

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Consumer Strategy and Policy
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

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By email: approachtoconsumers@fca.org.uk

Dear Sir/Madam

Financial Services Consumer Panel response to GC 20/3 – Guidance to firms on the fair treatment of vulnerable customers

The Financial Services Consumer Panel welcomes the FCA's further guidance to firms on the fair treatment of vulnerable customers. This has always been a high priority for the Panel. However, it is particularly relevant now as the coronavirus pandemic has had a huge impact on consumers, creating new vulnerabilities and exacerbating existing ones. This consultation has therefore come at a critical time, to raise awareness of the issues and provide much-needed guidance to firms on how to do the right thing for their customers. Given the importance of this guidance, we hope to see the FCA encouraging firms to use it in advance of the final publication in 2020 or early in 2021.

Before we provide feedback on the various elements of the FCA's guidance, we think it is important to set out our view of what good looks like in terms of the fair treatment of vulnerable customers. The best way to ensure the consistent fair treatment of vulnerable customers would be to introduce a duty of best interests. This would create the right environment to achieve the following six key objectives.

- (i) **Commitment** - Firms demonstrate a clear commitment to improving positive outcomes for vulnerable consumers. This commitment is communicated throughout the organisation from the Board down and is embedded in firms' culture, strategies, policies and procedures.
- (ii) **Inclusive design** - Firms take a proactive approach to meeting the needs of vulnerable customers by planning and designing inclusive services that are able to meet the needs of the greatest number of consumers.
- (iii) **Informed decisions** - Firms provide information that is clear, accurate, relevant and timely to ensure that all customers are able to make informed decisions in their best interests. Key information is highlighted and available in alternative formats.
- (iv) **Identifying vulnerability** - Firms train all frontline staff to recognise the signs of vulnerability. Disclosure of vulnerability is actively encouraged and supported. Technology is used to flag behaviours that may indicate a potential vulnerability.
- (v) **Responding to vulnerability** - Firms offer a wide range of support which is tailored to meet the needs of individuals. Flexibility is key to the fair treatment of vulnerable customers and so firms should encourage and empower their staff to find the right solution for the individual.
- (vi) **Continual improvement** - Firms monitor and evaluate outcomes for vulnerable consumers and use the findings to drive continual improvement in their approach.

Consistent application of this guidance

To maximise positive outcomes for consumers, it is important that the FCA ensures consistent standards of treatment across the financial sector so that vulnerable consumers can be confident of fair treatment whoever they choose to deal with. Such confidence is a key outcome under Principle 6. We believe the FCA could achieve this by:

a) Retaining key information in their final guidance

Background information currently contained in Section 2, such as definition and impact of vulnerability, is extremely useful for firms and helps to provide context, and motivation, for using the guidance. It is unclear if, or how, this will be presented or incorporated into the final guidance. We recommend that important information such as this is retained in the finalised guidance, either in an introduction or annex.

b) Explaining the benefits to businesses of adopting an inclusive service approach. Examples of benefits to firms are:

- Increased customer base as services are made accessible to a greater number of individuals
- Improved quality of consumer interactions and minimise risk of harm
- Reduced likelihood of complaints as a result of getting things right first time, leading to reduced costs of dealing with issues and complaints
- Improve customer satisfaction which builds consumer trust and enhances a firm's reputation
- Demonstrable commitment to social responsibility
- Strengthened staff loyalty and engagement as staff feel valued, supported and confident in handling difficult situations
- Help to achieve compliance with legal obligations related to fairness and equality.

c) Continuous reinforcement of the message that firms' conduct, including a failure to comply with the requirements of the Equality Act 2010, can be a cause and exacerbator of vulnerability. For example, vulnerable consumers may find it difficult to:

- Obtain, assimilate or retain information
- Access or choose suitable services
- Switch providers or tariffs
- Make decisions that are in their best interests
- Understand their rights as a consumer
- Make and pursue complaints
- Pay for services

d) Structuring the final guidance so that there is a clear distinction between recommendations, informative notes and case studies. We welcome the FCA's use of case studies in this guidance as they effectively illustrate the importance of taking action and doing the right thing. However, to ensure it is clear to firms what action they need to take, the recommendations should be highlighted separately at the end of each section or grouped together in a single section.

e) Making reference to BS 18477¹ which provides detailed guidance on how to identify and respond to consumer vulnerability and deliver inclusive service (noting that BS 18477 will be superseded by ISO 22458 in 2021). BS 18477 is referenced as a means by which to comply with regulatory obligations in the energy and water sector.

