

Guidance Consultation and Feedback Statement on the Fair Treatment of Vulnerable Customers

28th September 2020

The aim of the FCA's Guidance:

- Intended to bring about a practical shift in the behaviour of firms so they take vulnerability seriously, and embed the fair treatment of vulnerable customers into their culture, policies and processes throughout the whole consumer journey.
- There will be no implementation period for the Guidance.
- It will apply to all retail customers who are 'natural persons', and business customers where the business is not incorporated. However, firms must take account of the fact that incorporated businesses may employ people with characteristics of vulnerability.
- At the moment some firms are failing to think about vulnerability.
- The FCA wants to see vulnerable customers treated fairly and consistently across financial services sectors. However it is not prescribing cross-sector minimum standards.
- Expect COVID-19 has significantly increased the number and severity of issues affecting consumers and more than ever firms should be paying particular attention to the needs of vulnerable customers.
- The financial effect is likely to have been particularly severe for some groups, including women, low-paid workers, people working in sectors that have shut down, the self-employed, young people, students, private renters, families with dependent children, single parents and people with health problems and disabilities.

FCA research has highlighted key themes in the fair treatment of vulnerable customers:

- recognising vulnerability and responding to customers' needs
- the value of sympathy
- the importance of empowered and knowledgeable staff
- addressing communications needs

The six outcomes that the FCA believes firms should strive to achieve to ensure the fair treatment of vulnerable customers are:

Outcome 1: consumers can be confident they are dealing with firms where the fair treatment of customers is central to the corporate culture.

Outcome 2: products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly.

Outcome 3: consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.

Outcome 4: where consumers receive advice, the advice is suitable and takes account of their circumstances.

Outcome 5: consumers are provided with products that perform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect.

Outcome 6: consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint

Monitoring and supervision:

- The FCA will monitor how firms respond to its guidance through its supervisory work.
- Its approach will recognise what the Guidance means for individual firms dependant on their context, for example size, the market a firm operates in and the characteristics of its target market and customers.
- During its interactions assessing firms' senior managers the FCA will ask them about the actions they've taken to:
 - understand the needs of their target market/customer base
 - ensure their staff have the right skills and capability to respond to the needs of vulnerable customers
 - respond to consumer needs through product design, flexible customer service provision and communications
 - monitor that the needs of their vulnerable customers are being met and responded to, collect information on the impact of their policies and processes, and assess how they are resulting in good outcomes for vulnerable consumers
- In 2023 the FCA plans to evaluate the action firms have taken and whether it has seen improvements in the outcomes experienced by vulnerable customers.

The wider context

Who are vulnerable customers:

4 key drivers that increase risk of consumer vulnerability:

Health: health conditions or illnesses that affect the ability to carry out day-to-day tasks

Life events: major life events such as bereavement, job loss or relationship breakdown

Resilience: low ability to withstand emotional or financial shocks

Capability: low knowledge of financial matters or low confidence in managing money (financial capability). Low capability in other relevant areas such as literacy or digital skills

- 46% of UK adults display one or more characteristics of vulnerability.
- Consumers will often display more than one characteristic of vulnerability.
- There are some consumers that may not be vulnerable at this point in time, but firms need to take particular account of them because they are at greater risk of harm than others.
- Vulnerability should be considered as a spectrum of risk, rather than separated into three distinct groups of consumers (actually vulnerable, potentially vulnerable and not vulnerable).
- The FCA recommends that firms do not use the term 'vulnerable' in their interactions with consumers as many will not want that label applied to them.

Personal and behavioural consequences of vulnerability include:

- heightened stress levels due to difficult, or different, personal circumstances
- increasing time pressures due to additional responsibilities
- increasing pre-occupation ('brain is elsewhere') limiting ability to manage
- processing power and ability decreasing due to competing pressures
- lack of perspective, especially when experiencing something for the first time, not fully understanding the broader implications; being unable to make comparisons, or see the 'bigger picture'

- changing attitudes towards taking risks; people often become more ‘reckless’ and or careless at moments of stress

The ways firms respond to vulnerable customers can increase or reduce the risk of harm:

Financial exclusion: vulnerable consumers are more likely to be unbanked and less likely than average to hold any form of savings, insurance or protection, pension, or investments.

