



FINANCIAL PLANNING
STANDARDS BOARD



Advising Vulnerable Clients

GUIDANCE FOR FINANCIAL PLANNING PROFESSIONALS



FINANCIAL PLANNING STANDARDS BOARD

Advising Vulnerable Clients: Guidance for Financial Planning Professionals

FPSB Guidance Practice Note – 2019/01

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This Guidance Practice Note has been drafted to assist CERTIFIED FINANCIAL PLANNER professionals working with vulnerable clients. The Note seeks to enhance understanding of the various issues related to advising vulnerable clients, and provides general guidance for how CFP professionals can develop policies and work with vulnerable clients in a way that fulfils their ethical and professional obligations to these clients; the Note does not attempt to deal with all possible questions and issues that may arise in a given situation. Guidance Practice Notes are not intended to promulgate standards or replace governmental or regulatory obligations in a particular territory and should not be construed or relied upon as compliance, regulatory or legal advice.

Introduction

Regulators around the world are becoming increasingly concerned about the financial exploitation of vulnerable populations. Some experts have declared financial exploitation, at least of elderly people, to be “[a public health crisis](#).” But the elderly aren’t the only victims of financial abuse. A 2017 study by the U.K.’s Financial Conduct Authority (FCA) found that 50 percent of U.K. adults display one or more characteristics that signal their potential vulnerability.

The European Commission [conducted research in 2016](#), resulting in an evidence-based definition of a vulnerable consumer as: “A consumer, who, as a result of socio-demographic characteristics, behavioural characteristics, personal situation or market environment:

- Is at higher risk of experiencing negative outcomes in the market;
- Has limited ability to maximise his/her well-being;
- Has difficulty in obtaining or assimilating information;
- Is less able to buy, choose or access suitable products; or
- Is more susceptible to certain marketing practices.”

Financial Planning Standards Board Ltd. (FPSB), the global standards-setting body for the financial planning profession, recognizes that vulnerability may affect nearly all financial consumers at one or more points during their lives. The characteristics that make consumers vulnerable may be caused by age, mental or physical disability (whether temporary or permanent), stress, a sudden change in circumstances, such as loss of a job or divorce, a language barrier, a lack of financial literacy, or even a lack of general literacy, such as the inability to read or solve simple arithmetic problems.

Together with our global community of professional financial planning bodies which represent more than 181,000 CERTIFIED FINANCIAL PLANNER professionals in 26 countries and territories worldwide, FPSB seeks to provide guidance to financial planning professionals who may work with, or who are likely to work with, vulnerable clients. We recognize that, in complex relationships, such as the ones financial planning professionals have with their clients, an appropriate level of care should be applied consistently, through a documented policy.

This Guidance Practice Note – outlining considerations for developing a Vulnerable Client Policy – is meant to supplement, rather than supplant, existing territorial laws and regulations regarding the provision of financial advice/financial planning, discrimination against individuals regarding race, religion, sexual orientation or other factors, or the violation of client confidentiality. Financial planning professionals who choose to incorporate FPSB’s guidance are expected to follow all applicable laws and regulations for the territories in which they practice.

While a small minority of financial planning professionals may also be doctors, lawyers or psychologists, we know that the majority are not, and should not try to overstep the boundaries of their knowledge, experience, or the law. However, financial planning professionals are in a unique position to be able to identify financial vulnerability and should be prepared to offer vulnerable clients a good outcome, while still protecting their data and privacy rights. In addition, financial planning professionals should have a process to report any suspected financial exploitation of a client and should seek opportunities to receive additional training or support, which may be offered by medical or mental health organizations.

Scope

FPSB's Guidance Practice Note provides general and practical, principles-based guidance for financial planning professionals to develop a policy for how they will work with vulnerable individuals, based on best practices and the current understanding of the collective issues related to financial exploitation of vulnerable individuals.

This Guidance Practice Note should be implemented in the context of FPSB's *Financial Planning Practice Standards*, which define standards of performance that:

- Establish the level of practice expected of a financial planning professional engaged in the delivery of financial planning to a client;
- Establish norms of professional practice and allow for consistent delivery of financial planning by financial planning professionals;
- Clarify the respective roles and responsibilities of financial planning professionals and their clients in financial planning engagements; and
- Enhance the value of the financial planning process.

Glossary

Person: A natural person, meaning a human being, as opposed to a legal person, which is an entity or group considered collectively as a single individual for legal purposes.

Client: A natural person using the services of a financial planning professional or financial planning/advisory firm.

