

Capacity and client care: Supporting older and vulnerable clients with expertise and empathy

Capacity is a complex yet essential area of private client law. Supporting older and vulnerable individuals requires a combination of legal expertise, emotional intelligence, and ethical diligence to protect their rights, dignity, and autonomy.

[Home](#) » Capacity and client care: Supporting older and vulnerable clients with expertise and empathy



A private client solicitor must possess specialist client care skills to effectively advise and support older and vulnerable clients. Vulnerability can arise from physical disability, cognitive impairment, bereavement, emotional dependence, or difficulty managing finances. In such cases, solicitors must be vigilant, compassionate, and proactive in safeguarding their clients' best interests and assessing capacity.

How a solicitor engages with a vulnerable client and protects their interests is critical. Recognising red flags—such as undue influence, coercion, or emotional pressure—is a key part of the role. Solicitors often act as safeguards, preventing clients from making decisions under pressure, such as gifting property or transferring significant assets.

It is vital to instruct a solicitor whose focus is firmly on delivering and evidencing high-quality services and communications to vulnerable clients. Legal advice based solely on technical skills is no longer sufficient. Today, solicitors must also navigate the private client process with empathy, patience, and a deep understanding of each client's unique needs.

Why capacity matters

Solicitors must comply with the principles set out in the [Mental Capacity Act 2005](#). Every adult has the right to make their own decisions unless it can be clearly shown that they lack the capacity to do so. Solicitors must provide clients with as much support as possible to help them make informed choices.

They must also recognise that making an unwise decision does not automatically mean a person lacks

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capacity. However, if a person is found to lack capacity, any decision or action taken on their behalf must be in their best interests.

It's important to note that capacity can be temporary, partial, or fluctuate over time. A client might lack capacity for one decision—such as making a lifetime gift—but still have capacity for another.

Legal compliance and best practice

Solicitors must assess a client's capacity at the time a significant decision, such as a financial arrangement or a change to a will, is being made. The assessment must focus solely on the client's ability to make that specific decision, in line with the [Mental Capacity Act 2005](#).

Identifying impaired capacity isn't always straightforward. Cognitive disabilities may not be apparent during initial meetings, as clients can appear fully capable. In some cases, capacity concerns only emerge through detailed examination and, where needed, input from a medical expert.

Capacity is a complex area of law. If you or someone you care about needs trusted legal support, contact [Charlotte Barbaroussis](#) at West End law firm RIAA Barker Gillette (UK). With extensive experience in this sensitive area, Charlotte provides thoughtful, professional guidance tailored to the needs of older and vulnerable clients.

Note: This article is not legal advice; it provides information of general interest about current legal issues.