calling were questioned. Sarah said the lenders continued to ring Robert and he couldn't talk to them without breaking down. Sarah complained about how they were treating Robert, but that hadn't worked.

Like Robert, Sarah herself was at breaking point and saw her doctor for depression. She told us that one of the mental health charities she'd been speaking to had told her about the Financial Ombudsman Service. As they lived fairly locally, Sarah came in with Robert to see if we could help to get the businesses to listen to her.

Understanding the situation

We needed to establish whether Robert was happy to talk about his personal affairs with Sarah present. We gained Robert's consent for this, and tried to talk directly to him about his problems. We found out very quickly that talking about the situation directly with Robert was stressful for him, led to memory problems, and also angry exchanges.

By involving Sarah in the discussion, we were able to understand the life and communication challenges Robert was living with. Without her knowledge of Robert and his ongoing health problems we would have found it extremely difficult (verging on impossible) to connect with Robert and get to the bottom of what was going on and help him.

How we helped

Gradually we built up a picture of Robert's background, his health problems and why he'd been borrowing money. We gained his consent for us to contact the companies that he owed money to, so we could find out what they'd done in response to Sarah's calls and complaints. And when we spoke to the businesses involved it was clear that they hadn't appreciated the extent of Robert's problems – either at the point of lending the money to him, or when things had started to go wrong. Sarah's insight was crucial to our investigation and ultimately helped the banks to see what had gone wrong.

6

When asking more in-depth questions about vulnerable situations, are your staff covering the key points?

What is the issue?

The 'TEXAS drill' described in Box 8 provides guidance on the three core questions that staff should be asking any client once they have disclosed some key information about a vulnerable situation they are facing.

However, there will be times where a need exists to further understand some key information about a client's vulnerable situation. This is particularly the case where a conversation with a client might be handled by a specialist^A or more experienced member of the advice team.

Good practice already exists in the creditor sector and this can provide clues about how advice agencies might approach this matter.

For instance, a 2010 research report found that compared to frontline debt collection staff, a greater proportion of specialist team staff described knowing what to do when a client disclosed a mental health problem. Likewise, a smaller proportion of specialists had difficulty discussing mental health issues^{5,8}.

However, these same staff still reported some difficulties in discussing a client's mental health problems, including avoiding being drawn into lengthy conversations about a client's situation.

In situations like these, specialist staff – whether they are advisers or creditors – not only need to use core questions to start a conversation, but also need to feel confident about holding a conversation which can effectively focus on relevant details for progressing a case involving debts.

In short, staff may benefit from a conversational 'compass' to help them listen out for relevant information and navigate through some key questions about a client's situation.

What is the evidence?

The FCA recognises that this is a challenge for some advisers and has therefore included the 'compass' in its Practitioners' Pack as one way of outlining how these conversations can be taken forward.

What should advice agencies do?

In Figure 2, we present the 'compass' technique. This can help guide staff in their conversations with clients. It provides a technique that will allow staff members to utilise their soft skills, to navigate them through any vulnerable situation, whether they have knowledge of it or not.

Each compass point is a key issue for decision-making that staff can listen out for, or ask about if the client doesn't offer it, to get a better IDEA about the client's situation:

Impact – staff should ask what the vulnerable situation either stops the client doing in terms of their financial situation or what it makes it harder for them to do. This will help provide valuable insight into both the severity of the condition and its consequences.

Duration – staff should discuss how long the client has been living with the reported vulnerable circumstances, as the duration of different situations or conditions will vary. This can inform decisions about the amount of time a client may need to consider certain options or take positive steps to improve their financial situation.

Experiences – some people may have more than one experience or episode of their vulnerable situation, whilst others may just have the one. Advisers will need to take such fluctuating situations into account with regards to their personal management of the client, but equally the strategy for resolving their overindebtedness. The client may also have non-health experiences to take into account, which the adviser needs to be equally alert to.

Assistance – advisers should consider whether the client has been able to get any care, help, support or treatment for their condition or situation. This could open up discussions about obtaining relevant medical evidence or other relevant information.

Advisers will be aware of the need to consider health and social outcomes for their clients, not just financial ones. This generic tool provides a framework to achieve this.

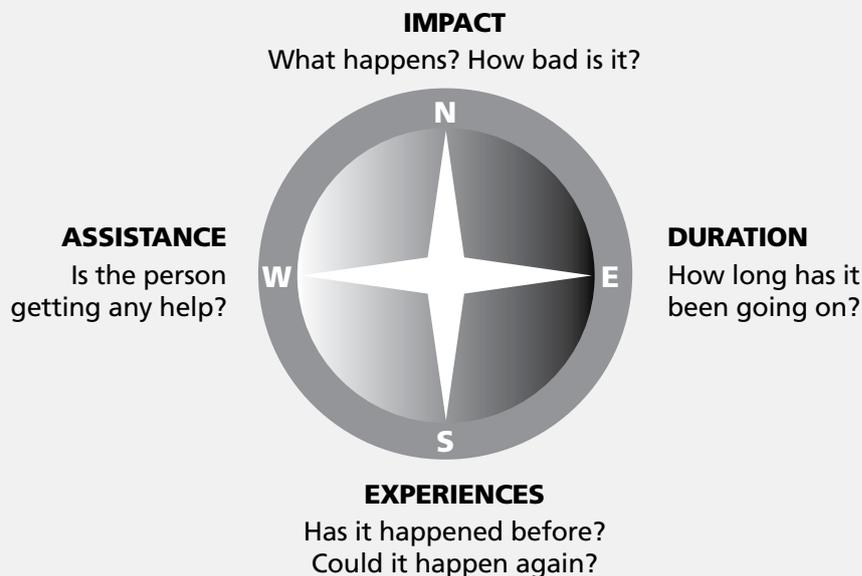
Useful resources

Financial Conduct Authority (2015). *Consumer vulnerability. Practitioner's Pack* (Appendix 4). London: FCA

^A Agencies may wish to consider whether specialists are required within the agency. There is no right or wrong approach, but agencies do need to make sure that appropriate levels of support are provided somewhere and that the client can find this support when appropriate. This could involve a specialist team across the whole firm right through to key specialist staff accessible in every team.

FIGURE 2

IDEA: a conversational 'compass' for specialist staff



CASE STUDY 7

PayPlan



How has this helped your staff?

The IDEA or 'compass' model has given our advisers the additional tools to be able to facilitate conversations when a client has been identified as vulnerable in some way. Before receiving training staff were often feeling uncertain and anxious about how to ask particular questions which may have been perceived as intrusive. This meant it felt safer to many to avoid opening up these conversations. The TEXAS and IDEA models have allowed our advisers to keep conversations focused, relevant and proportionate to the disclosure made by the client.

