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# Legal Sector Breakfast Briefing

29 July 2020

Working with



The Law Society

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Accountants, Business & Financial Advisers

# Legal Sector Breakfast Briefing

## Welcome & Introduction

Tom Blandford, Legal Sector Partner  
Armstrong Watson

# Legal Sector Breakfast Briefing

- 10:00 - Welcome
- 10:05 - Briefing
- 11:00 - Q & A
- 11:30 - Close

# Acting for vulnerable clients - an opportunity for law firms

David Mulholland

Spring 2020

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**BM**

BROOKS MACDONALD

## Our aim

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**To promote the best financial advice and investment management services for vulnerable clients and those acting on their behalf.**

# Agenda

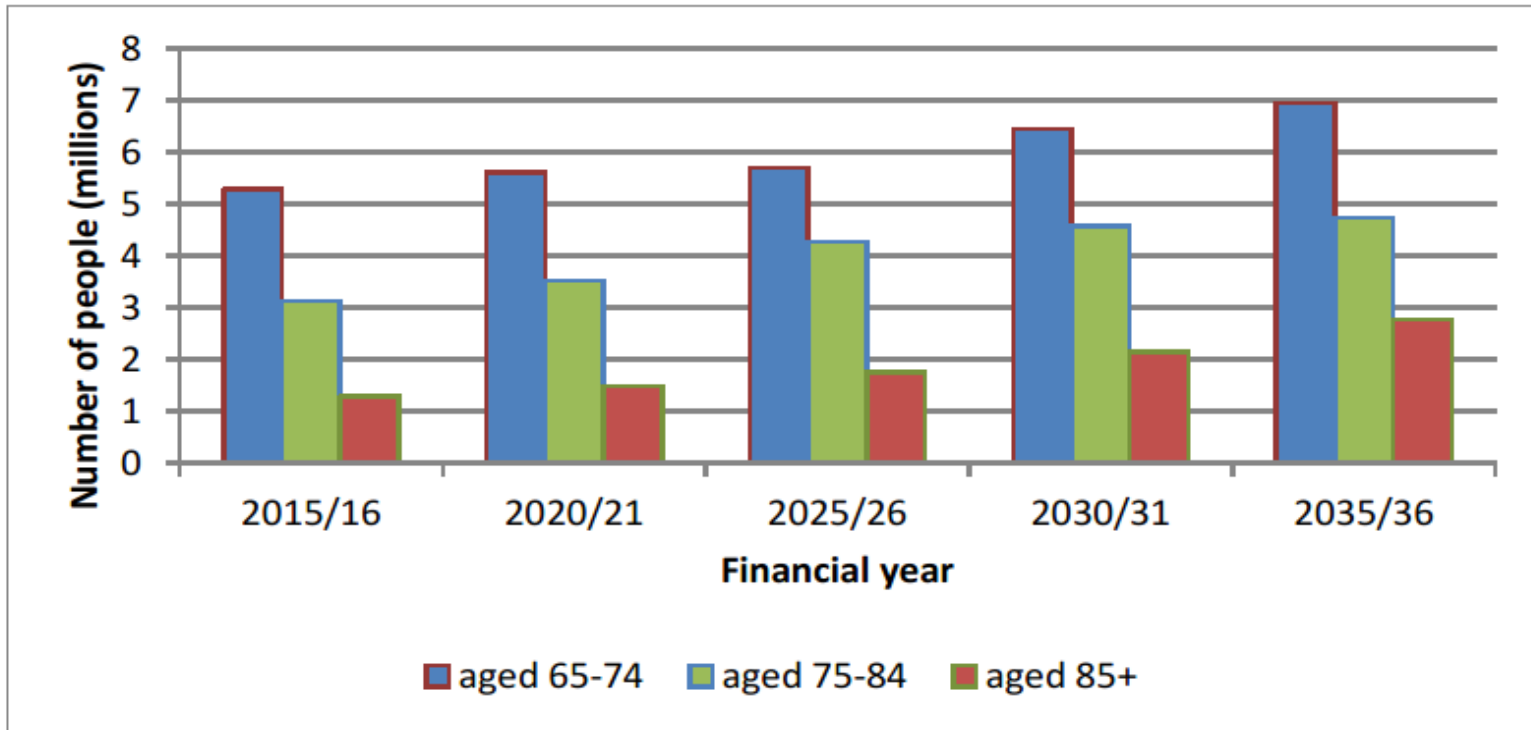
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## Vulnerable clients – The regulatory background

- Our ageing population
  - Intergenerational wealth transfer
  - Support from legal and financial services
  - Opportunities for advice and referrals
- Regulatory guidance
  - Financial Conduct Authority
  - Identifying & supporting vulnerable clients
  - Legal Services Board Research
- SRA governance on referrals to financial services providers
  - Due diligence process
  - Why independent financial advice?