¹ <https://www.bsigroup.com/en-GB/our-services/Inclusive-Service/>

f) Effectively and proactively supervising firms' compliance with the guidance.

In addition, the Panel would like to highlight the following five points:

External factors as drivers of vulnerability

The FCA guidance currently defines four drivers of vulnerability which focus on situational vulnerability such as health factors and life events. We welcome the FCA's recognition that external factors, such as market conditions or business practices, can impact vulnerability but do not think these are sufficiently emphasised in the guidance. The Panel would like to see 'markets' and 'firms' referenced as key drivers of vulnerability.

The coronavirus pandemic is a poignant example of how external factors can have a significant impact on consumer vulnerability. Large numbers of consumers have had to make decisions quickly and think about unfamiliar and uncommon issues due to a change of financial circumstances.

The Panel's view has always been that all consumers of financial services are potentially vulnerable, due to the significant power and information asymmetries in favour of firms. It is very welcome that the FCA acknowledges the potential vulnerability of all consumers, but we would like to see a greater focus on the causal role of firm conduct.

Understanding the needs of vulnerable consumers

In Section 2 'Understanding the needs of vulnerable consumers', the FCA includes guidance to firms on steps it could take to better understand the needs of its customer base. The Panel believes that greater prominence should be given to the value of gaining consumer insight through:

- Research and mapping work to understand demographics of customer base;
- Consulting with those who have lived experience of vulnerability; and
- Building stakeholder partnerships with organisations that represent vulnerable consumers in order to design and deliver inclusive service.

Inclusive design

Given that there is such a range of drivers of vulnerability, including a firm's own systems and processes, it is important that firms plan for a wide range of eventualities by adopting inclusive design to reduce barriers and prevent harm from occurring.

Firms should understand how their own systems, processes and business models can create or exacerbate vulnerability. Therefore, as well as tailoring their approach to vulnerability to their customer base, firms should assess all service touchpoints where consumers interact with the business to ensure that systems and processes do not create unfair barrier or harm for vulnerable consumers. Touchpoints may include communication channels, sales advice, policy terms, payment methods, automated decision-making processes, personalised or targeted marketing and the design of financial. For example, firms which sell their products in the consumer's home may be at risk of exacerbating or creating vulnerability by virtue of the pressure arising from the physical presence of a salesperson in the home. These firms should be expected to have a different approach to vulnerability than firms who sell only on trade premises or online.

The FCA's guidance references 'Product and service design' in Section 4 (i), but we believe that the term 'inclusive design' should be referenced and explained in more detail. This concept might not be familiar to all firms, and so there is a role for the FCA in sharing understanding, tools and good practice. For instance, the FCA could adapt its 'TechSprint' and Sandbox approaches to help bring inclusive design to life for firms.

Impact of vulnerability on consumers

In Section 3 of the draft guidance there is a focus on identifying vulnerable consumers. However, in addition to recognising the drivers and factors that cause vulnerability, it is important that firms are encouraged to ask the question 'what are our customers *vulnerable to*?'. Understanding the potential risks, consequences and effects of vulnerability will help firms to provide support that meets individual needs and to minimise harm.

Monitoring and evaluation

In Section 5, the guidance encourages firms to monitor and evaluate their approach to vulnerability, but it does not clearly set out *how* they can do this. We encourage the FCA to make it clearer what they expect of firms in this space. For example, firms should use staff and consumer feedback, mystery shopping and analysis of consumer complaints to identify areas of improvement and act on those. One point the FCA cannot over-emphasise is their expectation of continuous improvement in the treatment of vulnerable customers. As technology, data and competition change markets, there must be a relentless focus on how vulnerable consumers are impacted. Otherwise, the choices of individual firms can easily create market-wide harm through lack of access and poor treatment.

Yours faithfully,

Wanda Goldwag
Chair, Financial Services Consumer Panel