Are staff more confident in dealing with various issues that perhaps they struggled with previously?

Overall staff confidence has increased since we started delivering training and we're sure it will continue to grow as we continuously apply techniques such as TEXAS and IDEA. We encourage staff to share collective wisdom using their own experiences; coach them through particular situations they may face; and by conducting call listening workshops we identify best practice.

"On occasions it's difficult to approach the topic of vulnerability, but if the adviser listens for signs and uses the TEXAS & IDEA model it can easily be introduced into the conversation." Barry Knight, Debt Management Department

How has this impacted on outcomes within PayPlan in terms of customer feedback or management information re the quality of calls?

Staff now take more time to have conversations with clients when it's identified they're vulnerable in some way, and the focus of doing the right thing is at the forefront of what we do. We believe this is reflected in this example of client feedback received.

"I was in a dire situation, homeless and feeling suicidal when CAB advised I contact you – I consider PayPlan saved my health, my mind and my life."

Not all vulnerable situations are the same – are your staff taking *difference* into account?

What is the issue?

Using tools such as TEXAS (page 21) and IDEA (page 27) will help advisers to treat every client in a vulnerable situation sensitively, fairly and legally.

However, not all vulnerable situations are the same.

Instead, as we saw earlier in this document, every situation is a combination of **individual factors, wider circumstances, and the action (and inaction) of advisers and creditors**. Furthermore, even where clients are in the same type of vulnerable situation, they can often experience (and respond to this) in quite different ways.

Consequently, advice agencies who invest in developing staff knowledge, skills and strategies, will be better placed to take such differences into account.

Doing this will give the agency a sharper edge when it comes to assisting staff and clients overcome a range of challenges relating to:

- initial engagement
- sustaining contact
- communication and explanation
- understanding combined financial and health issues
- decision-making (including obtaining explicit consent)
- taking and following actions which could lead to better client outcomes and organisational objectives.

Taking the step to invest in staff training will help to achieve this, but it requires more than generic subject matter courses in a specific subject. However, before committing financial and human resources to this, advice agencies need to ensure that staff receive training that develops an **essential combination of knowledge, skills, and strategies**. Importantly, this requires more consideration than running a generic ‘vulnerability awareness’ course.

What is the evidence?

The importance of the right blend of knowledge, skills and strategies has been central to the training

that the Money Advice Trust has provided to over 5000 frontline staff working in creditor and advice agencies.

It is also crucial to many other organisations that oversee the sector including the Financial Conduct Authority who regulate such firms and the Money Advice Service who will only consider funding appropriately accredited agencies.

What should advice agencies do?

Advice agencies should ensure that staff receive training that develops this essential combination of knowledge, skills and strategies:

- **knowledge** – staff should not only be generally aware of a range of vulnerabilities or various mental health conditions that exist, but also know how to take these into account during various debt advice options and reviews over a period of time. Rather than providing only ‘abstract statistics’ or general principles about vulnerability, agencies should instead **develop staff knowledge about vulnerable situations that relates to the context of their everyday work**. This will help the client and the organisation far more than simply being exposed to generic vulnerability principles or awareness training.
- **skills** – staff should be helped to develop their existing skills in active listening and questioning so these can be applied to a range of common vulnerable situations. This should include, for example, considering how best to work with clients who are depressed or withdrawn, are experiencing high levels of anxiety due to personal issues, or who have long-term health needs. Staff should also be helped to develop skills to respond to clients who say they are feeling suicidal or express other issues about feeling hopeless. In addition, staff should develop the skills required to comply with wider legal and regulatory frameworks.
- **strategies** – representing the final part of any high-quality staff training course, this should outline the protocols and steps that staff should follow in different situations relating to a range of issues, including mental capacity limitations. In doing this, these protocols will draw on the knowledge and skills that staff should have now developed.

Useful resources

www.moneyadvicetrust.org/vulnerability

www.moneyadvicetrust.org/training/Pages/Wiseradviser.aspx

www.i-m-a.org.uk/training

www.i-m-a.org.uk/certificate-in-money-advice-practice

CASE STUDY 8

Practical support



The Money Advice Trust works with partners in the advice and commercial sectors to improve outcomes for clients in vulnerable situations.

Wiseradviser: free training and support to debt advisers

Wiseradviser courses and resources give advisers the essential knowledge they need to give accurate advice and to improve the advice-giving process. We offer a wide range of training courses, from flexible e-learning, to face-to-face courses delivered by experts.

Most recently, we have developed both face-to-face training and elearning for advisers on vulnerability, which explores what vulnerability is, and introduces ways to identify, safeguard and support clients in vulnerable circumstances.

Improving the UK's money and debt environment

As a result of our cross-sector engagement, we have gained insight and shared best practice on dealing with vulnerable customers enabling us to:

- provide training and resources to over 5000 staff in over 200 organisations in the free advice sector and beyond
- offer guidance in our briefing *12 Steps for Treating Potentially Vulnerable Customers Fairly*, which has now been adopted by many banks and debt collections agencies
- support the British Bankers' Association's Vulnerability Taskforce, chaired by Joanna Elson, our Chief Executive.

Our training aims to recognise the realities and objectives of the advice sector, with the objective being to introduce and share practical techniques that will help clients recover from the financial and health crises that they are often experiencing.

For more information on eligibility and further course information, please visit www.moneyadvicetrust.org

CASE STUDY 9

Practical support



In support of our overriding objective to assure quality in the money advice profession the Institute of Money Advisers* provides learning opportunities that help advisers support vulnerable clients.

In partnership with Staffordshire University we deliver the Certificate in Money Advice Practice (CertMAP); a level 4 Higher Education qualification delivered online. This is made available to all advisers: whether in the not for profit or fee charging sector. Accredited by the Money Advice Service since 2014, CertMAP is the only specialist/caseworker qualification covering all aspects of the money adviser role. With reference to vulnerable clients, CertMAP includes:

- working with clients – learning materials cover interview skills, effective language and going beyond the presenting debt problem, including dealing with vulnerable clients
- explaining confidentiality and encouraging disclosure to enable the adviser to offer best advice and advocacy
- ascertaining and offering the right level of support appropriate to client need
- empowering the client to be in control over decisions related to their case
- action planning and reviewing client needs
- appropriate signposting and referring to other support services
- the need for service policies for vulnerable clients
- negotiation and advocacy using the MALG Debt and Mental Health Evidence Forms and creditor codes of practice which include protections for vulnerable clients
- managing cases and caseloads to assure adequate time and resources are devoted to vulnerable clients

Following CertMAP graduates enrol on the IMA's Continuing Professional Development (CPD) scheme to maintain up to date knowledge and expertise.