# Ageing population stats

**Figure 2: Actual and projected number of people aged 65 and over in England by age group, 2015/16 to 2035/36**



**Source: Office for National Statistics (2016<sup>2</sup>, 2016<sup>3</sup>)<sup>a</sup>**

<sup>2</sup> Office for National Statistics (2016); "Population estimates for UK, England and Wales, Scotland and Northern Ireland," -

<sup>3</sup> Office for National Statistics (2016); "Table A2-4, principal projection – England population in age groups,"

<sup>a</sup> Note: 2015/16 is based on population estimates and 2020/21 to 2035/36 on population projections.

# Mental Capacity Act 2005

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## 5 Principles:

- A person must be assumed to have capacity unless it is established that he lacks capacity.
- A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
- An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be achieved in a way that is less restrictive of the person's rights and freedom of action.



# Intergenerational planning

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// Over £300bn will be transferred to around 300,000 inheritors over the next ten years.

To put this figure into context, it exceeds the £274bn currently administered by adviser firms on behalf of UK private clients\*. The sheer scale of forthcoming inheritance demonstrates the rising influence wealth transfer will have on the UK wealth management industry and those operating within it.

Source: \*PIMFA: The Financial Adviser Market in Numbers, 2017

First things first...



## A range of issues to advise on

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- Income planning
- Pension projections
- Investment decumulation
- Care options & budgeting for care costs
- Cash flow projections
- Sourcing available local authority and NHS support
- Loss of mental capacity & power of attorney
- Illness and bereavement
- Intergenerational wealth transfer
- Wills and estate planning
- Life insurance
- Tax & trusts
- Business property relief
- Responsible investment options
  
- Education & signposting is critical...

# The benefit and value of IFA services

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# Dealing with vulnerable clients

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## **FCA OP 8 – Consumer Vulnerability – February 2015**

“Vulnerability can affect people’s interaction with any consumer market, but it is particularly challenging in the context of financial services due in part to the long term nature of commitments, and the complexity of products and services.”

### **FCA definition of a vulnerable client**

“A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment, particularly **when a firm is not acting with appropriate levels of care.**”

## Risk factors for vulnerable clients – FCA OP 8

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- Low literacy
- Physical disability
- Severe or long term illness
- Mental health problems
- Low income and/or debt
- Caring responsibilities (inc. operating power of attorney)
- Being “older old” e.g. over 80
- Being young (associated with inexperience)
- Change in circumstances (e.g. job loss, bereavement, divorce)
- Lack of English language skills
- Non-standard requirements or credit history (e.g. armed forces personnel returning from abroad, ex-offenders, care home leavers, recent immigrants)

# SRA Risk factors for vulnerability

## Characteristics

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	Lone parent	Living alone or in poor living conditions

## Situation

Threat of harm	Victim of crime or accident
Bereavement	Loss of income
Relationship breakdown	Loss of employment
Having recently left care	Threat of deportation
Concern over access to children	Concern over child welfare

## FCA – impacts of vulnerability

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- Heightened stress levels due to personal circumstances
- Increased time pressure – less time for ‘personal admin’
- Increasing pre-occupation – ‘brain is elsewhere’
- Processing power and ability decreases due to competing pressures (side effect of treatment or emotional distress)
- Lack of perspective, especially when experiencing something for the first time, and therefore not understanding the broader implications, unable to make comparisons
- Changing attitudes towards taking risks – often becoming more reckless and / or careless at moments of stress



