



# WHITE PAPER / JUNE 21 FCA VULNERABILITY GUIDANCE

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finalised guidance for firms on the  
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# FCA Vulnerability Guidance

The FCA has now released its FG21/1 finalised guidance for firms on the fair treatment of vulnerable customers. Below we have provided a summary as well as some important actions that we recommend firms take to comply with the guidance and more importantly, duties on vulnerable customers.

*Protecting vulnerable customers is a key focus for the FCA and is more important now in light of the impact of Covid-19. The FCA's guidance is really useful to help ensure that firms treat vulnerable customers fairly and includes useful examples on how to put the FCA's guidance into practice.*

## Introduction

The FCA is keen to drive improvements in the way firms treat vulnerable customers. Key to this is for firms to focus on ensuring that vulnerable customers' experiences are as good as those of other customers and that they receive consistently fair treatment. The FCA is expecting that firms understand the needs of vulnerable customers and make any changes required to meet the standards set by the FCA's existing 'principles of business'.

## What is the definition of a vulnerable customer?

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

Whilst it is recognised that consumers should take responsibility for their own choices and decisions, there are factors that might limit their

ability to do so. When the customer is vulnerable in some way and therefore has greater needs, those requirements need to be recognised and supported. These customers may be at greater risk of harm.

Firms are expected to provide their customers with a level of care that is appropriate given the characteristics of the customers themselves and this might be different from one customer to the next.

It is therefore important and very clear in the FCA's guidance that firms must take care to understand the characteristics of vulnerability of their target market and main customer base and ensure staff, products and services meet these needs. At the same time they need to ensure that customers do not suffer poor or inconsistent outcomes, or suffer from an increased risk of harm.

The FCA are expecting firms to embed a healthy culture through the firm and not just on the frontline so this includes areas such as product development. Firms' senior leaders should embed the fair treatment of vulnerable customers in their policies and processes **throughout the whole customer journey**.

The FCA have set out that firms should think about vulnerability as a spectrum of risk. All customers are at risk of becoming vulnerable and this risk is increased by characteristics of vulnerability related to four key drivers.

- **Health** – health conditions or illnesses that affect ability to carry out day-to-day tasks.

- **Life events** – life events such as bereavement, job loss or relationship breakdown.
- **Resilience** – low ability to withstand financial or emotional 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.

Having been involved in working on supporting lenders with their policies and procedures on vulnerability over the years, this is a key and important change. Policies and procedures must be updated to ensure the whole customer journey is treating vulnerable customers fairly.

The main focus on the FCA's guidance is on its Principles for Businesses which now looks at firms' obligations and ensures they treat vulnerable customers fairly. It explains that to achieve good outcomes for vulnerable customers, firms should:

1. Understand the needs of their target market and customer base.
2. Ensure staff have the right skills and capability to recognise and respond to the needs of vulnerable customers. This means that firms must embed the fair treatment of vulnerable consumers across the workforce.
3. Understand how their role affects the fair treatment of vulnerable consumers.
4. Have the necessary skills in their front line to recognise and respond to a range of characteristics of vulnerability as well as be able to offer practical and emotional when dealing with vulnerable consumers.
5. Respond to customer needs throughout product design, flexible customer service provision and communications.
6. Monitor and assess whether they are meeting and responding to the needs of customers with characteristics of vulnerability, and make improvements where this is not happening.

When it comes to product and service design, firms are also asked to:-

- a) Consider the potential positive and negative impacts of a product or service on vulnerable consumers.
- b) Take vulnerable consumers into account at all stages of the product and service design process, including idea generation, development, testing, launch and review.
- c) Set up systems and processes in a way that will support and enable vulnerable consumers to disclose their needs.
- d) Deliver appropriate customer service that responds flexibly to the needs of vulnerable consumers.
- e) Make consumers aware of support available to them, including relevant options for third party representation and specialist support services.
- f) Put in place systems and processes that support the delivery of good customer service, including systems to note and retrieve information about a customer's needs.
- g) Ensure all communications and information about products and services are understandable for consumers in their target market and customer base.
- h) Consider how firms communicate with vulnerable consumers, taking into consideration their needs. Where possible they should offer a choice of multiple channels

## What is the extent of the application of the guidance?

The Guidance applies to all firms where the Principles apply, regardless of sector and is relevant to the supply of products or services to retail customers who are natural persons, even if a firm does not have a direct client relationship with the customer.