* *The Institute of Money Advisers (IMA) is the only professional body acting solely for money advisers in England, Wales and Northern Ireland with over 1,800 members from across the free money advice sector.*

8

Are you collecting the right medical evidence to support clients with mental health problems?

What is the issue?

'Medical evidence' is information about a client's physical or mental health condition, provided by a qualified medical professional that knows them.

This is helpful to advisers as clear evidence can inform effective decision-making when considering a strategy with any given client.

However, the decision to obtain medical evidence should depend on the client's situation – it is a case-by-case decision, not an automatic action.

To assess this, staff should review all the information already gathered about the client's physical or mental health situation, and ask: is more really necessary or helpful?

What do we know?

Our insights about medical evidence come from a programme of work to develop the Debt and Mental Health Evidence Form or DMHEF (see opposite). This programme found that advisers and creditors vary in their approach to medical evidence. The more informed agencies will only collect medical evidence when unanswered questions remain after discussions with a client.

What should advice agencies do?

We believe that medical evidence is most effectively obtained through a DMHEF when:

- **a client reports a mental health problem**
- **this mental health problem is reported as having an impact on the client's ability to manage money** (the client may disclose this, or the adviser may observe this from an income/expenditure review)
- **the adviser needs more clarity about this impact** (either because the illness is complex and needs further exploration, or unanswered questions, doubts or concerns exist)
- **additional information from a health or social care professional would provide this clarity**
- **and the client has given their explicit consent for such an approach to be made.**

Consequently, we believe that a DMHEF should *not* be sought every time a client discloses a mental health condition.

Instead, advisers should stop and consider:

- what material difference the obtaining of a DMHEF will make, given there are various options that can be pursued without the recourse to this (e.g. a Debt Relief Order)
- whether simple information shared (with the client's explicit consent) with a creditor about the client's mental health problem will have the desired outcome
- whether the time and resources it will take for the information to be collected is proportionate (e.g. if a relatively small interaction is required, it should not require medical evidence).

It is appreciated that some creditors will insist on a medical evidence form to be provided. In these situations, these creditors should be reminded of the above considerations.

What about the 'payment issue'?

There is some evidence that health and social care professionals (including General Practitioners) will request payment for providing medical evidence.

Advisers and creditors alike may have difficulty in understanding the motive for such requests, as they perceive the provision of such medical evidence as benefitting both the financial and mental wellbeing of the customer.

However, GPs are not normally employed within the NHS, but instead are contracted by the NHS to provide specific primary care services. Consequently, any services 'falling outside' of this contract are likely to be charged for.

What should advice agencies do about this?

There are at least four options:

- make the payment – this recognises both the value of the evidence to decision-making, and also the health professional's time
- approach a different professional – if someone else is assisting the client, they may decide not to charge
- explain the health benefits resulting from the evidence being collected – requests for medical evidence which underline the health and social care benefits for the client may be more positively viewed
- use any other health information already available or gathered

Whichever option is chosen, advisers have an important role in explaining to local health professionals why charges for medical evidence can have a negative impact on clients' health and wellbeing.

CASE STUDY 10

Debt Advisory Line: Collecting medical evidence



We initially contacted our client to complete a review of his Debt Management Plan. On this call, our client was very unsettled and quite anxious about speaking to us. Before we had the opportunity to complete the necessary security checks, he advised us that his brother was dealing with everything for him and requested that we contact him.

Shortly after, we received a call from our client's brother, who advised us that his brother has Dementia and has been diagnosed with Parkinson's disease (the necessary consent was obtained to record this).

We therefore made the decision to refer the case over to our Extra Support Team. They then contacted the clients' brother to obtain further information and to get a better understanding of the situation. The brother explained to us that any letters and phone calls were causing distress and confusion.

We contacted the creditors with some of the medical information obtained, but this evidence was deemed to be too old. We advised that we would re-contact our client's brother and see if we could arrange for further medical evidence to be collected (either using the DMHEF or via another form of evidence). However, in the meantime, we asked that a hold was placed on the account, and that no contact was made with our client due to the stress and upset it caused.

A DMHEF was subsequently received and forwarded to the creditors, and a final decision is still pending. Every step of the way, we have been keeping our client's brother updated and assuring him that work is going on in the background. For his own peace of mind, he has since taken over the management of the monthly payments towards the plan

CASE STUDY 11

Supporting a client through the DMHEF



Our client had a history of psychiatric inpatient care (with spells in hospital over the last five years), had talked about taking her own life, and was currently dealing with a large number of priority and non-priority debts. These included mortgage repossession shortfall and continuous payment authority mandates to a payday lender.

We advised on her options including the longer-term implications. Bankruptcy was the most suitable option so we made a trust fund application for the bankruptcy fee. However while we were waiting for a decision, Local Authority bailiffs visited to collect outstanding arrears, including those in dispute. This required immediate action as it could lead to committal proceedings so we could not wait for the bankruptcy petition to be considered.

We therefore obtained a Debt and Mental Health Evidence Form from the client's psychologist. We sent this to the Local Authority requesting they accept the client's repayment offer and recall the bailiff warrant. We also questioned why they had applied for two liability orders for the same year's council tax debt. On further negotiation the Local Authority agreed to accept the client's repayment offer and we await their explanation regarding the disputed liability orders.

Useful resources

The DMHEF and accompanying documentation can be downloaded at www.malg.org.uk/debt-and-mental-health/

The Debt and Mental Health Evidence Form is a standardised form that can help creditors or debt advisers collect medical evidence. First published in 2008, Version 3 of the DMHEF was launched in 2012.

9

Are you fully using the information you collect about clients in vulnerable situations?

What is the issue?

In the previous step, we noted that automatically collecting medical evidence for every client who discloses a mental health issue can be an inefficient and ineffective use of an adviser's resources.

In this section, we make a further observation: where an advice agency decides to collect medical evidence, they need to take steps to ensure that staff understand how to optimise the use of this evidence.

Without a clear protocol to organise and analyse such medical evidence, staff often find it very challenging to use this evidence to inform decision-making. This can result in action which does not help the client, adviser or the creditor.

What do we know?

If an adviser does not take these matters into account, they may find creditors do not:

- understand why the evidence is relevant to the suggested request
- appreciate the relevance of the information submitted
- see how this will help them take a decision to deal with the debt.

What should advice agencies do?

It is clear that medical evidence can significantly help clients, advisers and creditors. However, to achieve this, all advisers who seek medical evidence need to know how to read, interpret and develop strategies on the basis of such evidence.

