

## ADVISER UPDATE

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# Setting and sticking to a vulnerable customer policy

August 2020

### Introduction

The fair treatment of vulnerable customers remains a key priority for the FCA.

Most customer protection legislation is underpinned by the notion of the average or typical consumer and what they might expect or understand, or how they might behave. Customers in vulnerable circumstances, however, may be significantly less able to represent their own interests and more likely to suffer harm than the average customer.

All involved in delivering financial services, including financial advisers and planners, have a huge role to play in ensuring vulnerable and potentially vulnerable customers are identified and protected as much as possible. Firms are required to develop a vulnerable customer policy covering this area.

This adviser update summarises ways in which financial advisers and planners could identify vulnerable customers and examples of how to put together – and maintain – a robust vulnerable customer policy.

### The FCA and vulnerable customers

In February 2015, the FCA published its Occasional Paper 8 identifying several problems concerning vulnerable customers. It drew attention to where products and services were not designed to meet the non-standard needs of those who do not fit into a set mould.

In July 2019, the FCA published draft guidance (GC19/3) giving its views on what firms need to do to make sure they treat customers fairly who are actually or potentially vulnerable. In July 2020, the FCA published a second consultation on draft guidance (GC20/3), building on the feedback it received from the previous year. It also published new research.

The consultation closes on 30 September 2020. The FCA plan to finalise guidance in late 2020 or early 2021 (when it will become immediately effective), and in 2023 it will evaluate what action firms have taken.

Whilst some firms have made significant progress in this area, the FCA wants firms to do more to make sure vulnerable customers are receiving positive outcomes. It has found many examples of good practice and firms thinking carefully about their customers and potential vulnerability. However, the FCA is also aware of cases where vulnerability is either not considered by firms or is positively exploited for gain.

Protecting vulnerable customers is a key priority for the FCA. It wants to make sure vulnerability is taken seriously by firms, and that it prompts firms to embed fair treatment of vulnerable customers into their culture, policies and processes throughout the whole customer journey.

The FCA will continue to closely focus on supervision and monitoring firms' work. Senior managers who need FCA approval will be asked in their interviews how they have embedded into the culture of their firms their vulnerable customer policies and procedures.

After publication of the final guidance, the FCA will be asking firms to show what they have done to:

1. understand the needs of their target market/customer base;
2. ensure their staff has the right skills and capability to respond to the needs of vulnerable customers;
3. respond to consumer needs through product design, flexible customer service provision and communications; and
4. monitor whether 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 these are resulting in good outcomes for vulnerable customers.

It therefore makes sense to develop a policy and a firm culture that addresses these points.

## What is a vulnerable customer?

All customers can be potentially vulnerable.

The FCA defines a vulnerable customer as “someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care”.

This is a broad interpretation, but it demonstrates that there is a common misconception that vulnerability is just about older people or those suffering from diagnosed illnesses. The reality is most people will, at some stage in their lives, be vulnerable.

Vulnerability can be physical or mental.

Vulnerability could be permanent, temporary or intermittent.

It is important to understand the causes and drivers of vulnerabilities, such as: health conditions or illnesses; mental illness; major life events such as bereavement or divorce; low resilience to financial or emotional shocks; low capability or knowledge levels; or financial indebtedness.

Vulnerability can include more than one of these elements and it can fluctuate over time.