Even though the Guidance only applies to firms' dealings with retail customers who are natural

persons, the FCA stipulates that firms should remember that the Principles, including the obligation to treat customers fairly, extend to all customers.

Firms should note that the FCA has provided what you might describe as a key to understand the use of the words throughout the guidance to determine importance.

- **Must – is used** where an action is required by a Principle or rule.
- **Should – is used** where we think a firm ought to consider a course of action (not specified in a Principle) to comply with a Principle, but that does not necessarily mean they should follow a detailed or prescribed course of action.
- **May – is used** where an action is only one of several ways of complying with a Principle.

## How to manage the needs of vulnerability?

It is expected that vulnerable customers will have different needs. One of the things that the FCA gives as an example is that they may find some channels of communication challenging or stressful or need more time to understand information and make decisions. It is therefore expected that firms ensure that service provision meets the needs of vulnerable consumers. ensure their staff have the right skills and capability, which is set out in Chapter 3 of the FCA guidance or take appropriate practical action, which is set out in Chapter 4 of the FCA guidance. Customer services should therefore be at reach and responsive.

### 1. Firms should set up set up systems and processes in ways that will support and enable vulnerable consumers to disclose their needs. The FCA goes into detail on what this might look and includes:

- If the firm does not recognise and meet those needs, vulnerable consumers are more likely to suffer harm from poor service.
- Frontline staff should have the skills and capability to recognise characteristics of

vulnerability and respond to individual consumer needs where a consumer has shared a need or where there are clear indicators of vulnerability.

- Firms should be proactive in offering support. They should enable consumers to tell them about any additional needs they have so they can deliver appropriate customer service.
- Firms should ensure that staff focus on understanding and responding to the consumer's financial services' needs. For example, if a consumer in arrears mentions that their mental health condition means they find opening letters distressing, firms should focus on how they can meet their communications needs using other channels.
- Firms should try to recognise the needs of consumers, whatever channel they use. Observable signs of vulnerability should be recognised by firms and encourage customer to discuss their needs. One channel is for text boxes or chatbots can be used for example.
- Firms should consider whether there are touchpoints in the customer journey they can use to gather information on customer needs. For example, at renewal insurers could build in relevant questions or prompts to contact the insurer.

### 2. Firms must deliver appropriate customers services that respond flexibly to the needs of vulnerable customers.

The FCA states that frontline staff should be able to adapt their approach to deliver a service that meets the individual needs of vulnerable consumers. **As a result, pay and reward structures should not just look at volumes or speed of consumers served, but the quality of service and outcomes.**

Firms should ensure that they can alter their customer service processes to help consumers with additional needs. The key is for firms to have **flexible systems and processes in place, allowing them to adapt to the needs of the vulnerable consumer.**

**Customers should understand the support available to them.** This should be proactive and should happen when the firm recognises that an individual consumer has a specific need and also through their communications and websites. Such helps should be easy to access and use. Firms should also consider how they can empower consumers to take actions that will support them to manage their finances or protect themselves from scams in times of low capacity or impaired decision-making.

**3. Firms should consider how they can support vulnerable consumers to complain, if services are not meeting their needs, and get redress.**

**4. Third party support – the FCA state that where appropriate, firms should provide straightforward options to enable legitimate and legal delegated access or support, while maintaining robust safeguards to reduce the risk of abuse.**

Third party support might involve consumers who need a third party to access their account or to support them on a short or medium-term basis.

**5. Whether to allow a customer to proceed? If a firm has doubts about a consumer's ability to understand a product or service, suspects they do not have capacity to make decisions or that they are acting as a result of fraud or coercion, it should assess whether it should allow the consumer to proceed.**

Action:- if lenders have not done already, they should perhaps put in place a policy for nominated third party access to include when a power of attorney might be suitable.

