SAGE & ELDER
HOME MOVE SPECIALISTS

# MENTAL CAPACITY, DURESS, & DECISION-MAKING SUPPORT POLICY

## 1. Purpose & Scope

At Sage & Elder, we provide professional advocacy and relocation management for older and vulnerable adults navigating the home move process. We recognise that our referring partners — including solicitors, estate agents, and financial advisors — owe duties of care, risk mitigation, and compliance to their clients.

This policy outlines our standard approach to supporting, observing, and documenting our clients' decision-making, looking out for signs of third-party pressure or duress, and checking the basic status of legal frameworks such as Lasting Powers of Attorney (LPA), in a manner consistent with the principles of the Mental Capacity Act 2005 (MCA). It also sets out how we escalate concerns where they arise.

This document describes our usual practice. It is not a guarantee of outcome in every individual case, and it does not replace formal legal or clinical advice. Where a client's capacity is genuinely in question, we will always recommend that a qualified professional (such as a GP, social worker, or other appropriately qualified assessor) carries out a formal assessment, and that the client's solicitor is informed.

# 2. OUR VULNERABILITY FRAMEWORK

We recognise that vulnerability is not the same as a lack of capacity, and that the two must be considered separately. A client may have full capacity to make decisions and still be vulnerable in ways that affect how they engage with the process and the support they need from us.

In assessing and responding to vulnerability, we have adopted the FCA's four-driver vulnerability framework (set out in FG21/1: Guidance for firms on the fair treatment of vulnerable customers, February 2021) as the basis for our approach. While Sage & Elder is not a directly FCA-regulated firm, we have chosen to align with this framework because it represents recognised best practice and reflects the standards our regulated referral partners are themselves required to meet. For each client, we consider all four drivers:

- **Health** — physical or mental health conditions that may affect engagement or decision-making, including cognitive decline, chronic illness, mental health difficulties, or sensory impairments.
- **Life Events** — major transitions that may create a period of temporary vulnerability, such as bereavement, loss of independence, relationship breakdown, or a sudden care need. These are particularly common among clients navigating a significant home move.
- **Resilience** — a client's financial or emotional capacity to cope with the process. A client under financial stress or emotional exhaustion may be at risk of making decisions driven by anxiety rather than informed choice, even where their capacity is not in question.
- **Capability** — a client's ability to understand and engage with the process, including financial literacy, familiarity with legal or property processes, digital skills, and communication needs.

We recognise that vulnerability is often not a fixed state, and that more than one driver may be present at the same time. Our observations are recorded in our internal Client Capacity & Vulnerability Observation Record, and we adjust our communication, pace, and support accordingly for each individual client.

# 3. CORE GUIDING PRINCIPLES

**Presumption of Capacity** We work in line with the first statutory principle of the MCA 2005: a person must be assumed to have capacity unless it is established otherwise. We do not treat a client as lacking capacity simply because of their age, a diagnosis, or the views of others involved.

**Awareness of Undue Influence & Duress** A client may have full capacity yet still be subject to external pressure, coercion, or manipulation from a third party. Where appropriate and with the client's agreement, we look for indicators that instructions are being given freely and voluntarily, and we raise any concerns promptly (see Section 6).

**Dignity & Proportionate Documentation** We aim to build observations about a client's decision-making into our normal onboarding and ongoing conversations, through natural and respectful dialogue, rather than through formal testing or invasive questioning.

# 4. WORKING WITH LASTING POWERS OF ATTORNEY (LPA) AND DEPUTYSHIPS

Where a client has appointed an attorney under an LPA, or where a Deputy has been appointed by the Court of Protection, our standard practice includes:

- **Status check:** Where appropriate, we ask to see evidence that a Property and Financial Affairs LPA has been registered with the Office of the Public Guardian (OPG), and/or use the OPG's relevant online service to confirm its status, with the consent of the donor or attorney.
- **Scope of authority:** We check whether the LPA covers Property and Financial Affairs (relevant for home sales) and note any restrictions stated in the document itself.
- **Client autonomy:** In line with UK law, a registered Property and Financial Affairs LPA can be used to support a client even while they retain capacity, unless the LPA itself restricts this. A client who retains capacity remains the primary decision-maker regardless of whether an LPA exists. Where a client lacks capacity for a particular decision, we expect any attorney or deputy to act in accordance with the "best interests" principle under Section 4 of the MCA, and we will raise concerns with the instructing solicitor if we believe this is not happening.

We are not a legal verification service, and referring professionals should continue to carry out their own checks on LPAs and deputyship orders as part of their usual due diligence.

# 5. OUR ONBOARDING PROCESS

**A. Conversations About the Move**

Through open, unhurried conversation during onboarding, we aim to get a sense of whether a client:

1. Understands, in broad terms, what selling their property and relocating will involve, including the financial implications.
2. Seems able to retain relevant information for long enough to discuss it and reach a view.
3. Is able to talk through the pros, cons, costs, and alternatives of the move.
4. Can communicate a consistent view about what they want, in whatever way suits them best.