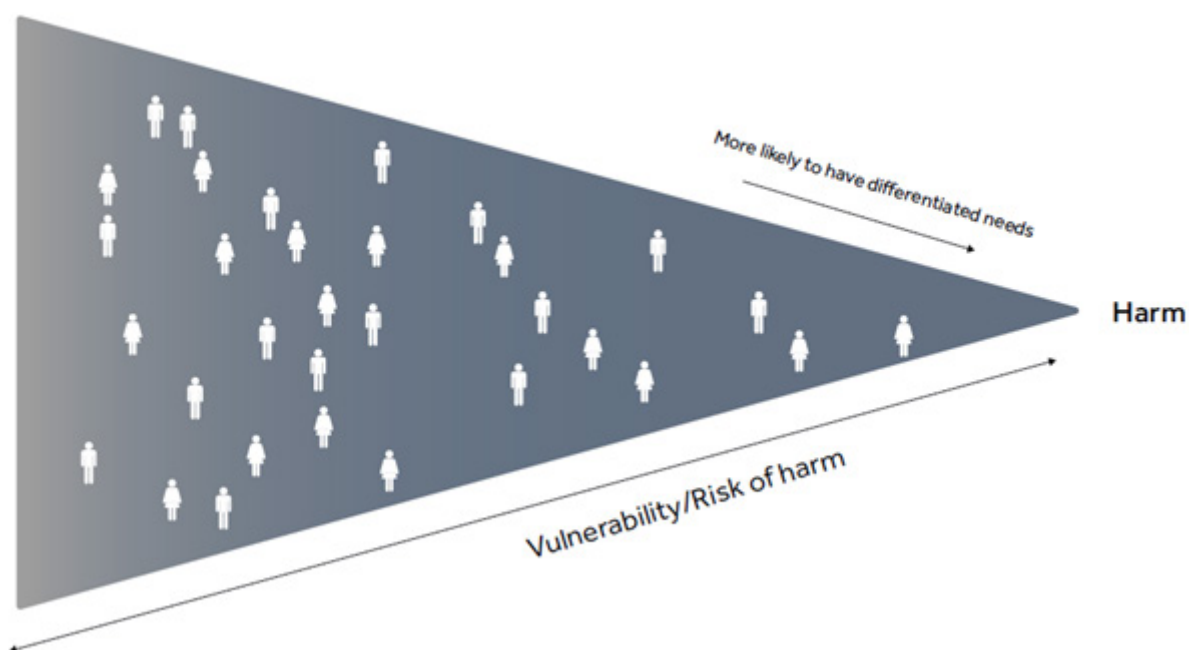
Vulnerability is not always obvious.

The FCA has identified some groups which are more likely to be vulnerable, such as those under 24 or over 65, the unemployed and those with no formal qualifications.

There is no expectation from the FCA that advisers must act like medical professionals and diagnose conditions. But advisers should have awareness of some of the indicators that can cause someone to be treated as vulnerable.

In its latest consultation paper, the FCA introduces a new concept to help firms respond to the needs of all customers. This avoids client categorisation into three fixed groups of actual/potential/not vulnerable and acknowledges instead that there is a *spectrum of risk*.

**Figure 2 – vulnerability: spectrum of risk**



FCA GC20/3 July 2020

## Advisers' approach and policy

All financial services firms need to develop and maintain a vulnerable customer policy. This should set out how the firm can make sure indicators of vulnerability are spotted and how the firm engages with vulnerable customer in a considered manner.

Advisers should strive for a balance between giving freedom to people to choose what they want and ensuring clients do not become prey to fraudsters.

However, it's far from certain clients in vulnerable situations will immediately trust advisers and open up to them. Staff will need skills to help people through these situations. The FCA draft guidance outlines strategies and examples of good practice firms can adopt to help engender this trust, as well as making sure their customers are treated fairly and appropriately.

The FCA is not prescribing minimum standards for firms to meet. Instead, it says firms should use their own judgement on what the guidance means for them.

### Developing a policy

Advisers can start by looking at what they do already and what piecemeal policies have already been put in place. Firms will already have vulnerable customers and may have naturally developed different and more appropriate ways of treating them. Staff's experience of their customer base will be valuable, as well as the techniques they have already developed to identify vulnerability.

The policy may want to define what success will look like: what firms want to happen, by whom, and what they want to achieve.

The policy should consider how vulnerability is recorded – as well as recalled. Once vulnerability is identified, this should be recorded, possibly on the client's files. Staff should have a way of knowing that clients have already been previously identified as vulnerable. What information is recorded remains up to firms, based on their target market (but they must comply with GDPR).

