



# Syllabus

## STEP Advanced Certificate in Advising Vulnerable Clients



[www.step.org/diploma](http://www.step.org/diploma)

# Advising Vulnerable Clients

## Introduction

This document contains the detailed syllabus for the STEP Advanced Certificate in Advising Vulnerable Clients.

For more information about the course and how to apply, please visit the programme website: [www.clint.com/courses/step-advanced-certificate-in-advising-vulnerable-clients](http://www.clint.com/courses/step-advanced-certificate-in-advising-vulnerable-clients)

# Advising Vulnerable Clients

## Module 1

### PROFESSIONAL CONDUCT

#### **This module covers:**

- Identifying the client
- Capacity to instruct
- Conflicts of interest
- The difference between undue influence and undue pressure
- Confidentiality and disclosure duties
- The client's right to cancel a contract made out of the office
- How to best limit the retainer when working with other professionals
- When the adviser should seek medical opinion of the client's capacity

#### **By the end of this module you should be able to:**

- Identify who your client is
- Understand what factors need to be considered when determining whether a client has capacity to instruct
- Identify what action to take if a conflict of interests arises
- Outline the differences between undue influence and undue pressure
- Consider your confidentiality and disclosure duties
- Understand when the client can cancel a contract made at home and the formalities required
- Identify how best to limit the retainer when working with other professionals
- Explain when the adviser should seek medical opinion on the client's capacity

# Advising Vulnerable Clients

## Module 2

### CAPACITY LEGISLATION

#### This module covers:

- The premise of decision making under the Mental Capacity Act 2005, including its Principles, best interests and the Code of Practice
- The role of the Public Guardian
- The role of the Court of Protection in decision making
- The role of an Independent Mental Capacity Advocate
- The deprivation of liberty framework
- The role of the Mental Health Act 1983 (civil parts) to care for people with mental disorders
- The boundary between the Mental Capacity Act 2005 and the Mental Health Act 1983
- The inherent jurisdiction of the High Court to safeguard vulnerable adults
- The international law relating to incapacitated persons

#### By the end of this module you should be able to:

- Describe the premise of decision making under the Mental Capacity Act 2005, including its Principles, best interests and the Code of Practice
- Understand the functions of the Public Guardian
- Identify the extent and limits of the jurisdiction of the Court of Protection in decision making
- Identify when an Independent Mental Capacity Advocate is involved in decision making
- Understand the Court of Protection's jurisdiction to deprive a person of their liberty
- Identify the civil detention routes to providing care for people with mental disorders under the Mental Health Act 1983
- Distinguish the boundary between the Mental Capacity Act 2005 and the Mental Health Act 1983
- Understand when the inherent jurisdiction of the High Court can be used to protect a vulnerable adult
- Understand the role of international law relating to incapacitated persons

# Advising Vulnerable Clients

## Module 3

### WORKING FOR VULNERABLE CLIENTS

#### **This module covers:**

- Symptoms and descriptions of vulnerability and incapacity
- Handling clients' difficulties
- How different faiths approach the concept of vulnerability and incapacity
- Maximising the client's capacity potential
- The framework for assessing mental capacity under the Mental Capacity Act 2005
- Conflict between unwise decisions and capacity
- Key personnel involved in dealing with vulnerable clients

#### **By the end of this module you should be able to:**

- Identify common symptoms and descriptions of vulnerability and incapacity
- Employ tactics to handle the client's difficulties
- Understand how different faiths approach the concept of vulnerability and incapacity
- Demonstrate how to maximise the client's capacity potential
- Understand and apply the framework for assessing mental capacity under the Mental Capacity Act 2005
- Distinguish the difference between an unwise decision and a person's capacity
- Identify the key personnel involved in dealing with vulnerable adults

# Advising Vulnerable Clients

## MODULE 4

### ADULTS WITH MENTAL CAPACITY

#### **This module covers:**

- Testamentary capacity
- ‘The Golden Rule’
- Disputes with death bed wills
- Key estate planning tools when death bed tax planning
- The legal framework of lasting powers of attorney, including taking instructions, advising, drafting and acting as the certificate provider
- The legal framework for advance decisions, taking instructions and drafting
- Making of gifts
- Planning tools used by Independent Financial Advisers aimed at vulnerable clients

#### **By the end of this module you should be able to:**

- Explain what amounts to testamentary capacity
- Describe what is meant by ‘the Golden Rule’ and when it applies
- Identify potential disputes with death bed wills
- Identify key estate planning tools when death bed tax planning
- Take instructions, advise, and draft both types of lasting powers of attorney and act as the certificate provider
- Take instructions, advise and draft advance decisions
- Advise on the making of a gift, including asset protection trusts
- Understand the planning tools used by Independent Financial Advisers which are aimed at vulnerable clients

# Advising Vulnerable Clients

## Module 5

### ADULTS WITHOUT MENTAL CAPACITY

#### This module covers:

- Best interest decision-making
- Common problems when registering a lasting power of attorney (LPA)
- Registration of an enduring power of attorney (EPA)
- Common problems when registering an EPA
- The court's functions prior to registration of EPAs or LPAs
- Abuse of an unregistered power
- Use of a domestic power in a foreign jurisdiction
- Foreign powers in England and Wales
- Financial deputyships - the best person for the job
- The duties and obligations of a deputy
- Personal injury trusts compared to deputyship
- The framework for making care and treatment decisions
- The validity and application of advance decisions
- Decision making under a Health and Welfare (H&W) LPA
- Welfare applications
- Euthanasia and assisted suicide
- Policy on end of life care
- Common medical intervention at end of life
- Supporting families through bereavement
- The legal position as to accessing and disclosure of personal information
- The right for carers and family to be consulted