**6. Specialist Support – Larger firms or those with many vulnerable consumers may consider introducing specialist teams or staff trained to provide specialist support.**

**7. Systems and processes to delivery good customer services – Firms should ensure that they have systems and processes that allow customer service staff to record and access information that will be required in the future to respond to vulnerable consumers' needs.**

**Having a process in place for recording consumer vulnerability and third party representation, as well as being able to help the consumer deal with their arrears. Holding this information will enable other staff members to understand their needs. Digital boxes where customers can record this information can be a useful tool and encouraging when they can do in their own time.**

## How to understand the nature and scale of characteristics of vulnerability?

There are many situations that may lead to a consumer in a target market or customer base becoming vulnerable. We have set out above the definition of vulnerability and in addition to this, the FCA has provided a table of examples, which we have produced below giving examples of the types of circumstances and characteristics under the four key drivers which can lead to consumers having additional or different needs.

However, this is only a guide and firms are reminded that they should consider what characteristics of vulnerability are relevant to their target market and customer base.

The expectations are for firms to understand what characteristics of vulnerability are likely to be present in their target market or customer base. The FCA gives an example for the finance industry that if a firm is selling high-cost credit, its customer base may have common characteristics of vulnerability caused by a lack of financial resilience, such as inadequate or erratic income.

There are some characteristics of vulnerability, such as bereavement and relationship breakdown that will be present in all sectors and may lead to further vulnerability such as mental ill-health or low resilience, which could be made worse if the consumer has low or limited capability to engage with financial services or to manage their finances.

Firms should ensure they are aware of their requirements under the Equality Act 2010. Groups of consumers with certain protected characteristics may have, or be more likely to have characteristics

**Here is the table in the FCA guide namely: Characteristics associated with the four drivers of vulnerability**

Health	Life events	Resilience	Capability
Physical disability	Retirement	Inadequate (outgoings exceed income) or erratic income	Low knowledge or confidence in managing finances
Severe or long-term illness	Bereavement	Over- indebtedness	Poor literacy or numeracy skills
Hearing or visual impairment skills	Income Shock	Low savings	Poor English language
Mental health condition or disability digital skills	Relationship Breakdown	Low emotional resilience	Poor or non-existent
Addiction	Domestic abuse (including economic control)		Learning difficulties
Low mental capacity or cognitive disability	Caring responsibilities  Other circumstances that affect people’s experience of financial services e.g., leaving care, migration or seeking asylum, human trafficking or modern slavery, convictions		No or low access to help or support

of vulnerability, for example older consumers. In addition, the driver of vulnerability, health, largely overlaps with the protected characteristic ‘disability’ under the Equality Act.

The FCA gives examples of how firms can put into practice the nature and scale of characteristics of vulnerability, which we have added to the end of this paper called FCA examples of putting the vulnerability guidance into practice.

### How firms should ensure that their own actions do not prevent further harm

Two questions that firms are expected to ask themselves are:-

1. What types of harm or disadvantage their customers may be vulnerable to?
2. How their own actions can increase or reduce the risk of harm?

Firms are expected to understand how vulnerability can be perpetuated or worsened by their own actions,

or inaction. The FCA gives an example where if a consumer loses their job or falls ill and is not offered appropriate forbearance measures this could lead to greater stress and anxiety. This in turn could then lead to the customer taking actions that may create more harm, such as borrowing from higher-cost sources in an attempt to address the payments shortfall. Firms are also expected to understand how behavioural biases may present themselves so that they understand where there may be a risk of inappropriately exploiting these biases when engaging with those consumers.

What examples of harm should firms be alert to?

The FCA has set out the following examples: -

- Heightened stress levels due to difficult, or different, personal circumstances
- Increasing time pressures due to additional responsibilities
- Increasing pre-occupation (‘brain is elsewhere’) limiting their ability to manage
- Processing power and ability decreasing due to

competing pressures, for example due to the side effects, or emotional toll, of receiving medical treatment.

- 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 when under stress.