Difficulty accessing services: some characteristics of vulnerability may make it difficult for consumers to use a particular communication channel.

Disengagement with the market/partial exclusion: consumers who show characteristics of vulnerability may find it difficult to engage with markets and search for products and services effectively. As a result, vulnerable consumers may be more likely to pay a higher price than other consumers because they do not switch. They may also go without products and services.

Inability to manage a product or service: consumers with characteristics of vulnerability may be less likely to understand how to manage their use of a product or service on an ongoing basis. They may be less likely to be aware of their rights including their ability to get redress if things go wrong. People whose mental health has led to problems with social cognition are often reluctant to bring problems to their providers’ attention.

Over indebtedness: consumers with characteristics of vulnerability are more likely to fall behind on key household bills or credit commitments. Being over-indebted may also be linked with experiencing mental health problems or addictions.

Buying inappropriate products or service and exposure to mis-selling: consumers with characteristics of vulnerability may be more likely to have mistakenly bought a product or service that was not appropriate for them because they misunderstood the features or the terms and conditions.

Scams and financial abuse: consumers with some characteristics of vulnerability may be more likely to fall victim to scams. They may be specifically targeted through unsolicited approaches, more trusting or more likely to be persuaded to disclose personal financial details.

Guidance

The guidance states that firms should:

- understand the nature and scale of characteristics of vulnerability present in their target market and customer base.
- understand the impact of vulnerability on the needs of consumers in their target market and customer base, and how this might affect the consumer experience and outcomes.
- embed the fair treatment of vulnerable consumers across the workforce. All relevant staff should understand how their role impacts the fair treatment of vulnerable consumers.
- ensure frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability.
- offer practical and emotional support to frontline staff dealing with vulnerable consumers.
- turn their understanding of the needs of vulnerable consumers into practical action. Firms should take into account the characteristics of vulnerability present in their target market or customer base and how they can meet their needs through:
 - how they design their products and services.
 - their customer services.
 - how they communicate.

- consider the potential positive and negative impacts of a product or service on vulnerable consumers and design products and services to avoid potential negative impacts.
- take vulnerable consumers into account at all stages of the product and service design process (idea generation, development, testing, launch and review) to ensure products and services meet their needs.
- set up systems and processes in a way that will support and enable vulnerable consumers to disclose their needs. Firms should be able to spot signs of vulnerability.
- deliver appropriate customer service that responds flexibly to the needs of vulnerable consumers.
- make consumers aware of support available to them including options, where relevant, for third party representation and specialist support services.
- put in place systems and processes that support the delivery of good customer service, including systems that enable the recording of and access to information about consumers' needs.
- ensure all communications and information about products and services are understandable for consumers in their target market and customer base.
- consider how they communicate with vulnerable consumers, taking into consideration their needs. Where possible, they should offer multiple channels so vulnerable consumers have a choice.
- implement appropriate processes to evaluate where the needs of vulnerable consumers are not met, so that they can make improvements.
- produce and regularly review management information, appropriate to the nature of their business, regarding the outcomes they are delivering for vulnerable consumers.

The FCA defines 'should' as where it thinks a firm ought to consider a course of action (not specified in a Principle) to comply with a Principle, but this does not necessarily mean they should follow a detailed or prescribed course of action.

Additional FCA feedback

Identifying vulnerability:

- The FCA recognises that firms can only take reasonable steps to identify and respond to vulnerability.
- The Guidance does not place obligations on firms to proactively identify individual vulnerable customers through staff interactions or the use of data analytics.
- However, firms may find data useful to understand their customer base and identify characteristics of vulnerability, so they can offer support proactively.

Making it easy to disclose a need:

- Firms should set up systems and processes to support and enable customers to disclose their needs.
- Firms should also be able to spot signs of vulnerability: firms should help front line staff to understand how to actively listen out for information that could indicate vulnerability, and where relevant seek information from customers displaying characteristics of vulnerability that will allow them to respond to their needs.
- For digital customer journeys, firms should consider introducing tools (such as chatbots or text boxes) to allow customers to share information.