The first action is to bring together the full range of relevant evidence about a client's situation. Critically, this is *not* just evidence provided by a health or social care professional (e.g. a Debt and Mental Health Evidence Form). Instead, it also includes:

- the TEXAS protocol – when the initial disclosure of a health problem was made, information may have been recorded about any impact on repayment, communication needs, the provision of assistance from a third-party or signposting to other team members or externally
- the IDEA 'compass' – used during more in-depth conversations with a client: this should have provided insights on impact, duration, experiences and assistance
- wider money advice information obtained – including issues around welfare benefits (particularly disability benefits) and expenditure trends
- information supplied by other third parties: medical letters/appointments, occupational health assessments, carers or other individuals that the client trusts and creditor correspondence or activity.

The second action is to meaningfully organise this information – each organisation will have its own priorities, but in the example opposite (Figure 3) we use an analytical framework with three headings:

- A** What actions do we usually take for a client?
- B** What specific health and financial factors need to be taken into account for this client?
- C** What reasonable adjustments could we make to take these factors or needs into account?

This should include support or adjustments suggested by the client.

The third action is to ensure that staff understand this evidence, and the options for decision-making. This includes:

- checking any diagnostic or technical terms on a reputable website (e.g. NHS Choices)
- the realistic options for decision-making that are available, and whether these parameters need to be reviewed or revised.

The fourth action is to act on the strategy, put it into place and communicate this to the client and any relevant colleagues, and follow up further requirements to achieve an appropriate outcome.

FIGURE 3:
Using information – an organisational framework

A Before considering the vulnerable situation a client is in what general options are available which could help the client?

B What factors might need to be taken into account for this client?

How does the vulnerable situation affect:

- income and expenditure?
- debt repayment?
- understanding?
- communication?
- engagement?
- decision-making?
- money-management?
- How severe and long-term is the condition?
- How might our intervention affect the condition?
- How might our usual processes impact negatively with any health problems?

C What adjustments could we make for this client?

- Could we signpost to other agencies in the debt advice sector who are more skilled to assist this client with their needs?
- Could we transfer the client to a more appropriate team member in the agency?
- If no specialist exists, could we change the way we support the client?
- Could working with an authorised third-party help?
- Could we signpost this client to a wider set of statutory or voluntary sector personnel?
- Could we assist with more flexible payment options (fee chargers only)?
- Could we remove automated processes (e.g. letters or calls that might be distressing)?
- Could we proactively review the client's situation more quickly as further changes appear likely?
- Are we required to make reasonable adjustments under the Equality Act?
- Could key staff have more time to manage this case or less cases overall?
- Could we find a better time of day, or perhaps a different method of communication for this client?
- Could we simplify the language in letters (standard or otherwise) including the use of Plain English?
- Could we make adjustments to support client decision-making?
- Could we freeze activity for a period rather than closing a case, until the client is able to engage once more?

CASE STUDY 12
Atlantic Financial Management



During an initial consultation in 2013, our client advised us that they were living with mental health problems. Following a discussion about the nature of this situation, the client's explicit consent was obtained to record this information, and to also gather medical evidence about the extent and impact of the condition.

The medical evidence was requested and obtained. This indicated that the client had been diagnosed with post-traumatic stress disorder, although with support from their family, the client had been able to cope with the situation and its consequences.

On the basis of the evidence received from the client's General Practitioner, we were able to treat the individual with greater care and attention, and to establish ongoing lines of sensitive communication.

Over the next couple of years, contact was maintained with the client, and further physical health problems were reported in 2015 (a serious heart condition).

Critically, through collecting a different form of medical evidence in response to this report, we were able to take account of the impact of these physical health problems on the client's financial situation, while also recognising that there was also likely to be an effect on the client's psychological and mental wellbeing of this physical health problem

10

Are you using your management information to improve performance and prevent problems?

What is the issue?

Advice agencies need to record and use vulnerability monitoring data. Taking this step allows organisations to:

- identify the volume of clients reporting as 'vulnerable' or 'particularly vulnerable'
- understand and categorise the strategies put into place by staff in response
- evaluate the impact and outcome of these interventions both for the agency, and for the client
- learn from these evaluations to improve the performance of individual staff and the overall organisation.

Conversely, agencies who do not take this step will not know which of their actions are effective or beneficial to either the organisation or the client.

What is the evidence?

In delivering a training programme to over 5000 creditor and advice agency staff through the Money Advice Trust, discussions with staff have made it clear that basic monitoring data is often still not collected.

The FCA are increasing the need for firms to provide this information as part of the regulation to identify and support clients who are 'particularly vulnerable'¹.

What should creditors do?

Firstly, advice agencies can monitor the number of:

- clients who disclose a vulnerable situation
- clients who disclose a particularly vulnerable situation
- the nature of the vulnerable situations disclosed
- missed payments involving such clients
- referrals to internal specialist teams
- requests for medical evidence (DMHEF or otherwise)
- cases where creditors are sympathetic or otherwise
- final resolutions for such clients (e.g. debt relief orders, write-offs, and other actions).

An extra opportunity exists for some larger agencies who record calls to monitor these for use in both one-to-one feedback sessions as well as wider team meetings.

Agencies will need to consider carefully how these issues are flagged in any systems so that they are DPA compliant, but equally accessible to staff who may need to find relevant information quickly when a client makes contact.

Secondly, agencies should review and consider any use of internal 'flags' or 'tags' to mark a client as being in a vulnerable situation.

The setting of such an internal flag should allow advisers to quickly signal to other colleagues that a client needs (or is receiving) additional support due to a vulnerable situation. It may also allow agencies to more effectively monitor the different types of clients they are dealing with, and to comparatively track their outcomes over time. However, when reviewing any use of such flags or tags, advisers should try to avoid a situation where a different flag is created for every different type of vulnerable situation encountered (as it could lead to hundreds of different flags and an unworkable system). Instead, as guidance provided by the Money Advice Liaison Group indicates, advisers should consider setting a smaller number of common flags that cover a range of different situations.

Thirdly, agencies can use the monitoring of general client activity data to anticipate future problems.

This may include:

- lack of engagement at periodic review points with the client
- loss of preferred communication selected by the client: this necessitates further contact in various ways
- contact from other third parties, from carers to creditors
- unexpected behaviours by the client (including, for example, the receipt of unrequested medical information or rapid changes in utility providers).

The adviser can utilise TEXAS and IDEA once contact is made and issues are identified.

Useful resources:

The DMHEF and accompanying documentation can be downloaded at www.malg.org.uk/debt-and-mental-health/

Money Advice Liaison Group (2016). Best practice in the use of 'flags' to be placed on the accounts/case files of individuals in vulnerable circumstances who are unable to manage money.

www.malg.org.uk/malg-briefing-notes/

CASE STUDY 13

The Money Advice Service



At the Money Advice Service we are committed to supporting the use of evidence based funding and evaluation to ensure that:

- resources are directed to people who need debt advice, particularly targeting people with vulnerabilities
- the impact of innovative new interventions is evaluated in a rigorous and consistent way
- the debt sector is coordinated in its approach to defining and measuring client outcomes.