Vulnerable Person: A natural person who, temporarily or permanently, is susceptible to financial detriment. Examples of vulnerability include:

- a. A person deemed legally capable of making decisions, but who, because of individual circumstances, may require physical accommodation, such as hearing aids, large print or other assistance, to be able to gather information, evaluate options and communicate intent.
- b. A person whose cognition may be deteriorating, or may have deteriorated, due to dementia or other mental illness, bereavement, stress or environmental factors.
- c. A person deemed legally incapable, incompetent or unfit to make decisions regarding issues related to financial well-being and is represented by a legal guardian.
- d. A person with low literacy, numeracy or financial capability skills.
- e. A person facing a language barrier (i.e., someone who does not speak the majority language of the territory in which he or she resides, and who does not have access to translation services).
- f. A person going through a major life transition, such as divorce, death of a spouse or loved one, job loss, a large windfall (such as lottery winnings) or displacement caused by a natural disaster.
- g. A person who might not be resilient, either temporarily or permanently, due to life events or a combination of circumstances that make him or her too stressed to comprehend the ramifications of financial planning advice being given.

Financial Planning: The process of developing strategies to assist clients in managing their financial affairs to meet life goals. The process of financial planning involves reviewing all relevant aspects of a client's situation across a large breadth of financial planning activities, including inter-relationships among often conflicting objectives.

Vulnerable Client Policy Development Considerations

1. All adults have the fundamental right to make their own financial decisions, and vulnerable persons have a right to be protected against financial abuse, even where the vulnerability is temporary.
2. Clients who are "new to money" and who may be inexperienced in investing could be classified as vulnerable because they may need more education and advice in relation to the trade-off between risk and reward. It may also take longer for these clients to understand information being presented.
3. Financial planning professionals and their firms should consider how to categorize vulnerable clients and what checks and balances are required to ensure that the particular needs of vulnerable clients are adequately addressed by the existing advice model.
4. A Vulnerable Client Policy should include a process for: identifying vulnerable clients; serving vulnerable clients, including safeguards or additional steps to ensure that a vulnerable client understands what is happening; communicating the policy and any subsequent updates to clients; and helping clients feel protected from financial abuse.

4.1. *Identifying Vulnerable Clients.* Identifying vulnerable clients should be an inherent part of the "Know Your Client" process, and should include identifying risk factors that constitute vulnerability; recognizing ways the financial planning professional could be notified that a client should be considered vulnerable, including communication from a third party; or an assessment of risky or erratic behavior by the client, such as excessive spending or withdrawals, failure to meet financial commitments, or a change in beneficiary designations that seems abnormal.

The financial planning professional or firm might establish categories of client vulnerability, with examples of when to assess for such vulnerabilities, such as outlined in the table below:

Categories of Vulnerable Clients		Examples of Vulnerabilities
1	Capable of making decisions, but the client's particular life stage or circumstances might call for an assessment of vulnerability	Age, poor credit history, low income, serious illness, bereaved, etc.
2	Capable of making decisions, but the client requires reasonable accommodation in doing so	Hearing-impaired, vision-impaired, language barrier, poor literacy, etc.
3	Limited capacity to make decisions (temporary or permanent)	Mental illness/intellectual disability, etc.

Clients who fall into Category 1 above could be considered "regular" clients, but for Categories 2 and 3, financial planning professionals and their firms should ensure that these clients are identified as vulnerable clients with the right to "such reasonable arrangements or assistance" that may be necessary to allow them to access financial planning services.

5. Financial planning professionals and their firms should also consider factors such as resilience or the impact of life events when seeking to identify vulnerable clients.
6. Financial planning professionals and their firms should review existing client engagement policies against the client vulnerability policy to resolve conflicting processes, and to consider how existing processes might be modified to accommodate the needs of a vulnerable client.
7. Any client vulnerability policy should be consistent with existing laws and regulations within the territory of engagement.
8. Financial planning professionals should ensure that all policies and processes for working with vulnerable clients support the provision of advice in the best interests of those clients. This extends to ensuring that the client is acting freely, without undue influence by family members or other interested parties.
9. When providing financial planning advice to vulnerable individuals who may be accompanied by family members or trusted individuals, financial planning professionals should be clear as to whom they are advising. The financial planning professional, in the absence of a Power of Attorney, should not take indirect instructions on behalf of a vulnerable client; instead, the financial planning professional should arrange to take instructions personally from the client. The financial planning professional should also be aware that financial detriment may be caused to vulnerable persons by the inappropriate actions, willful or otherwise, of acquaintances, family members or other advisers of the vulnerable person.
10. In circumstances where a vulnerable client is an existing client of a financial planning professional, and that financial planning professional receives a request by a third party to transfer assets belonging to the vulnerable client, the financial planning professional should satisfy him or herself that any proposal to transfer assets is in the best interests of the vulnerable client and not in the best interests of the parties who may consider their own needs before those of the vulnerable client. In deciding to transfer assets, the financial planning professional should consider the benefits and risks to the client.
11. Vulnerable clients might have a greater capital security need, wishing to preserve capital if they are no longer active in the work force. Financial planning professionals should give additional consideration to the term of any investment, the need for access to funds and the implications of future premium increases on vulnerable clients.
12. Financial planning professionals and their firms should be diligent in protecting the confidentiality of vulnerable clients, particularly since the client's disclosure of vulnerability may center around a medical condition. In conversations with third parties on the client's behalf and in developing policies for advising vulnerable clients, financial planning professionals should be mindful of laws and regulations pertaining to confidentiality.
13. Clients may not be aware of, or may not accept or explain, vulnerabilities when interacting with a financial planning professional. Any policy for advising vulnerable clients should include questions to help the financial planning professional uncover potential vulnerability in their clients related to:
 - a. Physical health
 - b. Mental health

