

Treating vulnerable customers fairly

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Introduction

ABI & BIBA Code of Good Practice regarding support for potentially vulnerable motor and household customers at renewal (January 2016)

- o Identifying vulnerable customers
- o The Code
- o Insurers' & brokers' role
- o Consequences of the failure to follow the Code
- o General issues relating to vulnerable customers
- o What lies ahead

Who is a vulnerable customer?

The FCA identified potential vulnerable customers as those with:

- Low literacy, numeracy and financial capability
- Physical disability
- Severe or long-term illness
- Mental health problems
- Changes in circumstance (such as job loss, bereavement or divorce)
- Lack of English language skills
- The “older old”. These are older people suffering with cognitive, sensory or dexterity impairments, the onset of ill health or those who are not comfortable with new technology. There is no set age at which customers fall into this category but the over 80’ s are highlighted as an example.

Why is it important to identify vulnerable customers?

- Sanctions
- Claims
- Reputation / consumer confidence

ABI & BIBA Code of Good Practice

Examples of vulnerability in the insurance broking context:

- Reduced understanding of alternative insurance providers
- Perceived barriers to leaving a current insurer
- Reduced access to the market or ability to shop around
- Reduced ability to compare products
- Heightened ‘trust’ in the product/premium offered by a current insurer or broker

Why you & your organisation will succeed

- Lose weight and get fit
- Quit smoking
- Learn something new
- Eat healthier and diet
- Get out of debt and save money
- Spend more time with family
- Travel to new places
- Be less stressed
- Volunteer
- Drink less

The Code & Insurers' and Brokers' Roles

- Ensure staff are adequately trained to recognise and understand potentially vulnerable customers at renewal
- Implement processes to ensure that you are satisfied that products and prices identified for the potentially vulnerable are fair and reasonable
- Take account of the characteristics associated with vulnerability in making decisions on pricing and promotion
- Periodically review customers on legacy products and take proactive steps to ensure products continue to meet the needs of potentially vulnerable customers

Consequences of failure to follow the Code

- No sanctions for breach of the code itself but introduces a higher TCF standard for this class of customers
- Financial Ombudsman (FOS) complaint
- Professional negligence claim

Overview of FOS Complaints

- FOS website advises consumers to talk to business first
- Claims can be brought by the estate of a deceased or by a relative or beneficiary under the will
- 8 weeks for the business to respond
- **Time limits:**
 - Within 6 months of business providing its response; and
 - Within 6 years of the event being complained about. If more than 6 years, within 3 years of when the consumer realised he/she had reason to complain
 - If outside of these limits, FOS needs consent of the business to investigate complaint

Overview of FOS Complaints

(continued)

- **FOS Decision:** Binding on the business if the consumer accepts the decision
- **FOS Awards**
 - Generally, to put consumer back into the position they would have been in
 - Limit of £150,000
 - Other awards

Professional Negligence Claims Overview

- **Pre-action Protocol for Professional Negligence**
- **Time limits**
 - 6 years from date of cause of action (e.g. start date of policy); or
 - 3 years from date of knowledge of cause of action (e.g. when insurers rejected the claim)
 - 15 year longstop

FOS Complaint vs Professional Negligence Claim

- Costs
- Procedures
- Timescales
- Awards

Case Study

- *Mr Audi is called about his motor insurance policy renewal by his broker. The call is recorded.*
- *Broker informs him that they can get him a cheaper quote by switching him to TPFT cover.*
- *Voluminous paperwork sent out. Mr Audi signs paperwork – policy incepted.*
- *Mr Audi involved in RTA. Insurers reject claim for repairs to his vehicle.*
- *Mr Audi thought “everything had been taken care of”.*

General issues relating to vulnerable customers

- Powers of Attorney
- Undue Influence
- Capacity

General issues – Powers of Attorney

Powers of Attorney granted by one person (donor) to one or more persons (attorney) so that they can act on behalf of the donor in relation to their financial affairs.

- Ordinary Power of Attorney
- Enduring Power of Attorney
- Lasting Power of Attorney

General Issues – Powers of Attorney (continued)

o **Ordinary Power of Attorney**

- Do not require registration
- The donor simply signs the document
- Can ask donor directly to confirm they have authority

General Issues – Powers of Attorney (continued)

- **Lasting Power of Attorney types:**
 - Property and financial affairs LPA (e.g. selling house, managing bank account)
 - Health and welfare

General Issues – Powers of Attorney (continued)

o Example LPA

Office of the Public Guardian

Helpline
0300 456 0300

Lasting power of attorney for property and financial affairs

Section 1 The donor

You are appointing other people to make decisions on your behalf. You are 'the donor'.

Restrictions – you must be at least 18 years old and be able to understand and make decisions for yourself (called 'mental capacity').

Help?
For help with this section, see the Guide, part A1.

If you are filling this in for a friend or relative and they can no longer make decisions independently, they can't make an LPA. See the Guide 'before you start' for more information.

Office of the Public Guardian
This box was blank on registration
Office of the Public Guardian

Title First names
[Redacted]

Last name
[Redacted]

Any other names you're known by (optional – e.g. your married name)
[Redacted]

Date of birth
Day: [Redacted] Month: [Redacted] Year: [Redacted]

Address
[Redacted]

Telephone
[Redacted]

Email address (optional)
[Redacted]

For OPG office use only

LPA registration date
Day: 07 Month: 12 Year: 2014

OPG reference number
[Redacted]

Only valid with the official stamp here.

VALIDATED OPG LPA Property and financial affairs (07/15)

General Issues – Powers of Attorney (continued)

- **LPA**

- LPA needs to be registered with the Office of the Public Guardian
- Helpline
- Third parties complete online form to request confirmation of registration of LPA

General Issues – Undue Influence & Capacity

- What is undue influence?
- Indications to undue influence

General issues – undue influence & capacity (continued)

- Two questions on capacity:
 - Did the consumer have capacity to enter into transaction?
 - Were there enough signs to put the professionals on notice to investigate capacity issues further?

What next?

- From January 2017 – ABI & BIBA follow up report
- ABI - to “*build the reputation of the industry and the trust of our customers*”
- The Code should be viewed as a ‘health check’

Questions?

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thank you



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