MAS seeks to encourage best practice in the use of management information in a number of ways:

- 1 standardisation of data.** This allows: better measurement of impact, more accurate understanding of need, assisting with identification and support of over-indebted customers and greater consistency of customer treatment by creditors.
- 2 evaluation framework:** initiatives must be rigorously evaluated against defined outcomes to assess impact and focus action on key areas of greatest need. This considers 15 client outcomes and creates a baseline for action.
- 3 a picture of over-indebtedness.** For the first time, the model gives every UK adult a statistical likelihood of being over-indebted, based on a number of factors and characteristics – including tenancy, age, household make up and income. We also provide raw datasets to enable organisations to run their own analysis, particularly if their interest area lies in deep diving into a specific region or area, or if they wish to analyse by a population group.
- 4 debt locator tool:** The debt advice locator tool allows clients to search for an advice provider that's right for them by channel and geographic location. The criteria for entry into the tool are that the provider:
 - holds FCA permissions
 - provides 'free' advice
 - holds a quality standard accredited by MAS.

See www.moneyadvice.org.uk/en/tools/debt-advice-locator

CASE STUDY 14

Harrington Brooks



Harrington Brooks
Helping you take control

A project was initiated to consider how we could improve support for our most vulnerable customers. We wanted our frontline colleagues to be confident in identifying when a customer may be considered vulnerable, supporting these customers via specially trained colleagues, and removing barriers to high-quality service and support.

To achieve this, we firstly conducted surveys with our Debt Management employees to establish the barriers and challenges in the current service offering and how this could be improved to deliver a more high-quality solution in the future. Secondly, we engaged with large financial service providers to understand how they approach the issue of vulnerability. Thirdly, we reviewed the company definition of a vulnerable customer, the vulnerable customer process, employee skills and competencies required, enhanced training and IT development.

Outcomes

The findings from the surveys showed that we needed to introduce:

- clearer processes in relation to vulnerability
- specialist teams (rather than specialists within teams)
- robust controls to manage workloads within these specialist teams
- analytic tools to ensure more vulnerable customers are identified
- regular gap analysis of key industry publications to update service processes
- relevant training using external charities when required
- training, of different levels, being put into place for all employees (not just Specialist Advisors/ Teams)
- face-to-face training and case studies are employed to ensure training is embedded effectively
- support for employees working with vulnerable customers is considered and in place
- specialist teams serve all business areas
- piloting of the process with a small number of people first to monitor the success is important
- feedback processes being introduced to allow the specialists to feedback to frontline agents (where there are cases of non-vulnerability referred inappropriately)
- bespoke communications for customers in vulnerable situations are created and regularly reviewed.

11

How well are your staff responding to clients with terminal, life-threatening, or long-term conditions?

What is the issue?

Even for the most experienced adviser, being told that someone has a serious condition or illness can be daunting.

In these situations, advisers will instinctively want to help and support the client as much as they can. At the same time, advisers can often be unsure about exactly what to say or do.

In particular, advisers can often worry about saying the 'wrong thing' and upsetting the client at an already difficult time.

Equally, advisers can also feel awkward, unprepared, and even emotional about discussing the client's condition. This can result in conversations which lack any real depth or understanding, or where discussion is effectively avoided.

This can lead to missed opportunities in terms of helping the client in the short-term, and the storing up of far more complex problems for the long-term future.

In this section, we therefore introduce some strategies that might help advisers engage with clients who are experiencing a serious illness, including conditions that limit, threaten or have a long-term impact on a client's life (see Box 12).

This guidance draws on from our experience of working with advisers and creditors on vulnerability, as well as the excellent resources and materials produced by charities such as Macmillan Cancer Support, The British Heart Foundation, and Dying Matters.

What is the evidence?

Organisations supporting individuals with serious conditions and illnesses have identified a series of common challenges to engagement and understanding that can be encountered.

BOX 12: Definitions

- **Terminal illnesses (also called life-limiting conditions)** cannot be effectively treated or cured, and the person is normally expected to die within a short-time period. While the Department for Work and Pensions definition of a terminal illness is reportedly up to six months, people can live longer than expected (due to a range of factors, including access to emerging treatments through experimental medical trials).
- **Life-threatening conditions** can be treated and cured, but this is not always certain, and the chance exists that the treatment may fail.
- **Long-term conditions** are typically medical conditions which last a year or longer, and which may require ongoing care, support, and treatment.

The client:

- may have recently developed their condition and could:
 - feel overwhelmed and stunned by the news of their diagnosis and find it difficult to talk about this, let alone tackle any related financial situation
 - be in denial, and may not accept their situation
 - be afraid of hearing more bad news
 - want to avoid thinking about their illness, or any of the financial consequences it might have led to
- regardless of how long they've had the condition, the client might also:
 - feel angry or depressed at their situation
 - simply be too ill to talk at length
 - benefit from actions or adjustments being made to the advice process to help them fully participate.

Family and friends:

- may be in a similar situation of confusion, denial, anger or feeling of helplessness
- may not be around – leaving the client isolated and alone.

Creditors and other bodies:

- may be unaware of the situation, or may be unfamiliar of the details or circumstances that require consideration.

Consequently, advisers that can overcome these barriers, and their own concerns about addressing serious illness, can play a key role in practically assisting the client.

What should advisers do?

First, advisers should always remember where they can make the biggest difference – the impact of a serious condition or illness on a person's life, relationships, and finances can be huge. While advisers will always listen and pay attention to all these aspects, one of the largest practical differences an adviser can make is to help stabilise a person's financial situation, and give them a foundation on which to move forward from. Consequently, an adviser should be aware of what clients with a serious condition or illness might want to know, or benefit from. This can include:

- what benefits might be available to them
- whether any insurance or payment protection policies might be relevant
- whether there are benevolent funds or other charities that can provide financial assistance (e.g. to buy a mobility scooter)
- considering who needs to know about these health conditions: advisers can write to other organisations (such as creditors) if helpful
- whether they need help in obtaining specific medical evidence for third parties if this is too much for them to do at this time
- whether there are other services known in the local community that could help further (e.g. the voluntary sector may have other professionals available that can help with the specific condition, or there might be support groups for either the client or their carer)

In doing this, advisers need to be aware of their boundaries – there will be some aspects of the illness or condition which are beyond an adviser's realm of expertise (such as actions being undertaken by health and social care staff). In these situations, advisers should communicate to the client what the advice service can offer in terms of support, and (if relevant) how this can be communicated to any health and social care services also working with the client.

