

Risk Management: Recognising and Responding to Consumer Vulnerability



Introduction

Good legal advice can make a huge positive difference to people because they frequently use lawyers for life-changing events when they are at their most vulnerable.

The actions of lawyers/firms can improve or worsen the consumer experience. The lawyer/firm approach should not be to ask: "What is wrong with this person?" but "What is wrong with my service if this person cannot access it?"

What is vulnerability?

Vulnerability is dynamic. It can be due to:

- The characteristics of the market.
- The particular circumstances of the consumer.
- Physical (geography, disability).
- Cultural (language).
- Service delivery (jargon).
- A combination of the above.

Consumers who are particularly susceptible to loss or harm should also be thought of as vulnerable.

Risk factors

Risk factors which make an individual vulnerable can be:

- short term
- long term
- changing over time
- not obvious at first glance.

Some people's characteristics affect their ability to look for, find and use legal services. But not all the risk factors will be relevant all of the time. For example, consider age. In some circumstances, older people may be at a disadvantage. But, in others, such as having the time to search for a good legal service provider, this might not be the case. Older people can be well educated, savvy and have enough time to spend on the search. However, a working age consumer, employed full time, may be more vulnerable to making a poor choice because they may be extremely time poor.

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The following table shows personal risk factors which may make an individual vulnerable.

Age	Low income
Inexperience	Low literacy
Learning disabilities	Cultural barriers
Physical disabilities	Mental health issues
English as a second language	Health problems
Location	Being a carer
Lack of internet access	Leaving care
Lone parent	Bereavement
Loss of income	Relationship breakdown
Living alone	Release from prison

There should be a policy or policies in place detailing how vulnerable consumers should be dealt with, and staff should be trained to recognise and respond to people in vulnerable circumstances.

Specific groups of people may be more at risk when buying legal services. For example, anyone going to court can be vulnerable because of the stress and circumstances of going to court. So, the majority of consumers that advocates interact with may be vulnerable.

It is important to help consumers overcome this sense of powerlessness and access legal services with confidence.

What must a firm do?

Make sure you treat each client as an individual and consider their particular needs.

Lawyers are responsible for ensuring their firms allow vulnerable consumers to use legal services effectively. Firms have a legal duty to make reasonable adjustments to allow disabled people to access their services under the Equality Act 2010.

The CILEx Code of Conduct requires you to address vulnerability.

Principle 6 states: Treat everyone fairly and without prejudice.

You must ensure your business or your role within it, your business model, processes and practices adequately:

- Assist consumers and clients to access justice and the full range of legal services.
- Provide each client with equal opportunity to secure a favourable outcome in their matter, irrespective of their vulnerability or susceptibility to discrimination.

You should ensure that:

- Your rules make it clear how to recognise and treat vulnerable consumers.
- Staff have been trained to recognise and respond to the needs of vulnerable consumers.
- Staff have been trained to recognise how to respond when carers want to deal with a problem in place of the vulnerable individual.
- Staff are aware of legal requirements such as the Data Protection Act 1998 when processing and recording information about individuals, and are able to comply with those requirements.
- Websites and other consumer-facing communications are accessible.
- Standard communications sent to consumers are appropriate.
- Feedback mechanisms are in place to check whether the needs of vulnerable consumers are being met.
- There is a process for assessing how effectively the needs of vulnerable consumers are addressed when providing services to the public.

It is vital that awareness of consumer vulnerability is included throughout a firm's work and that efforts in this area are visible, evaluated, and where needed, improved upon.

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Further Support

The Legal Services Consumer Panel has published advice on recognising and responding to consumer vulnerability which can be found on their website at www.legalservicesconsumerpanel.org.uk

CILEx Regulation Limited

Kempston Manor, Kempston, Bedford MK42 7AB

T +44 (0)1234 845770 | F +44 (0)1234 840989

E info@cilexregulation.org.uk | www.cilexregulation.org.uk |  @CILExRegulation

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