- Staff should be proactive if a customer displays a characteristic of vulnerability, for example by asking if it might affect their needs.
- If a customer attempts to conceal information or is unaware they have additional needs, staff or customer service systems may not be in a position to recognise characteristics of vulnerability or related needs.

Training staff:

- Staff will need to be trained to recognise and respond to vulnerability.
- It may not be proportionate to send all staff on vulnerability training courses.
- Instead firms should consider updating existing training to reflect how the fair treatment of vulnerable consumers is relevant to their role.

Recording and sharing data on vulnerability:

- Firms should have systems and staff that can understand what information is relevant to the fair treatment of vulnerable consumers and future interactions, and how to record and make that information accessible to staff that need it to respond to consumers' needs.
- What information is recorded is up to firms to determine based on their target market and customer base.
- Firms also have a responsibility to comply with their obligations under GDPR. While the FCA is not able to provide Guidance on GDPR it has included in the Guidance an appendix that highlights aspects of data protection law that are most relevant for firms to consider when interpreting the Guidance. It has updated this in response to feedback to include further information on relevant areas such as transparency and rights, accountability and data sharing.

Third parties:

- Where a firm believes that a customer may benefit from support or assistance from a third party, firms should signpost, or provide a 'warm handover'.

Communication channels:

- The Guidance highlights the importance of flexible and appropriate communications where necessary to ensure communications are accessible and understandable by vulnerable consumers in their target market and customer base. The Guidance sets out that firms should consider how they communicate with vulnerable consumers, taking into consideration their needs. Where possible, they should make multiple channels available so that vulnerable consumers have a choice.

The FCA recommends that trade associations:

- Create a vulnerability policy that shares best practice and information on the vulnerabilities likely to be present in CDFIs' target market. Eg. approach to arrears management and forbearance; the target market.
- Produce industry codes that address data protection issues or challenges within a sector. The ICO will provide advice and support to trade associations in developing codes of conduct.

Consultation questions

Q1: Do you have any comments on our assessment of equality and diversity considerations of our proposed Guidance?

N/A

Q2: Do you have any feedback on the updated draft Guidance?

We thank the FCA for clarifying some of the queries we raised in our response to its initial consultation, and recommend the FCA implements it as soon as is practical.

We echo Fair By Design's recommendation that the FCA should encourage mainstream financial services providers to offer customers warm handovers to community finance organisations and credit unions, where the customer does not qualify for credit with the mainstream provider. This would increase awareness of affordable credit and may prevent many vulnerable consumers from taking out loans with high-cost credit providers, going without essentials, or borrowing from friends and family; all of which can have negative repercussions for consumers and particularly those who are vulnerable.

Q3: Do you have any feedback on our cost benefit analysis?

N/A

Q4: Do you have feedback on what we should prioritise when monitoring firms' treatment of vulnerable consumers?

The monitoring of firms' treatment of vulnerable consumers should focus primarily on the outcomes that the consumers experience when dealing with the firm, and the policies, product design and processes which cause these outcomes.

If the Guidance doesn't result in tangible improvements in outcomes for vulnerable customers then the FCA should consider whether more binding rules are required.

It would be useful for the FCA to provide more information on how it will monitor firms' fair treatment of vulnerable customers and how it will supervise firm failings.

Q5: What types of information do you envisage it would be necessary for firms to collect, to assess the effectiveness of their policies and processes in respect of vulnerable consumers?

We welcome the proportionate approach that the FCA has taken in issuing this Guidance. The information collected by firms should be proportionate to their size and the customer market they serve, as well as their company structure. For example, Community Finance Organisations will already have the fair treatment of vulnerable customers embedded in their culture because of their social objectives, and they will likely already monitor the effectiveness of their processes. However, larger financial institutions should regularly formally assess the effectiveness of their policies and processes so they can implement change based on the lived experience of consumers. This could be done by commissioning independent research and using mystery shoppers.

Q6: Do you have any other feedback on our proposals?

We will work with Community Development Finance Institutions to implement the FCA's Guidance and support those who need it through the sharing of best practice and an industry code if appropriate.