Second, advisers should consider their initial response to a disclosure of a serious condition

– it is often the disclosure of a serious condition that can throw or 'freeze' an adviser. However, the simplest of responses works best, and allows the adviser to start building a dialogue with the client:

- **acknowledge this** – there is no 'correct' response, and it is absolutely fine to simply say:
"I'm really sorry to hear that"
"I'm sorry this has happened to you"
"I'm sorry to hear this – how can we help you?"

- **ask if they mind talking about the condition or illness** – the person will probably not mind, but it is worth checking to establish this. The client may prefer that you speak with a carer or family member.

"Would it be OK to just briefly talk about the condition?"

"I can see this is difficult for you, would you prefer me to speak with a family member or friend about this?"

- **ask for clarification if you are not familiar with the condition or illness** they are talking about:

"I'm really sorry to ask, but could you just explain what your condition is, as I don't know very much about it?"

- remember to use TEXAS when it feels appropriate – TEXAS will help you manage the disclosure effectively, but don't let it get in the way of the moment.

Be aware – if the client has a condition that you have personal/family experience of, you may consider sharing this with the client. Think carefully before doing this, particularly immediately after a disclosure. Even conditions with the same diagnostic name can be experienced in very different ways, and you want to avoid any focus shifting away from the client's experience and position, and on to yours.

Third, in the early stages of discussion, be prepared to listen more and speak less:

- **listening** – it is often not a case of what advisers say to a client, but how they listen to what is being said that is key. As an adviser, you'll know the techniques of active listening, and how these build understanding and trust.
- **speaking** – when you do intervene, simple questions to understand where a person 'is' with their condition can be very useful (Box 12). This is because some clients may have just been diagnosed, others may have been living with their condition for years, while some may be coming to the end of their life. Understanding this is essential – the IDEA model can help with this (see Step 6).
- **respecting** – people with serious illnesses and conditions are typically the experts on much of what they need. While you might not be able to always meet that need, respecting this and asking the client what support or help they require is a good starting point for any discussion.

Be aware – the above can help in understanding the client's condition and wider situation. However, try to avoid responses such as *"I understand what you are going through" or "I know how you feel."* In practice, you don't really know what the client is feeling or going through.

Also be aware that for people with life-limiting illnesses that questions about life-expectancy (*"how long do you have to live?"*) can be hugely distressing. Unless a client volunteers this information, or you feel able to raise it sensitively, it may be better to seek this information through medical evidence from the health professional providing treatment to the client.

Fourth, be prepared to deal with the effects of the condition on the client. These will differ and can include:

- **confusion and distance** – clients who have only recently been told about their condition may be in shock. They may not believe that this is happening to them, be unable to concentrate, feel numb, and only be able to take in small amounts of information. You can help clients in this situation by providing them with a clear written summary of the options available to them, and arranging to speak to them again at a later time.
- **anger and distress** – anger, frustration, and resentment may be voiced by the client, and this can cause problems for the client and the people around them. You can help clients by recognising the anger, allowing the client to let off steam, and showing that you are listening. You can summarise key points of the conversation, check your understanding with the client, and ask them what can be done to help them.
- **feelings of fear and depression** – clients with serious conditions can feel extremely low, and for lengthy periods of time. In particular, states of uncertainty about their health, and not knowing what might happen next can be difficult. Even though many people with serious conditions can be treated and cured, clients may have a fear of dying which never leaves them. The client should be offered positive reassurance, but the adviser should not make statements about future outcomes which are uncertain.
- **silence and reflection** – if a client stops talking, it can mean they're thinking about something painful or sensitive. It is fine to wait a while in silence, then gently ask what they might have been thinking about.

- **crying** – if the person starts to cry as they talk about their situation, you could say something like, *"I can see how upsetting that is for you."* If you are very close to them, you may simply hold their hand and say, *"I'm sorry that you're having to go through this."* If they cry, saying something like, *"It's okay; it's fine to cry"* will tell them that you're not put off by their tears. Tears are a natural response to distress – they can be a helpful release of inner tension for the client.

- **physical impact** – clearly, clients may experience physical as well as psychological impacts. These physical symptoms can include pain, sickness or breathlessness. It can also be a shock if you work with someone face-to-face and see them looking unwell.

- **acceptance or adaptation** – not all clients will have recently found out about their condition, and many will have come to accept their situation, or (in the case of many long-term conditions) have made adaptations to their lives to accommodate this.

- **change** – a client's physical, psychological and emotional state can change over time. This can be tied into the type of condition they have (e.g. long-term mental health problems can involve episodes of poor and better health), or can be linked to treatment or other events (such as visits to hospital, the start of a new treatment process, or news from doctors about progress). It may therefore be helpful to check with clients how they are at that stage in time (*"how are you today?"*), as well as having some flexibility about when is the best time or day to speak.

Fifth, if you dry up, forget what to say, or grind to a halt, don't worry – it happens. If you are lost for words, it is completely natural, the client will not judge you for this, and you can simply say:

"I don't know what to say"

"I am really sorry that you are having to go through this"

"I may not understand what you are going through now but I'm here to listen and to help"

In these situations, the client will often help to restart the conversation, as they will know that you are trying to help.

Sixth, look after your own wellbeing and health – working with clients with serious illnesses or conditions can require high levels of emotional investment. In these situations, it is important to look after yourself.

CASE STUDY 15: Clients living with serious illness: MoneySaveSolutions



2012: first news – our client (Noel) told us that he was receiving treatment for prostate cancer. With Noel's consent, we contacted the relevant creditors, using Noel's hospital letters as medical evidence. Consequently, one of the debts was written-off, and another creditor marked the account to indicate that Noel was 'vulnerable'. Following this, we stayed in contact with the client, who was cleared of their prostate cancer.

May 2015: return of the condition – Noel told us that he was again receiving treatment, as his cancer had spread to elsewhere in the body. Noel continued with his debt management plan, but with a note to fully review the situation in six months' time.

November 2015: medical update – Noel was re-contacted, updated medical evidence collected, and creditors were sent this evidence.

December 2015: extreme distress – Noel began to act in a manner that was completely out-of-character compared to our previous contact. Noel became increasingly irritable when calls were made to him, with episodes of extreme distress, an unwillingness to talk and listen, followed by verbal abuse to staff.

January 2016: listening and support – given our concern about Noel, the case was passed to our processing team. The team apologised for making contact, asked the client how they were, and then quietly listened to Noel. Noel explained that he was on further radiation treatment, and explained how it was affecting him physically, psychologically, and emotionally. Together, Noel and the team agreed to stop making calls to Noel, to work at the pace that Noel was comfortable with, and to simply update the medical evidence (so it could be shared with creditors).

