



Dealing with Vulnerable Consumers at Kelvin Francis

Purpose

The purpose of this policy is to ensure that the day to day business activities of Kelvin Francis does not have any negative impact upon vulnerable consumers. The Policy was reviewed in September 2023 and will be reviewed on an annual basis.

For the purpose of this policy vulnerable consumers are customers and/or prospective customers whose ability or circumstances may require us to take extra precautions in the way that we would sell or Let properties and where we provide our services to ensure they are not disadvantaged in anyway.

This could be due lack of knowledge, age, illness, disability, bereavement or where English is not the first language.

Identifying a vulnerable consumer

When engaging with consumers over the telephone or by email it is often difficult to identify a vulnerable person because you do not have that face to face contact to help alter you by looking at characteristics such as body language and facial expressions. This is important more so during the coronavirus pandemic.

These can help identify whether the consumer requires additional information and guidance to enable them to make an informed decision. Things to look out for

- Inability to understand what is being said.
- Repeated questions of a similar nature.
- Responses which are inconsistent with the telephone discussion or which give concern that the caller has not understood the information provided.
- The transaction appears out of character for the individual

What you should do

Important to remember that just because someone is vulnerable does not automatically mean that they are unsuitable for buying, selling or renting a property.

We will make sure we can provide additional opportunities for the consumer to ask questions about the information provided

- ✓ We will seek confirmation that they have understood what you have told them
- ✓ We will ask if there is anyone else with them who can offer support, offer them the opportunity to have a family member or friend present during the conversation
- ✓ We will offer the opportunity to complete the transaction or review the decision after an agreed period
- ✓ We acknowledge that there are a lot of circumstances which could make a consumer vulnerable, including illness, disability, or language issues, but there could be other situations, either temporary, or permanent, but in all cases, we will take all reasonable steps to ensure extra support is offered.
- ✓ For those with lack of knowledge we will utilise the 'How to' booklets provided by HM Government for selling, buying, renting and letting.

If for any reason we do not think the consumer has understood fully the issues in relation to a property or services we should not proceed further with the transaction until we have written to them and explained the situation. Any situation where we have concerns will be reported to Kelvin Francis or Tony Filice who will review the matter before proceeding any further.

Mental Capacity

Mental capacity is an individual person's ability to make a decision. Whether you feel the person has the ability to understand, remember and consider all relevant information will determine whether we feel they are able to make a decision.

Mental Capacity is always defined in relation to a specific time and a specific decision. Therefore, when considering a consumer requesting our service, we should take into account the consumers circumstances at that moment in time.

We should take appropriate steps to identify whether the consumer appears to be able to understand, remember and consider the information what we have told them and having done so, make an informed choice.

Mental capacity limitations can be permanent or temporary so the fact that a person may not have had the mental capacity to make a decision in the past does not necessarily mean that they currently do not have.

Review each point of contact and assess at that moment in time.

Any concerns should be discussed with Kelvin Francis or Tony Filice before proceeding with any transaction where a Vulnerable person is or could be identified.

Introduction

1. All Member or Registered Agents with The Property Ombudsman (TPO) scheme must acknowledge and cater for the needs of vulnerable consumers. These obligations are set out in the Codes of Practice and the Membership Obligation documents. In summary:

- You must treat consumers equally regardless of their race, religion or belief, sex, sexual orientation, gender recognition, disability, pregnancy or maternity, or nationality. Unlawful discrimination includes giving less favourable treatment because someone is perceived to have one of these personal characteristics or because they are associated with a person with such a characteristic.
- You should take special care when dealing with consumers who might be disadvantaged because of factors such as their age, infirmity, lack of knowledge, lack of linguistic or numeracy ability, economic circumstances, bereavement or do not speak English as their first language.
- You must offer suitable advice to meet the consumer's aims and needs.
- Member or Registered Agents are expected to have in place satisfactory provisions for attending to the needs of vulnerable consumers.

These guidelines are aimed at helping you to fulfil these obligations.

General Principles

2. For the purpose of this guidance note, vulnerability includes anything that may have an impact on a person's ability to make a sound decision, for example:
- Unfamiliarity with or difficulty in understanding the property buying, selling, letting or auction processes.
 - Physical and/or mental health disabilities [see Useful Information].
 - Language barriers.
3. You have an obligation to ensure that each individual is given all the relevant information and assistance needed to make an informed decision in the circumstances.

What You Must Do

4. It is your responsibility to ensure that your staff understand their obligations in this area and that the necessary arrangements are made to provide the vulnerable consumer with the appropriate advice and assistance suitable to their needs.
5. You should not make assumptions about the degree of knowledge that a consumer has. Be prepared to explain what you will do and what other agencies will do (e.g. solicitor, surveyor, financial advisor, mortgage lender). This is especially

important with, but not exclusive to, first time buyers, sellers, landlords and tenants. TPO's consumer guidance leaflets are available on the website to assist you in these circumstances.

6. If the consumer declares a vulnerability or it is obvious that the consumer has a vulnerability (e.g. blindness) you must consider the possible effect of that vulnerability on the proposed transaction.
7. If no vulnerability is declared by the consumer, but it becomes apparent that there may be a vulnerability, you should seek clarification from that consumer and/or their representative. Assessing a potential vulnerability is, of course, a sensitive matter and must be treated as such. Enquiries must be of a nature that are considerate, unlikely to offend and can in no way be interpreted as discriminatory.
8. If you are advised of or perceive there to be a vulnerability, further information should be sought from the appropriate organisation specializing in that vulnerability. Take the consumer's specific needs into account in any information or guidance you give them, particularly if any decision they make is based solely on that information or advice.
9. The consumer should always be encouraged to seek legal advice on any decision that may have legal connotations, regardless of any vulnerability.

Key Points

- Is there any indication that the consumer has physical, mental health and/or language difficulties?
- Is it apparent that the consumer is either unfamiliar or is having difficulty understanding the transaction?
- If you have answered yes to either of the previous questions, have you taken this into account and provided the consumer with the appropriate information and advice?
- Are you able to demonstrate that you have complied with these requirements in respect of all consumers?

(June 2019)

Useful Information

The NHS website provides useful information in relation to dealing with people with mental health issues where their capacity to make reasoned decisions may be impaired. <http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/mental-capacity.aspx>

www.ableize.com is run by disabled people and provides links to local and national support and advice groups.

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