This is an informal, supportive process designed to help us communicate effectively with each client — it is not a formal capacity assessment, and we do not represent it as such. If anything raises a genuine question about a client's capacity to make this decision, we follow the escalation process in Section 6 rather than reaching our own conclusion.

**B. Time to Talk Privately**

Where a client is comfortable doing so, we offer them the opportunity to speak with their advisor on their own for part of the conversation, without family members or other third parties present. This is entirely optional, offered sensitively, and never presented as a requirement. It simply gives the client a chance to raise anything they might feel less able to say in front of others, including any concerns about pressure from third parties.

**C. Record Keeping**

We keep dated notes of key conversations with clients, including their own words where relevant, covering matters such as their reasons for moving, their understanding of costs and timescales, and any points they raised themselves. These notes are kept in line with our data protection obligations (see Section 7) and are not shared without appropriate consent or legal basis.

**D. Scheduling**

We try to be flexible about when we meet with clients, and we're happy to arrange appointments at times that suit them best — including, where a client expresses a preference, scheduling important conversations earlier in the day. This is about client comfort and convenience, not a substitute for proper capacity assessment where one is needed.

## 6. WORKING WITH REFERRING PROFESSIONALS

We see ourselves as working alongside your own risk management approach, not replacing it:

- **Information on request:** If a referring professional has questions about how we've been working with a shared client, we're happy to discuss this with appropriate consent, and can provide a summary of relevant notes where this would help.
- **Escalation:** Where we have concerns (see Section 6), we will tell any referral partner already involved in the transaction and pause onboarding for that client until the concern has been addressed.

## 7. ESCALATION POLICY — CONCERNS ABOUT CAPACITY, INFLUENCE, OR SAFEGUARDING

If, during our work with a client, an advisor becomes concerned that:

- the client may lack capacity to make decisions about the sale or move,
- the client appears to be under pressure, coercion, or undue influence from a third party, or
- there are wider safeguarding concerns (for example, signs of financial, physical, or emotional abuse),

we follow this escalation process:

**Step 1: Pause and record.** The advisor pauses any further steps in the onboarding or transaction process that depend on the client's instructions, and records what was observed (factually, without speculation) as soon as possible.

**Step 2: Review.** We take time to properly consider what has been observed, and where helpful, discuss the situation (without naming the client) with an appropriate external professional, such as a safeguarding lead or helpline, to help decide on next steps. This may include a further, gentler conversation with the client where appropriate.

**Step 3: Inform referral partners.** Where a referring professional (such as a solicitor, estate agent, or financial advisor) is already involved in the transaction, we notify them that we have paused onboarding and the general nature of our concern, so they can take this into account in their own duties.

**Step 4: Pre-agreed personal contacts.** As part of onboarding, we ask each client to complete a form indicating any personal contacts (such as a next of kin, family member, or friend) who they are, and are not, content for us to share information with. Where we have a concern, and where doing so is consistent with the client's wishes as recorded on this form, we may discuss our concerns with a nominated contact. Where the concern relates to a person the client has nominated, or where no appropriate contact has been agreed, we will not approach that person and will instead proceed to the steps below.

**Step 5: External safeguarding referral.** Where we believe a client may be at risk of harm, or where concerns cannot be resolved through the steps above, we will make a referral to the relevant local authority adult safeguarding team. Where there is an immediate risk to a client's safety, we will contact the emergency services.

**Step 6: Formal capacity assessment.** Where the concern relates primarily to capacity rather than influence or safeguarding, we will recommend that the client (or their representative) arranges a formal capacity assessment with an appropriately qualified professional (such as their GP).

We take our responsibility to safeguard our clients seriously. The core principle behind this policy is simple: where we have genuine concerns about a client's wellbeing, capacity, or freedom from undue influence, we will raise them with the relevant people; whether that's a referral partner, a personal contact the client has approved, or a safeguarding authority.

Throughout this process, we aim to act proportionately, to keep the client informed where appropriate, and to prioritise the client's safety and wellbeing over the continuation of any transaction.

# 8. DATA PROTECTION

The notes, observations, and onboarding forms described in this policy may include sensitive personal information. We store this information securely, and only share it with third parties; such as referral partners, a client's nominated personal contacts, or safeguarding authorities; where the client has agreed to this (for example, via our onboarding form), or where we have another lawful basis to do so, such as a vital interest or safeguarding duty that overrides confidentiality. All handling of personal data is carried out in accordance with UK GDPR and the Data Protection Act 2018, and further details are available in our Privacy Policy. We will seek appropriate legal advice before proceeding should a question about the best course of action under UK law regarding safeguarding, data protection or confidentiality arises.

# 9. SUMMARY FOR REFERRERS

By working with Sage & Elder Home Move Specialists, professionals can expect a relocation partner who treats clients with dignity, pays attention to their wellbeing throughout the process, and tells you promptly if something doesn't seem right.

We are not a substitute for your own professional due diligence, but we aim to be a useful extra pair of eyes, and to act quickly and appropriately where concerns arise.

For questions about this policy, please contact us at:

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