February 2016: reducing the number of worries – Noel was told by his doctors that he could live, on average, 12 months with his existing treatment, or he could start chemotherapy. Noel took the decision to start this new treatment. At this stage, all conversations about the debt management plan were halted – our key objective was now to listen to Noel's needs, and to use our knowledge of working with clients in these situations to assist Noel in whatever way we could (for example, we advised that parking charges can often be reduced for patients receiving cancer treatment, and the importance of speaking with a Macmillan nurse when next at Oncology). We reassured Noel that we would handle all other financial aspects, and he need not worry about this, if he were able to provide updated medical evidence.

March 2016: extreme distress and ongoing support – following the collection of the medical evidence, all remaining debts were written off. However, Noel became extremely distressed when he saw 'in black and white' the medical evidence that had been provided by his doctor regarding his situation. This was completely understandable (and to be expected), so we took the time to listen to Noel's fears, and to simply explain that the situation with his creditors had been fully resolved, that Noel could concentrate on his treatment and health, and that we would continue to support him throughout.

Summary: Noel was, at first, able to continue with his life and his financial commitments despite his diagnosis. However, over time, the situation with Noel's health became more serious, and began to have a heavy impact on him physically, psychologically and emotionally. We stepped in to listen, support, and take away any concerns Noel had about his creditors and debts. We also provided information and support based on our previous experience of working with clients in similar situations.

Further resources

Macmillan Cancer Support (2013). *Lost for words. How to talk to someone with cancer*. London: Macmillan.

British Heart Foundation (2014). *Difficult conversations. Making it easier to talk to people with heart failure at end of life*. London: BHF.

Dying Matters (no date). *Being there. Top tips for what to say and do when someone has been bereaved*. London: Dying Matters.

12

Are you liaising with financial firms that are as equipped to deal with vulnerable clients, as you are?

What is the issue?

This briefing has outlined a number of practical steps that advice agencies can take to improve their work with clients in vulnerable situations.

However, advice agencies are not the only bodies that work with these customers: other organisations also have a crucial role to play, particularly where a working partnership could be established with the advice sector.

This is important as the Financial Conduct Authority has made it clear that both advice agencies and creditors must work together to reduce actual or potential detriment to clients. This principle is outlined in the Consumer Credit Sourcebook at 7.2.3G:

“In developing procedures and policies for dealing with customers who may not have the mental capacity to make financial decisions, firms may wish to have regard to the principles outlined in the Money Advice Liaison Group (MALG) Guidelines – Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt.”

However, this principle extends far beyond mental health and mental capacity, and if clients are to receive effective and high-quality support, then it is not only essential for advice agencies to follow the steps outlined in this briefing, but to also consider the degree to which partner organisations also have similar systems and structures in place.

Following the FCA regime coming into force in April 2014, a limited period of time was given to firms to address such issues of partnership and joined-up working. Since then, some notable creditors have developed policies and procedures, excel in working with individuals in vulnerable situations, and demonstrate high levels of capability.

However, many creditors are still to achieve this ambition, and require additional support.

What is the evidence?

From our experience of conducting training programmes with the advice sector, it is clear that:

- not all creditor organisations have policies and procedures in place which demonstrate how they identify and support individuals in vulnerable situations
- leading advice agencies increasingly report that they can identify which creditors have the policies and practices in place to support those in vulnerable situations, and those that do not.

What should advice agencies do?

Advice agencies should seek assurance that creditor agencies have the expertise and structures to provide similarly high-quality support to vulnerable clients.

Where creditors appear to be failing clients who are either vulnerable or particularly vulnerable, advice agencies should request copies of creditor policies and procedures for dealing with such customers. This is referenced in the Consumer Credit Sourcebook at 7.2.1R:

“A firm must establish and implement clear, effective and appropriate policies and procedures for:

(1) dealing with customers whose accounts fall into arrears;

[Note: paragraph 7.2 of ILG]

(2) the fair and appropriate treatment of customers, who the firm understands or reasonably suspects to be particularly vulnerable.”

These policies and procedures can be both used to bring a creditor's attention to potential breaches of the regulatory framework, and to use this to pursue a client's case.

Advice organisations who excel in working with clients in vulnerable situations may also want to invite creditors to visit their agency, with an emphasis on sharing good practice and positive interventions.

CASE STUDY 16

Barclaycard



Customer Situation #1

The customer approached Christians Against Poverty advising that he had recently come out of hospital after attempting suicide. He had a history of alcohol and substance abuse as well as being diagnosed with depression.

What we did

Christians Against Poverty provided medical evidence to Barclaycard and advised the customer had submitted a debt relief order. Barclaycard flagged the account as vulnerable and held the account in breathing space, suppressing interest and fees.

Outcome

Account closed as insolvent.

Customer Situation #2

A medical practitioner went through a marriage breakup which had severe consequences on her mental state. As a result of her personal situation she had to come out of work which ultimately impacted her finances.

What we did

In 2010, working with EuroDebt, Barclaycard agreed a low value monthly repayment plan and placed a vulnerable flag on the customer's account protecting her from any collections activity. The interest was also significantly reduced.

Outcome

Her mental state deteriorated over time. Eurodebt were working with the customer's Health Care Professional and provided a DMHEF form explaining she was suffering with anxiety/depressive disorder, panic attacks and suicidal ideation, and she had taken an overdose in 2012.

Barclaycard on receipt of the medical evidence carried out a medical write off on the account as in agreement this was not viable to pursue.

CASE STUDY 17

StepChange



People become vulnerable when the firms and agencies they deal with don't take enough account of their needs. So working with other organisations and third parties to share best practice and identify opportunities for partnership working has been central to our strategy for supporting people in a wide range of vulnerable situations.

So our dedicated client advocacy team is encouraging visits from many organisations including banks, charities, enforcement agencies and utility companies. The visits help us to build a joint understanding; explaining our processes and how we work with clients in vulnerable situations and learning about the help other organisations provide. As a result several organisations have taken away practices that they can apply to their own practices and procedures.

We work closely with Macmillan Cancer Support to ensure that people get the support they need to deal with both cancer and debt. Macmillan refers people affected by cancer who need debt advice directly into our client advocacy team who have been trained by Macmillan. In turn, StepChange has also set up the facility to make warm transfer referrals to Macmillan to ensure seamless handover for clients who need other services such as emotional or clinical support.

An ongoing approach with specialist organisations and teams ensures our advisers have the best skillsets available so we can adapt services to our clients' individual needs.

We are actively building close working links with vulnerable client teams in creditor organisations. This should ensure that once a client has been identified as being in a vulnerable situation by us or by one of their creditors, they will get the support they need quickly and without having to explain twice. Specialist teams working together in partnership allows the most effective service for our clients delivered in the most efficient way.