### Embed into the culture of the firm

The FCA is clear that this is more than developing a policy. One of the key aims of the vulnerable customer policy is to ensure consistency. It's important that guidelines are developed for all staff – even if they are not on the front line – and that these are communicated in a consistent way to everyone.

The principles of how the firm identifies and treats its vulnerable customers should be ingrained into the culture of the firm. This should go further than a mere tick-box exercise; the FCA is keen that the principles should change the way that all staff in the firm both think and react in all aspects of their job.

Part of the implementation of the policy is to educate staff. A variety of resources could be used, including CPD modules, internal training, external training, circulation of FCA papers and sharing good ideas across the organisation.

### Frontline staff

Frontline staff can play an important part in the execution of an adviser firm's policy. They can spot signs of potential characteristics of vulnerability – for example stress, grief or depression – and may know how to respond.

The policy could advocate the creation of 'vulnerability champions'. These are specialist staff, or a specialist team, to which others can ask questions or refer particularly vulnerable clients if needed.

Staff also need to know which third-party agencies they can refer clients to – for example giving help on debt, Alzheimer's, divorce, or death.

### Information

The FCA asks that information is presented in a clear and easy-to-understand way so customers are not blinded by information and can easily differentiate fact from promotion.

Information channels must be flexible and appropriate, with multiple channels available. Translation of communications isn't mandatory, but it must be considered if there is a significant need or demand.

## Flexible processes

The FCA believes many problems vulnerable customers experience relate to poor interactions or systems that are unable to flex to meet people's needs, therefore making people's situations more difficult.

Developing flexible processes involves identifying how people may need to be served in a slightly different way. For example, do they need the jargon removed, a larger type, or a different method of communication?

Advisers may also want to consider whether family members should also be involved in meetings. In developing their approach, advisers may want to consider interaction with GDPR rules.

## Review your policy

The FCA urges firms to keep vulnerable customer policies in the front of all staff's minds. That means keeping it as a high priority within the firm. Instead of developing a policy, carrying out initial training and then letting it slide in importance, the FCA wants firms to regularly review the policy.

Firms will need to devise a framework to assess and test how well the policy is working. All staff can be involved in the assessment, giving them a way of feeding back the practical implications. A programme of improvements can then be put in place.

Sharing good practice amongst your peers can really help. Understanding how others have tackled this issue will help advisers build a more robust policy.

## Retirement income

Firms may have already developed (or be in the process of developing) a central retirement proposition (CRP) to set an investment agenda for customers approaching retirement and for those taking later life income.

As vulnerability could affect a greater number of older clients, part of the CRP should include a section on vulnerability, reflecting the vulnerable customer policy.

## Current environment

The outbreak of coronavirus has brought the issue of vulnerability firmly into the spotlight. It's expected more customers will find themselves newly vulnerable due to the pandemic or will have their existing vulnerabilities added to through ill health, bereavement, financial difficulties or job loss. (The FCA notes 23% of workers have been furloughed or lost jobs, hours and/or pay.) The FCA advises that it's important now more than ever that firms pay attention to the needs of vulnerable customers.

Many advisers have stepped up their vulnerability work, finding now is the time to focus on improving experience and outcomes for the most vulnerable. Those with policies made contacting the vulnerable a priority.

## Scams and ScamSmart

In March 2020, the FCA stepped up activity to warn customers about scams. It pointed out that a major event like the current spread of coronavirus could initiate new types of scam activity and urged consumers to be vigilant in watching out for them.

## What does AJ Bell do?

AJ Bell has also developed and implemented our own vulnerable customer policy.

- All staff have been trained on identifying and dealing with vulnerable customers.
- We have a number of vulnerable customer subject matter experts – customer-facing staff who have received additional training in this area.
- We prompt customers to update us about their current circumstances.
- We flag if someone is vulnerable so the individual is spoken to by one of our trained experts.
- Those in receipt of death benefits, or when Junior SIPP or ISA accounts are converted into 'adult' accounts, are automatically flagged as potentially vulnerable.