# Advising Vulnerable Clients

## Module 5

### ADULTS WITHOUT MENTAL CAPACITY continued

#### By the end of this module you should be able to:

- Understand when a best interest decision should be made
- Follow the correct process to make a best interest decision
- Know how to deal with common problems which may be encountered when registering an LPA
- Register an EPA
- Know how to deal with common problems which may be encountered when registering an EPA
- Know when to apply to the Court of Protection prior to the registration of an EPA or LPA
- Know how to act if an unregistered power is being abused
- Understand whether a domestic power can be used in a foreign jurisdiction
- Know if a foreign power can be used in England and Wales
- Know when to apply for a financial deputy, who should apply and what to do to avoid conflict
- Understand the duties and obligations of a deputy
- Know when a personal injury trust is more favourable than a deputyship
- Understand how care and treatment decisions are made where there is no court order, welfare deputy or H&W LPA
- Advise on the validity and application of advance decisions
- Understand how decisions under a H&W LPA are made and how they interact with other decision makers
- Know when a welfare application should be made to the Court of Protection
- Advise on the legal position of euthanasia and assisted suicide
- Understand current policy on end of life care
- Understand common medical intervention at end of life
- Support families through bereavement
- Know when personal information can be accessed and disclosed
- Advise family members and carers about their right to be consulted



# Advising Vulnerable Clients

## Module 6

### PROCESSES

#### **This module covers:**

- How to instruct an expert for an opinion on mental capacity
- Common applications to the Court of Protection
- When and how to apply for an urgent court order
- How to replace a director who lacks mental capacity
- How to obtain a valid receipt where a beneficiary lacks mental capacity
- When a litigation friend should be appointed
- How to get paid for Court of Protection work
- The key elements of managing other people's money
- The key components of an asset protection trust, personal injury trust and disabled person's trust
- Problems and pitfalls in care home contracts

#### **By the end of this module you should be able to:**

- Instruct an expert for an opinion on mental capacity
- Make common applications to the Court of Protection
- Apply for an urgent court order
- Replace a director who lacks mental capacity
- Obtain a valid receipt where a beneficiary lacks mental capacity
- Apply to be a litigation friend
- Get paid for Court of Protection work
- Manage other people's money appropriately
- Draft an asset protection trust, personal injury trust and disabled person's trust
- Advise on and negotiate care home contracts

# Advising Vulnerable Clients

## Module 7

### HOW TO OBTAIN STATE SUPPORT

#### **This module covers:**

- Key welfare benefits specifically aimed at people with disabilities and their carer
- Council tax exemptions
- NHS Continuing Healthcare (CHC)
- Registered nursing care in a nursing home
- Section 117 Mental Health Act 1983 aftercare services
- Services that are free from the local authority (advice, assessments and community equipment)
- Local authority assessments (for the individual and any carer), eligibility criteria, financial assessment for domiciliary care and care homes, including understanding regarded and disregarded income/assets

#### **By the end of this module you should be able to:**

- Identify and apply for appropriate welfare benefits
- Apply for applicable council tax exemptions
- Identify eligibility and apply for NHS Continuing Healthcare
- Know when a registered nursing care contribution is available
- Identify eligibility and apply Section 117 Mental Health Act 1983 aftercare services
- Identify services that are available for free from the local authority
- Advise whether a client is entitled to intermediate and reablement care services
- Know how to access care and support services from social services on behalf of a client
- Advise whether the client has been correctly charged for their care and support when financially assessed by social services

# Advising Vulnerable Clients

## Module 8

### HOW TO OVERCOME TRICKY ISSUES

#### **This module covers:**

- Adverse NHS Continuing Healthcare decisions
- Deliberate deprivation decisions
- Approaches to the valuation of joint property for social care
- Care home moves between areas, closures and running out of money
- Domiciliary care and support
- Deprivation of liberty authorisation in care homes or hospitals
- Objections to the registration of an LPA or EPA
- Informing the client they lack capacity
- Managing expectations and emotions
- Dealing with challenging families
- Tackling a suspicion of abuse
- Capacity to marry and stopping the wedding

#### **By the end of this module you should be able to:**

- Challenge an adverse decision about NHS Continuing Healthcare
- Challenge a deliberate deprivation decision
- Challenge an adverse valuation of joint property decision
- Advise on care home moves
- Advise on how to keep the client in their own home
- Challenge a deprivation of liberty authorisation
- Object to the registration of an LPA or EPA
- Tell the client they cannot make a legal transaction because they lack mental capacity
- Manage the client's family's expectations and deal with their emotions
- Deal with challenging families
- Deal with a suspicion of abuse
- Stop a marriage where mental capacity is in doubt

# Contact us

**For full details of the programme visit:**

[www.cltint.com/courses/step-advanced-certificate-in-advising-vulnerable-clients](http://www.cltint.com/courses/step-advanced-certificate-in-advising-vulnerable-clients)

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