Within the guidance the FCA talks about how these consequences may affect the way vulnerable consumers engage with providers and may negatively impact their decision-making which in turn may mean consumers with characteristics of vulnerability are more likely to make poor decisions about buying and using financial services, exacerbating financial difficulties.

The FCA discusses if a customer has information asymmetry this might also impact customers decision making. This might happen for example where they have less information about the firm, product or service because they are less able to access or process relevant information to make an informed decision. The combined effects of asymmetric information and behavioural distortions can contribute to vulnerable consumers buying unsuitable or poor value products and services.

## How clear and transparent are your products?

Firms must fully understand the impact of vulnerability and associated needs. They must respond to these as the overall impact of these consequences on consumer welfare may be detrimental and vulnerable consumers will be at increased risk of experiencing harm. Here are some themes from the papers that in turn should help firms bring to their attention where they can ensure that its services and products are more supportive for vulnerable customers.

1. **Customers should not have difficulty accessing services and the communication channel that works for them.**

2. **Customers should be able to manage a product of service.** The FCA mentions that 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.
3. **Support needed for over-indebted customers.** It is highlighted in the FCA papers consumers that are vulnerable are more likely to fall behind with bills and credit commitments and can be linked to mental health conditions and addictions as well as develop depression compared to those that are not.

**Firms must ensure they understand the characteristics and needs of their target market and respond to these.** Firms should certainly take action where their target market for example includes consumers with characteristics of vulnerability including poor credit history, illness, unemployment as they are classed as at greater risk from harm especially when they fall into arrears.

Despite this list above, consumers that display characteristics of vulnerability and are at greater risk of harm, it does not mean that they will suffer harm, particularly if firms act with appropriate levels of care. An example was given where a consumer disclosed their condition and circumstances and was transferred to a specialist for help. Information about the options available in light of the customer’s situation was given objectively and without pressure so that they could make an informed decision on the product being offered.

## Skills and capability requirements of staff

The FCA set out how it is important for firms to recognise the role that staff play in meeting the needs of vulnerable consumers.

Firms are expected to:-

1. **Embed the fair treatment of vulnerable customers across the workforce.** It is recognised that staff at all levels can influence outcomes for vulnerable consumers. The guidance stipulates the importance for firms to have relevant staff trained with the appropriate

skills and capability, as well as support from appropriate systems and processes, to understand and take into account the needs of vulnerable consumers in their work.

- 2. Ensuring frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability.** Staff should be capable of recognising and responding to needs where the consumer has told the firm about a need, where there are clear indicators of vulnerability or where there is relevant information noted on the consumer's file that indicates an additional need or vulnerability.

Other examples are:-

- a. Frontline staff should be capable of exercising additional care to adapt to the consumer's needs and be able to exercise judgement on when it is necessary to do so.
  - b. Staff should be able to respond to the consumer's needs promptly so that action is taken to ensure harm does not occur or become more severe. Adapting to consumers' needs may mean referring them to a colleague or specialist team that is able to help.
  - c. Staff should take steps to encourage disclosure where they see clear indicators of vulnerability but are not expected to go further than this to proactively identify vulnerability.
  - d. Staff should be able to recognise when it is appropriate to seek additional support, such as escalating a case to the next level, seeking additional help from specialist teams or referring a consumer to third party support. For example, if the consumer is in a difficult situation which is out of scope of the firm's remit (see Chapter 4 on taking practical action for more information).
- 3. Policies – there should not be a policy gap!** Staff must be aware of existing policies as this is where harm can arise if they are not. The FCA flag risks where frontline staff

do not have the right knowledge or skills to implement these effectively.