- c. An unexpected emotional or financial event, such as bereavement, divorce, a serious accident, loss of income, an unanticipated significant inheritance, a major lottery windfall or a natural disaster
- d. A general literacy, financial literacy or numeracy issue
- e. A language barrier
- f. Whether the potential vulnerability is temporary or permanent

Financial planning professionals should take due care to ensure they identify potential vulnerabilities (as listed above) in their clients and work with vulnerable clients to help them achieve good financial stewardship.

Any observations or disclosures by the client regarding real or potential vulnerabilities should be documented according to the vulnerability policy to establish a baseline for the client's potential mental and/or physical vulnerability. This could assist in determining deterioration over time.

Identification of a client's vulnerability should require judgment by the financial planning professional and should be based on the client's ability to make decisions during the engagement. If the client cannot recognize or refuses to accept classification as a vulnerable client, the financial planning professional may consider whether to transition the client to a more suitable advisory situation. Again, the client's best interests should be the driver for decision-making.

14. Financial planning professionals should endeavor to make accommodations when meeting vulnerable clients. Considerations should include:
 - a. *Meeting duration.* It may be more appropriate to conduct several, shorter meetings instead of one lengthy meeting with the vulnerable client.
 - b. *Meeting location.* It may be more appropriate to conduct the meeting at the vulnerable client's home, or by video conferencing, instead of at the financial planning professional's office.
 - c. *Meeting time.* The vulnerable client may feel more alert and capable of communicating with the financial planning professional during a certain period of the day.
 - d. *Including a third party in the meetings.* If it is necessary for a caregiver or guardian to be present at a meeting between the financial planning professional and the vulnerable client, the financial planning professional should consider client confidentiality and potential conflict of interest issues, such as discussing long-term care and welfare costs with the named beneficiary in the room. The financial planning professional should consider the role of a third party and the third party's ability to influence the vulnerable client during financial planning discussions.
15. Financial planning professionals should consider developing connections with professionals who could help identify changes in the vulnerability of clients or be able to offer additional support and expertise to the financial planning professional or the vulnerable client.
16. Financial planning professionals and their employees should seek ongoing training opportunities to improve their engagement of, and service to, vulnerable clients.

Guidance for Incorporating FPSB's Financial Planning Process in Engagements with Vulnerable Clients

FPSB's financial planning process (Figure 1) integrates functions that may be combined and/or revisited based on the ongoing services being provided by the financial planning professional to vulnerable clients. FPSB invites financial planning professionals to identify and accommodate the needs of vulnerable clients throughout the delivery of the financial planning process. In addition, financial planning professionals should balance how the use of technology to improve service propositions and drive down the cost of advice could impact the delivery of financial planning services to vulnerable clients.

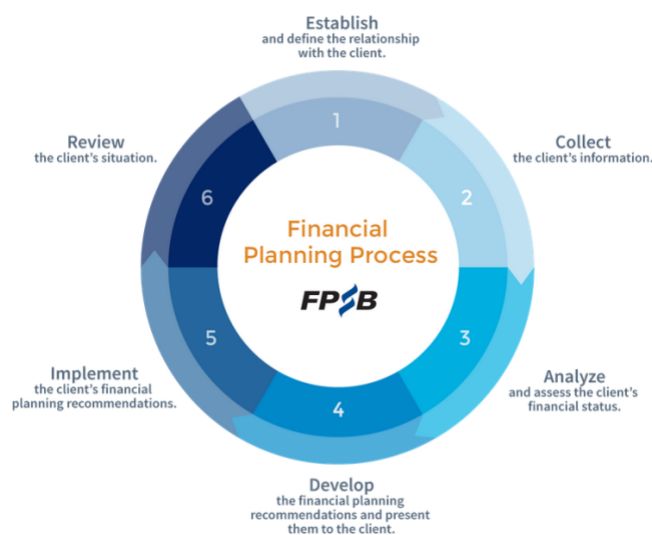


Figure 1: FPSB's Financial Planning Process

➤ Establish and define the relationship with the client.