# What do vulnerable clients need?

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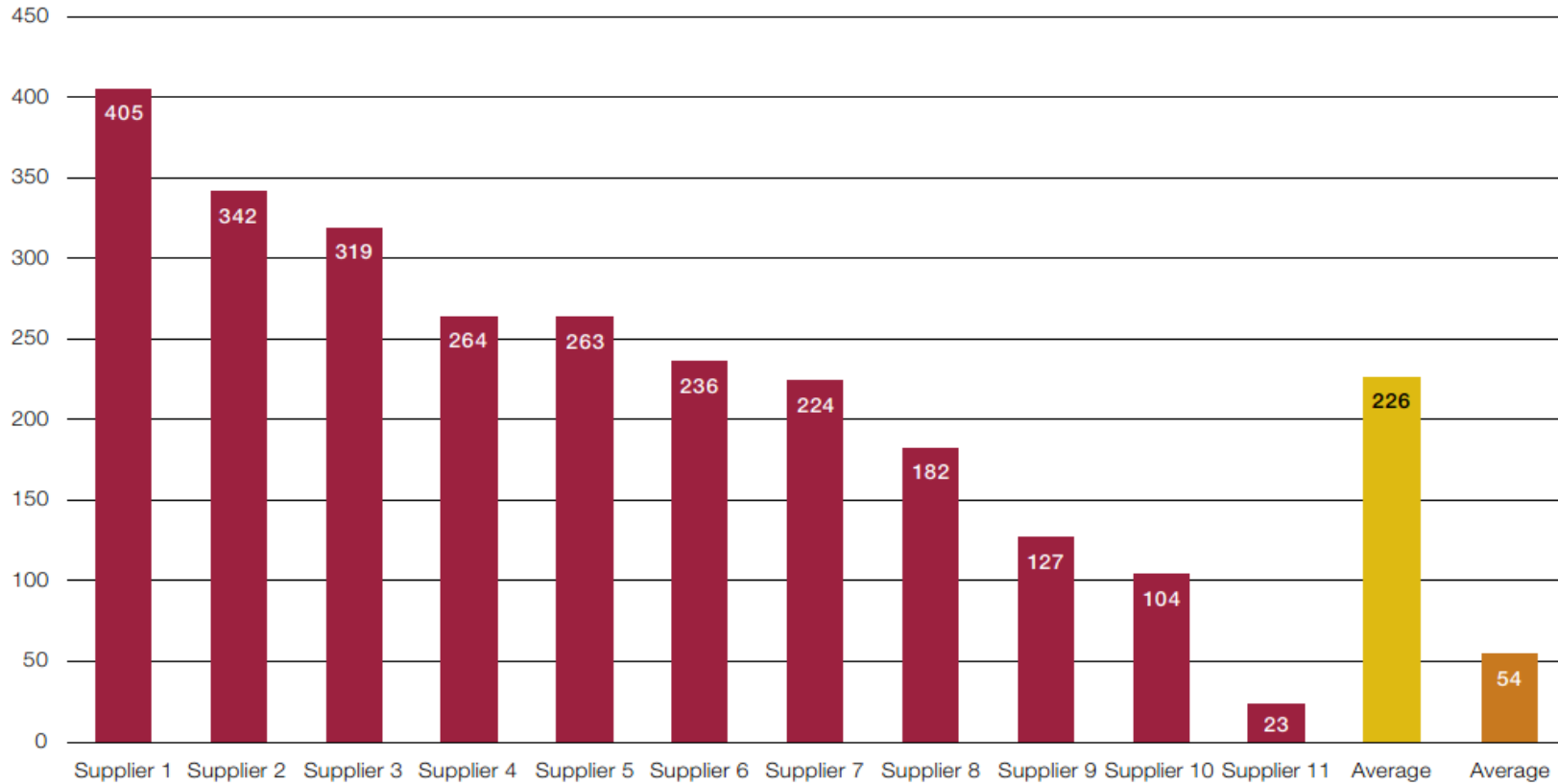
## Legal Services Board research - March 2017

- Being heard and treated with empathy
- Help to understand information provided, often repeated
- Plain English – written and verbal
- Clear on cost
- Information in advance of meetings
- Encouraged to ask questions to check understanding
- A regular point of contact
- Offer to meet at the client's home
- Offer an introduction to the advice available for free
- Adapting to support individuals with symptoms

# Ofgem- impacts of vulnerability

2015 Price differential between cheapest direct debit and cheapest prepayment dual fuel tariff

£/year, 2015 prices



- Price difference
- Average price difference
- Cost to serve differential

Source: National Audit Office analysis of Citizen's Advice research and the Competition and Markets Authority's energy market investigation

# What happens next?

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- FCA will review actions in the near future
- **Firms should:**
  - Approach embedded throughout an organisation
    - **Vulnerable Client Policy**
  - Training and feedback / audit current processes
  - Ensure process matches enthusiasm
    - care around disclosure of sensitive information
    - process flexibility to account for vulnerable client
  - Promote accessibility and inclusion.....