- 4. Encouraging disclosure.** The guidance wants firms to help frontline staff to understand how to actively listen out for information that could indicate vulnerability and, where relevant, seek information from vulnerable consumers that will allow them to respond to their needs.
- 5. Record and access information about consumer's needs.** For example, if a customer has sent a completed income and expenditure form and this has not been recorded but the firm then continue to collect normal payments, this is an example of not meeting the customer needs
- 6. Use of the TEXAS model to support recognising customer needs.** This helps ensure staff record (i) the most relevant information about characteristics of vulnerability, (ii) how these characteristics affect support needs, while (iii) helping to meet data protection requirements. We have provided a link to the Texas model, which has been in use for a long time and would recommend that if firms are not using it that they look to implement it straight away. See the Money Advice Trust and Money Advice Liaison Group guide to vulnerability and GDPR for more information on TEXAs and Vulnerability: a guide for debt collection: 21 questions, 21 steps and for more tools.
- 7. Comply with Data Protection requirements.** The FCA sets out in appendix 1 of the guidance note (<https://mailchi.mp/moneyadvicetrust.org/vulnerability-gdpr-and-disclosure-practical-guidance-for-creditors-and-advisers>) the data protection considerations that firms must take into account.
- 8. Frontline staff most be offered practical and emotional support to front line staff dealing with vulnerable customers.** This should include time out following difficult or challenging phone calls or time for staff to share experiences either in face to face meetings or via online forums.

## What practical action does the FCA recommend firms take – product and service design, customer services and communications?

The FCA makes it very clear that where firms design products and services that do not take into account the needs of vulnerable consumers, there is a risk that these consumers can suffer harm as their needs may not be met from the start. Products and services can have inherent features that could be harmful to some vulnerable consumers.

For example, if products and services are complex, some of these consumers may find it more difficult to understand and access the products best suited to their needs.

Therefore firms should:

- 1) **Consider if the features of product or service exploit vulnerable customers.** For example, the FCA found that short term credit with high fees and charges for rollovers were negatively affecting consumers with low financial resilience and have already acted to change this.
- 2) **Have business models that do not intentionally exploit vulnerable customers.** Firms are also expected to actively consider the likelihood of any unintended effects when they are developing products and services to avoid potential harm.
- 3) **Design products and services that meet evolving needs and avoid inflexibility.** Firms are asked to consider how characteristics of vulnerability present in their target market or customer base may affect their customers' needs over time
- 4) **Design sales processes that meet consumers' needs.** Firms are expected to consider the characteristics of vulnerability in their target market or customer base when designing how they distribute products.

## How should firms bring vulnerability into product development?

During development of a product or service, firms should:-

1. Build features into products or services that meet the needs of vulnerable consumers.
2. Consider whether any products or services might have features that could risk harm for vulnerable consumers, for example because they are highly complex, and find ways to reduce this where possible.
3. When designing products and services, firms should consider what distribution channel (how consumers access their service) is suitable for their target market.
4. Firms who do operate via a single channel should consider how they might recognise and respond to the needs of their consumers if they were to develop characteristics of vulnerability.
5. Proactively offering help (which should apply in digital journeys). For example the FCA mention the functionality to pick up on hesitations (ie. by tracking analytics such as 'hover time') on their pages and automatically generate chatbots or webchats. The FCA commented on how some provide simple definitions of jargon if the reader hovers over a word or phrase or where some offer screen reader functionality.
6. The FCA asks firms to consider and potentially test, the impact the product or service has on vulnerable consumers. In addition, they should test any innovative features designed specifically to meet the needs of vulnerable consumers, and assess how flexible the product could be to changing needs and adapt accordingly to reduce the risk of harm for vulnerable consumers, or to ensure that product features designed to meet the needs of vulnerable consumers actually work.
7. As soon as the product is ready for launch the FCA asks that firms consider how to launch the product appropriately so that vulnerable

consumers are aware of and understand it. Staff should be aware of the product and its features, as well as who it might be most or least appropriate for.

8. Product review – products and services should be reviewed periodically to check whether they still meet the needs of vulnerable consumers in their target market and customer base, and do not unintentionally disadvantage them. This is also good compliance with firms systems and controls requirements (Principle 9).
9. When a firm alters or withdraws a product or service, it should be considered how this will impact vulnerability and it might be firms may wish to consider supporting the customer to find an appropriate alternative. It is important that firms are flexible in their approach and accommodating to vulnerable customers so that they do not have further impact to their circumstances.