Conclusion: a three-point plan

In this briefing, we have described 12 questions that every advice agency should ask themselves, and have proposed 12 accompanying steps which explain how practice can be strengthened.

We conclude by outlining a three-point plan, which considers the immediate indicators of progress or 'success' against which advice agencies might be measured against when working with clients in vulnerable situations.

1 Policy is the obvious starting point

Every advice agency should have a written policy for working with clients in a vulnerable situation.

This policy can be 'standalone', or incorporated within a larger policy document. However, it must precisely describe what practical steps need to be taken, and be clearly communicated to staff.

The policy should cover:

- mental capacity and lending decisions, including compliance with FCA guidance
- working with difficult or challenging situations, including guidance on referring such clients to third-party external agencies
- handling initial client disclosures of a vulnerable situation
- encouraging clients to disclose a vulnerable situation
- complying with the Data Protection Act 1998 in relation to (a) providing clients with a clear explanation of how their information will be processed, (b) obtaining the client's explicit consent to process this sensitive personal data and (c) recording all data in line with the requirements of the Data Protection Act
- the collection and use of medical evidence, including reasonable time-scales for clients or debt advisers to collect this information, and the acceptance of evidence from a range of health and social care professionals
- the monitoring of key account indicators on clients in vulnerable situations
- the composition, function and operation of specialist members of staff, including any referral mechanisms
- working with third-parties including carers and family members, and agencies providing health or social support
- a focus on sustainability, client engagement and quality of service provision
- composition and provision of training programmes for staff
- the criteria/circumstances against which a payment to a health or social care professional would be considered in exchange for medical evidence.

Advice agencies are encouraged to also consult the wider regulatory framework, as well as 'best practice' documents such as the Money Advice Liaison Group's guidance document *Good Practice Awareness Guidelines for Consumers with Mental health Problems and Debt* – www.malg.org.uk/debt-and-mental-health

It would also be helpful if the advice sector were able to publicly share policies on working with clients in vulnerable situations, with an emphasis on checking the technical content, legality and overall policy content.

2 Effective policy needs capable staff

Policies cannot be effectively delivered unless advice agency staff have the necessary skills, knowledge and confidence.

At first, 'generic' awareness training about specific types of vulnerable situation (such as sessions provided by mental health charities, or agencies with expertise in dealing with one type of client group) might appear to be the obvious option.

However, these can have serious limitations. Aside from often learning about one type of condition or situation, the most common obstacle encountered is that trainees learn about the broad meaning and prevalence of a condition, but little reference is made to the specific context of advice work. Consequently, advisers have their 'awareness raised' but are often left to figure out how to practically apply this enhanced consciousness in their day-to-day work with clients.

Consequently, advice agencies should seek out training which:

- explicitly builds on the detail of a completed organisational policy on vulnerability
- embeds knowledge and develops skills about a range of potentially vulnerable situations through showing how this relates to the everyday situations, contexts, and tasks that staff actually undertake
- bring together the different parts of an organisation that have to work together to ensure that clients in a vulnerable situation are treated fairly and legally, and in line with commercial objectives
- recognises that some staff will need e-learning packages which can be completed in a single sitting, while other staff will need more in-depth specialist skills-based training.

In short, such training should aim to equip staff 'for the job', rather than providing general knowledge that isn't directly or easily applicable.

3 The gap between policy and practice needs both internal and independent scrutiny

Every advice agency needs to devise mechanisms to measure, minimise and understand the gap between its policy ambition and practical realisation.

Advice agency organisations need to continue to not only undertake such audits, but to also invest in subsequent quality improvement initiatives. Clearly, this should involve collaboration with external bodies with the relevant expertise in working with vulnerable clients, with the aim of developing long-term partnerships. Taking this step will ensure that both partners not only foster a mutual understanding of what constitutes a high-quality and effective operation from an 'advice agency' and 'vulnerability' perspective, but that each partner recognises that neither has 'all the answers'.

Progress in this sector can only be achieved through continued collaboration and dialogue.

Appendix

This appendix contains selected data from a survey conducted in 2016 by the Money and Mental Health Policy Institute. The survey was undertaken with 5413 people with reported experience of mental health problems, and contained a number of questions relating to their financial situation (including any financial difficulty). The survey ran from 4 March 2016 to 15 April 2016.

We would like to thank Merlyn Holkar (Research Assistant) and Polly Mackenzie (Director) for providing these data. Further details on the work of the Money and Mental Health Policy Institute can be found at www.moneyandmentalhealth.org/

Think about the last occasion you told an advice organisation about your mental health problem:

47%

I was not clearly told what would happen to any information I provided about my mental health problem(s)

Notes: based on 922 valid responses

39%

Staff did not ask if I was getting support from my family or friends(s)

Notes: based on 924 valid responses

41%

Staff did not ask questions about how my mental health problem(s) were affecting my financial situation and ability to make repayments

Notes: based on 926 valid responses

35%

Despite telling the organisation about my mental health problem(s), I felt this wasn't taken into account

Notes: based on 918 valid responses

40%

I was not asked for my consent to record details about my mental health problem(s)

Notes: based on 990 valid responses

32%

I had to explain about my mental health problem(s) to several people in the organisation

Notes: based on 917 valid responses

Notes: the number of respondents for each question varied. Therefore the base number of responses for each question is provided. In addition, it is worth noting that 62% of respondents indicated that their advice agency treated them sympathetically and sensitively when they disclosed a mental health problem.

If there were occasions when you did not tell an advice organisation about your mental health problem(s), what were the main reasons for this?"

44%

I wasn't aware that it would make any difference to how the organisation dealt with the debt

21%

I did not think I would be believed

28%

I did not believe they would treat me sensitively and sympathetically if I told them about my mental health problems

18%

I was worried that it would stop me getting credit in the future

26%

I was concerned about what they would do with the information about my mental health problems

16%

I thought I'd be treated unfairly if I did

Notes: all questions based on 3468 valid responses. Participants were allowed to select more than one reason for not disclosing to their advice agency. 42% of respondents also reported that, in addition to other reasons given, they did not like telling people about their mental health problems. 25% indicated 'none of the above' as an answer, while 9% replied 'other'.



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References

- 1 Financial Conduct Authority (2015) *Occasional Paper No 8. Consumer vulnerability: executive summary.*
- 2 CONC 8.2.8G states: "...Of these [vulnerable] clients some may be particularly vulnerable because they are less able to deal with lenders or debt collectors pursuing them for debts owed. Clients with mental health and mental capacity issues may fall into this category."
- 3 Office of Fair Trading (2011) *Mental capacity – OFT guidance for creditors.* OFT 1373.
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