# Considering a referral – SRA Code of Conduct Chapter 6

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- SRA guidance has changed...4 years ago...
  - *6.1: “.....best interests...”*
  - *6.3: “....in a position to make informed decisions...”*
- And have changed again – November 2019
- Compliance Officer for Legal Practice (COLP) - templating a panel approach
- Sharing due diligence information is critical
- **Can the firm manage vulnerable client interaction?**



# Office of the Public Guardian – Deputy Standards

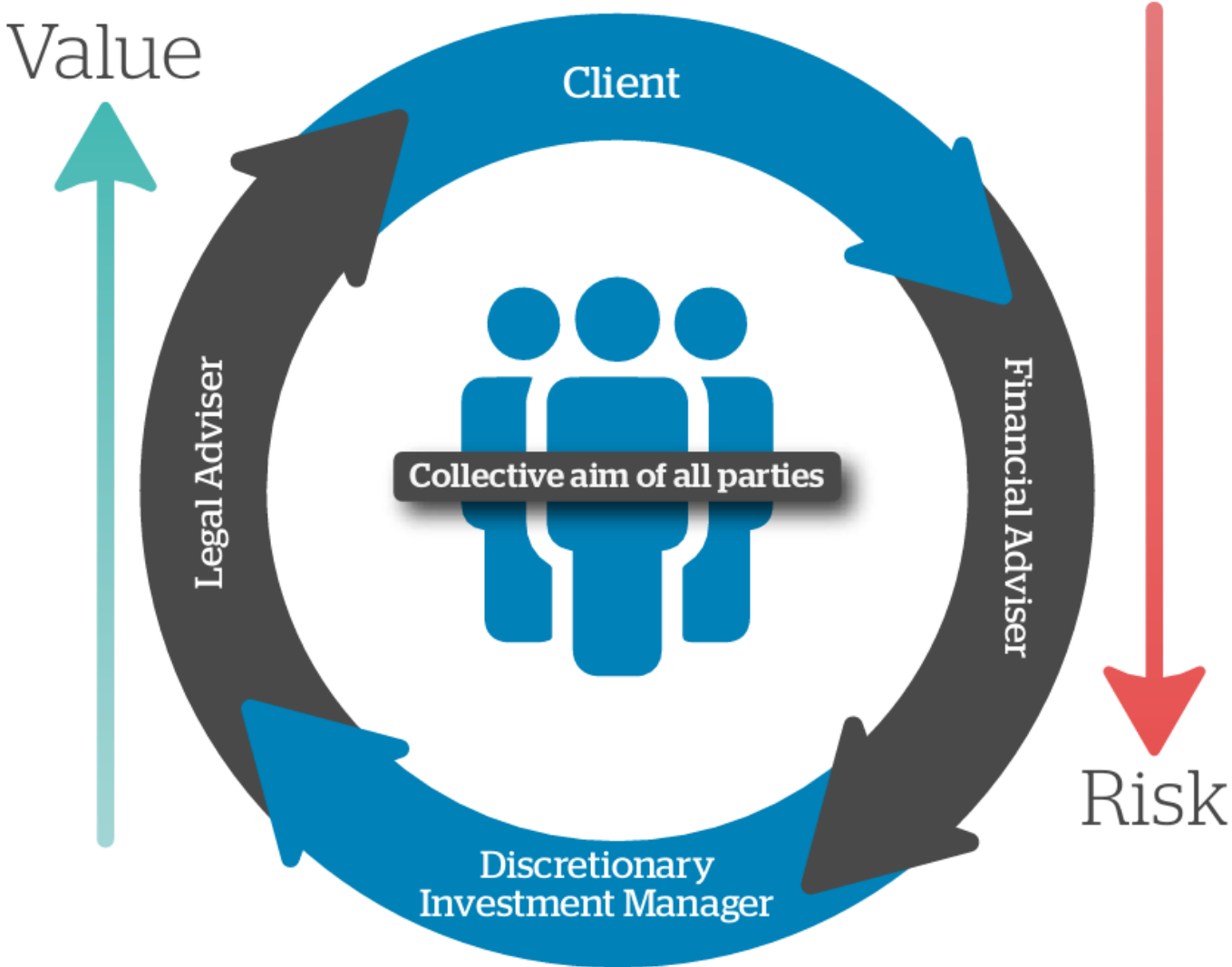


# Deputy standards

Professional deputies



# The route to best advice



## Conclusion: Our aim...

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**To promote the best financial advice and investment management services for vulnerable clients and those acting on their behalf.**

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# Legal Sector Breakfast Briefing

Q&A

Sue Carter, UK Head of Professional Services Sector  
Yorkshire Bank

# Legal Sector Breakfast Briefing

## Conclusion

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Working with



The Law Society

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