## What is the position on customer vulnerability when products are sold via intermediaries?

1. The FCA stipulates that all firms in the chain must treat consumers fairly, irrespective of whether they have a direct relationship with the consumer, or whether they design the product and service they distribute.
2. Intermediaries who are selling products must ensure that products are clearly explained and understood by the consumer, for example by following up directly with consumers.
3. Firms that use intermediaries should ensure that firms they work with treat vulnerable consumers fairly. The lender and the broker will be responsible for recognising the customers vulnerability and **whether the product was suitable for the consumer's needs and circumstances.**
4. When considering product suitability, the FCA states that firms should also consider other relevant rules and guidance, including ensuring that products reach the right customers.

## Good communications

Firms must:-

1. **Ensure all communications and information about products and services are presented in ways that are understandable for these consumers.** This includes firms considering vulnerable consumers in their target market and customer base when designing communications.

This must be throughout the life-cycle of a product or service to ensure that products and services are provided to vulnerable consumers in a way that they can understand, this includes:

- marketing
- point of sale
- post-contractual information
- information about changes to the product or service
- complaints processes

Firms should provide different formats where it is proportionate to do so. Key documents and information must be in a form that meets the communication needs of vulnerable consumers.

In addition to this Guidance, firms should consider the requirements of the Equality Act 2010.

2. Firms should proactively check that consumers with characteristics of vulnerability that may impact their comprehension, understand information provided about a product or service.

## Monitoring - what should firms do to ensure that they treat vulnerable customers appropriately?

Firms are expected to monitor the actions they are taking to ensure they treat vulnerable customers fairly and the outcomes vulnerable customers experience in comparison to other customers. Monitoring will allow firms to determine whether they are achieving good outcomes for vulnerable customers and understand which activities and

processes work well, and which ones need to be adapted to improve the outcomes for vulnerable consumers. For larger firms with a diverse customer base, this may be an ongoing process. For smaller firms it may involve a regular review.

The FCA expect firms to ensure they are able to demonstrate how their culture and processes result in the fair treatment of all customers, including those who are vulnerable. Firms are expected to:-

1. **Implement appropriate processes to evaluate where they have not met the needs of vulnerable consumers, so that they can make improvements.**
2. **Produce and regularly review management information, appropriate to the nature of their business, on the outcomes they are delivering for vulnerable consumers.**

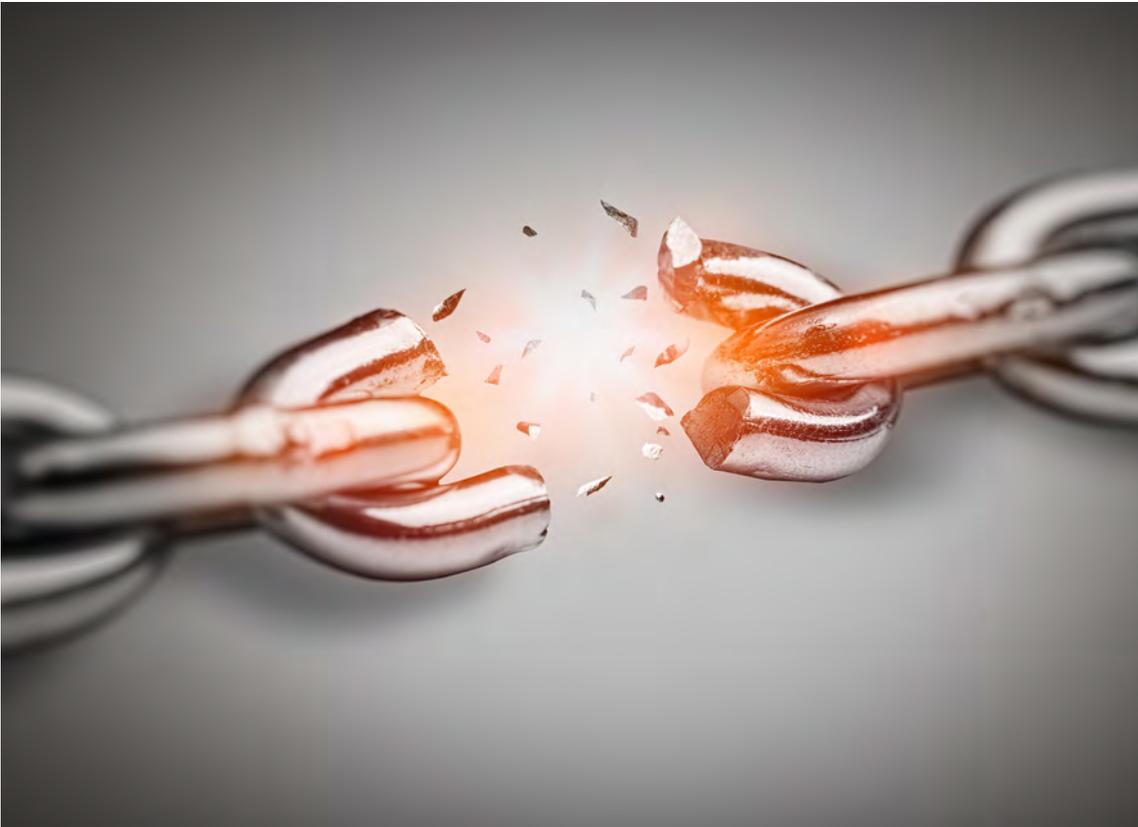
The MI should demonstrate to firms and to us that