During this stage, the financial planning professional: informs the client about financial planning and his or her competencies; determines whether he or she can meet the client's needs; and defines the scope of the engagement. Discussion of a policy on advising vulnerable clients could be incorporated in the following ways:

Inform the client about financial planning and the financial planning professional's competencies. In describing the financial planning professional's or firm's approach to providing financial planning, the financial planning professional could introduce the concept of financial vulnerability and describe his or her/the firm's approach to working with vulnerable clients. Consider including a copy of the policy in any hand-outs provided to the client during the initial meeting.

Determine whether the financial planning professional can meet the client's needs. FPSB's *Financial Planning Practice Standards* require the financial planning professional to consider if he or she, or his or her staff, has the appropriate abilities, skills and knowledge to meet the client's expectations. The financial planning professional also determines if there are any other circumstances, relationships or facts that would place the interest(s) of the financial planning

professional in conflict with the client's interest(s), or the interest(s) of one client in conflict with another client. The financial planning professional also discusses the confidentiality of the client's information. Since confidentiality could play an important role in the client's admission of vulnerability, the financial planning professional could discuss how the client's disclosure of vulnerability would be treated as a matter of policy.

Define the scope of the engagement. In addition to establishing realistic expectations for both the client and the financial planning professional in terms of the scope of services to be provided, the financial planning professional could explain how the vulnerability policy might be employed to ensure that the client's best interests are served, and that the client is treated with sensitivity and flexibility in the event he or she might become vulnerable.

➤ **Collect the client's information.**

Here, the financial planning professional and the client identify the client's personal and financial objectives, needs and priorities; and the financial planning professional collects the client's quantitative and qualitative information and documents. A policy on advising vulnerable clients could be incorporated in the following ways:

Identify the client's personal and financial objectives, needs and priorities. In addition to routine discovery questions about the client's short and long-term objectives, the financial planning professional should consider whether the client meets his or her/the firm's criteria for vulnerability at the start of the relationship. If the client meets the criteria, the financial planning professional should communicate how the client will be treated in accordance with the vulnerability policy. If the client does not meet the criteria, the financial planning professional should communicate that assessment and confirm it with the client.

Collect quantitative information and documents. The financial planning professional should consider asking the client to identify, in writing, a trusted individual (family member, friend, guardian, etc.) who can be contacted by the financial planning professional in the event that he or she observes that the client may be at risk for financial exploitation, or that the client meets criteria outlined in the financial planning professional's or firm's vulnerability policy.

Collect qualitative information. In gathering information to understand the client's values, attitudes, expectations and financial experiences, the financial planning professional determines the client's level of sophistication and financial literacy, which may be considered criteria for determining vulnerability. The financial planning professional should include questions about the client's personal relationships to identify perceived conflicts or individuals who may disagree with the client's financial goals, needs and objectives.

➤ **Analyze and assess the client's financial status.**

In this step of the financial planning process, the financial planning professional analyzes the client's information, and assesses the client's objectives, needs and priorities. A policy on advising vulnerable clients could be incorporated in the following ways:

Analyze the client's information. The financial planning professional analyzes the client's situation and works with the client to resolve obvious omissions and/or inconsistencies in the

information provided. While it's common for clients to omit or provide inconsistent data as a result of lack of trust, insufficient record-keeping or ordinary forgetfulness, they may also do so because of a vulnerability. The financial planning professional should listen carefully for behavioral clues that could indicate vulnerability, and exercise empathy, flexibility and good judgment in working with the client to resolve any anomalies.

Assess the client's objectives, needs and priorities. The financial planning professional considers the opportunities and constraints presented by the client's financial situation and current course(s) of action and determines the likelihood of the client reaching his or her goals by continuing present activities or making anticipated changes. The financial planning professional needs to consider how an expressed or perceived vulnerability could impact the client's ability to achieve his or her objectives. Based on the financial planning professional's or firm's vulnerability policy, the scope of the client's engagement may need to be amended. In addition, the financial planning professional may need to determine if it is appropriate to rely on a trusted third party to assist the vulnerable client during this phase of the engagement.