they are consistently treating customers fairly and delivering the TCF consumer outcomes. In 2007 the FCA published Treating Customer Fairly – A Guide to Management Information to help firms develop MI to demonstrate this.

## More about Management Information

Firms should identify and monitor MI that allows them to review the outcomes vulnerable consumers experience in comparison to other consumers. Firms must monitor regularly and collect and analyse regularly.

Firms should take action where they see poor outcomes for vulnerable consumers to understand what is driving those outcomes. They should ensure learning is effectively fed back into product and service design to ensure that improvements can be made. Firms should see how they can identify common characteristics of



the vulnerability that also capture outcomes and discussing these regularly, escalated and acted upon.

Some examples are:

1. Analysis of customer retention records – e.g. claims and cancellation rates and details of why customers leave. This may flag where poor treatment is contributing to high turnover of customers.
2. Review of whether consumers with characteristics of vulnerability (where known) are more likely to incur particular fees and charges or are receiving rates not as good as other customers.
3. Use of different communications channels including digital; consumer testing of financial promotions. This may flag where policies, processes and systems need to be improved (eg where there are barriers to consumer engagement or understanding).
4. Analysis of records of staff training.
5. Reviewing customer files and monitoring calls to check for errors and assess if customers were treated fairly (this is particularly useful for sales processes).
6. Customer feedback: using formal and informal feedback from customers to identify trends and areas for improvement.
7. Numbers of complaints: trends in numbers of complaints involving vulnerable customers in comparison to other customers.
8. Complaint root cause analysis: investigating complaints fully to understand the cause of customer complaints, not just dealing with the symptoms.
9. Compliance reports: review compliance reports to check if standards are being met in terms of treating customers fairly.

## What about GDPR

Firms will need to ensure that they continue to comply with the relevant requirements of the General Data Protection Regulation (the GDPR) and the Data Protection Act 2018 (the DPA 2018). The FCA guidance highlights some of the areas of the GDPR and the DPA 2018 that may be relevant for firms to consider when interpreting the Guidance. We are not covering this in our guidance other than to say that determining if there is a legitimate interests to be able to store customers data re vulnerability is key as this can be relied upon as a lawful basis. Firms will need to consider the three-part test set out by the ICO:

- Purpose test: are you pursuing a legitimate interest?
- Necessity test: is the processing necessary for that purpose?
- Balancing test: do the individual's interests override the legitimate interest?

## Other obligations

As well as the Principles, the FCA state that firms may have to comply with other legal and regulatory obligations for vulnerable consumers. The one that was flagged other than DPA 2018, is the Equality Act as there is an overlap between certain protected characteristics under the Equality Act, and characteristics of vulnerability. In particular, one driver of vulnerability, health, largely overlaps with the protected characteristic 'disability' under the Equality Act. In this respect, the FCA stipulated that whilst its Guidance is broader, it also seeks similar outcomes to the anticipatory duty under the Equality Act that requires reasonable adjustments for disabled people.