➤ **Develop the financial planning recommendations and present them to the client.**

To develop financial planning recommendations, the financial planning professional considers one or more strategies relevant to the client's situation that could reasonably meet the client's objectives, needs and priorities; develops the financial planning recommendations based on the selected strategies to reasonably meet the client's confirmed objectives, needs and priorities; and presents the financial planning recommendations and the supporting rationale in a way that allows the client to make an informed decision. A policy on advising vulnerable clients could be incorporated in the following ways:

Identify and evaluate financial planning strategies. In considering strategies for achieving the client's objectives, the financial planning professional should consider the nature and impact of the client's vulnerability (if one was previously identified) and identify contingencies that could be deployed quickly and effectively should the client's situation or vulnerability change.

Develop the financial planning recommendations. After identifying and evaluating various strategies and the client's course(s) of action, the financial planning professional develops financial planning recommendations that can reasonably meet the client's objectives, needs and priorities, taking into consideration the nature and potential length of the client's vulnerability. It may be necessary for the financial planning professional to recommend that the client modify an objective, need or priority, based on the circumstances of his or her vulnerability. The financial planning professional should document all recommendations.

Present the financial planning recommendations to the client. The financial planning professional should take into account the nature of the client's vulnerability (should one be confirmed) and take steps to accommodate the client's vulnerability when presenting to the client. For example, the financial planning professional may need to conduct the presentation in a wheelchair-accessible facility if the client has a physical vulnerability that prevents walking, or provide a copy of the presentation in Braille if the client is visually impaired. If the client does not speak the majority language of the territory, it may be helpful for the financial planning professional to engage a translator. The financial planning professional should make every effort to help the client understand the recommendations and any disclosures of conflict(s) of interest.

➤ **Implement the client's financial planning recommendations.**

At this stage of the financial planning process, the financial planning professional and the client agree on responsibilities for implementation. The financial planning professional also identifies and presents appropriate product(s) and service(s) to implement the recommended financial planning strategies. A policy on advising vulnerable clients could be incorporated in the following ways:

Agree on implementation responsibilities. The financial planning professional and the client agree on the recommendations and implementation responsibilities. When a vulnerable client is involved, the financial planning professional should consider whether additional safeguards or security measures are needed to protect the client on a temporary or permanent basis, consistent with the financial planning professional's or firm's vulnerability policy. The financial planning professional should also consider the implementation responsibilities for the client, and provide, or enlist a trusted third party to provide, accommodation or assistance as needed to support the client's understanding and execution of the implementation responsibilities.

Identify and present product(s) and service(s) for implementation. In keeping with the financial planning professional's or firm's vulnerability policy, the financial planning professional should consider the nature and impact of the client's vulnerability on the recommendations. The financial planning professional should also consider the implementation responsibilities for the client, and provide, or enlist a trusted third party to provide, accommodation or assistance as needed to support the client's understanding and execution of the implementation responsibilities.

➤ **Review the client's situation.**

For the review stage, the financial planning professional and client mutually define and agree on terms for reviewing and re-evaluating the client's situation. A policy on advising vulnerable clients could be incorporated in the following ways:

Agree on responsibilities and terms for review of the client's situation. In accordance with the financial planning professional's or firm's vulnerability policy and the nature of the client's vulnerability, the financial planning professional may introduce a schedule of more frequent reviews to consider changes in the client's situation. The review process may require the financial planning professional to modify the original scope of the engagement or initiate a new engagement. Additionally, the financial planning professional should monitor the client's accounts to ensure that any safeguards or security measures remain intact, and that the client's actions or behaviors remain consistent with the agreed-upon financial plan.

Review and re-evaluate the client's situation. In situations in which the client's vulnerability may be temporary, the financial planning professional should conduct periodic (frequent) reviews of the client's situation to determine whether the vulnerability is still present, or if the vulnerability is causing further decline in the client's ability to communicate or comprehend the details of the agreed-upon financial plan. The financial planning professional may need to contact the client's trusted individual (see *Collect the client's information* above) to discuss the client's situation.

Ensuring Good Outcomes for Vulnerable Clients Seeking Financial Planning

Vulnerable clients, as well as all other clients, deserve to have good outcomes in engagements with financial planning professionals. In developing a policy for working with vulnerable clients, financial planning professionals should strive to understand all aspects of their relationships with vulnerable clients from the clients' point of view so they can deliver personalized, empathetic, flexible, communicative and inclusive experiences to vulnerable clients.

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e. info@fpsb.org

w. www.fpsb.org



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