The FCA also mentions that they have a Memorandum of Understanding (MoU) with the EHRC, which outlines the principles and areas of co-operation between the FCA and EHRC.

# AUXILLIAS TOP TIPS ON IMPLEMENTING VULNERABILITY



*Below, we have set out some key tips to support firms with its implementation of the FCA guidance as follows:-*

**Identify your vulnerable customers:** Firms should be able to identify vulnerable customers. This requires firms to investigate their customers' individual circumstances to obtain sufficient information about them and to understand and "explore" the reasons why they might be experiencing financial difficulty. A firm's understanding should also be tailored to the particular market in which it operates. For example, if your customers credit profile has a poor or non-existent credit history or had experienced financial difficulty in the past, the FCA states in one example that firms would need to have a deeper understanding of customers and their financial circumstances.

**Keep records of information about your customers' vulnerability:** The FCA expects firms to keep records of customers' vulnerability, so that staff who review or interact with customers can understand their history and also offer them appropriate solutions. For example, in arrears cases, the reason customers were in arrears must be recorded. We have seen fines where firms have not identified the reason why the customer is in arrears and then tailored the forbearance solution accordingly.

**Offering appropriate and flexible solutions for vulnerable customers:** This should take into account their circumstances, which include offering appropriate forbearance options and other solutions to clear arrears. For example, if a customer is vulnerable for some reason, a longer term payment proposal might be necessary. We have seen the FCA fine firms where firms have not been flexible enough and only granted short payment breaks where it was clear from the customer's circumstances, especially

when clearly vulnerable that a longer forbearance plan would be a much better outcome.

**Communicate with your customers:**

These methods should be tailored to their vulnerabilities. For example, firms have been fined where automated customer communications system do not take vulnerability into account.

**Ensure that staff and call handlers have the necessary experience and expertise:**

Firms must have staff to manage workload, staff that have the right level of experience and expertise and are adequately trained on vulnerability. Firms must have adequate escalation processes for referring vulnerable customers to supervisors, specialist teams or third parties in circumstances where the call handler lacks the capacity or experience to assist them.

**Have sound monitoring of customer interactions and provide adequate management information:**

Firms should have strong monitoring processes and adequate management information to enable senior management to understand how vulnerable customers are being treated with monitoring to consider the customer's treatment as a whole.

**Management, oversight and other processes to be appropriate:**

Systems and controls are important to be implemented to ensure that vulnerable customers are treated fairly. Many enforcement cases highlight firms inconsistencies of approach between different departments, insufficient control and oversight of staff, lack of clarity within the firm as to the respective responsibilities of different functions as well as management not having appropriate seniority and experience, and inadequate IT systems.

**Culture:** Firms should make sure that they embed a customer focused approach with emphasis on good customer outcomes and escalation.

## HOW AUXILLIAS CAN HELP

The FCA requires firms to understand what harms their customers are likely to be vulnerable to, and ensure that customers in vulnerable circumstances can receive the same fair treatment and outcomes as other customers. This needs to happen through the whole customer journey from product design through to customer engagement and communications, and firms must comply.

Auxillias can support clients in updating their policies to incorporate the changes, whilst ensuring that the day to day procedures and approach to customers are fully implemented and compliant across both the Lenders' and Brokers' journey. This includes the changes required in the Collections environments, particularly to internal flagging systems – now that a new definition of 'vulnerability' is required to be implemented. Please do get in touch.

**JOANNE DAVIS**

PARTNER

+44 (0)7441 240114

Jo.Davis@auxillias.com

**DAKSHA MISTRY**

PARTNER

+44 (0)7458 304068

Daksha.Mistry@auxillias.com



In association with IAFN Online



**JOANNE DAVIS**

**PARTNER**

**+44 (0)7441 240114**

**Jo.Davis@auxillias.com**

**DAKSHA MISTRY**

**PARTNER**

**+44 (0)7458 304068**

**Daksha.Mistry@auxillias.com**