Personal Finance Society
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Good Practice Guide

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Meeting the needs of vulnerable clients

In association with JUST. RETHINK RETIREMENT

Foreword

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Many people have characteristics or circumstances which can impair their ability to engage with, or benefit from, different services. Whilst more obvious indicators of vulnerability, such as the growing impact of dementia in the UK, have focused attention in recent years on the ageing demographic, vulnerability can affect a wide range of people and age groups, and is both fluid and dynamic in nature: either temporary, sporadic or permanent. Indeed, most consumers (knowingly or otherwise) can become vulnerable, depending on their circumstances and situation at any given time so a good starting point for firms is an assumption that you either have, or will have, vulnerable clients seeking or in need of financial advice.

Much consumer legislation is however aimed at what you might call an 'average' or 'typical' client – in terms of what they expect, what they understand and how they behave. Whilst customers who find themselves in vulnerable circumstances are seldom 'average' or 'typical', they have some things in common – they are often less likely to be able to represent their interests, and more likely to suffer harm.

In recent years, vulnerability has been placed firmly on the agenda of regulators across industries and professions. Ensuring that customers in vulnerable circumstances are treated not only fairly, but with empathy and sensitivity to their circumstances is a growing priority.

More recently, the FCA has published its Mission and Business Plan for 2017-18. It is no surprise that a significant theme running through both publications is its commitment to understanding the financial services needs of vulnerable customers. Together with the ability of UK consumers to access financial services, this makes up a cross-sector priority area for the FCA's Business Plan.

This paper recognises that advice firms want to do the right thing, but sometimes struggle to identify good practice. Specifically this paper is in response to members' requests for further commentary and clarification around good practice as vulnerability initiatives gather momentum. Whilst, in the absence of any new conduct rules, it is ultimately up to firms how they respond, we hope this paper helps firms to develop a coherent, consistent and robust approach to vulnerability and in so doing helps to continue to deliver consistently good client outcomes to all.

Keith Richards

The regulatory context and primary source material

Date (last updated)	Nature of communication	Content/purpose	Link
Dec 2014	FCA commissioned research – 'Vulnerability Exposed'	This study was commissioned to explore and build an evidence base establishing the experiences of consumers in a range of vulnerable circumstances with different financial service providers	https://www.fca.org.uk/publication/research/vulnerability-exposed-research.pdf
23/2/2015	FCA Occasional paper No 8 – 'Consumer Vulnerability'	Stimulating debate and interest around the subject of consumer vulnerability so that firms better understand the issue and act appropriately	https://www.fca.org.uk/publications/occasional-papers/occasional-paper-no-8-consumer-vulnerability
23/2/2015	FCA Press Release	FCA challenges firms to review approach to consumer vulnerability	https://www.fca.org.uk/news/press-releases/fca-challenges-firms-review-approach-consumer-vulnerability
23/2/2015	FCA Occasional Paper 8 - Practitioners Pack	Designed to assist practitioners to begin to address the needs of consumers in vulnerable circumstances	https://www.fca.org.uk/publication/occasional-papers/occasional-paper-8-practitioners-pack.pdf
23/2/2015	FCA Speech – 'A test of conscience'	Speech by Martin Wheatley, then Chief Executive of the FCA, delivered at the British Bankers' Association 2015 event on consumer vulnerability	https://www.fca.org.uk/news/speeches/test-conscience
31/3/2017	National Audit Office – 'Vulnerable consumers in regulated industries'	Suggests Regulators in the water, energy, telecommunications and financial services sectors could do more to support the increasing number of vulnerable consumers, according to the National Audit Office	https://www.nao.org.uk/report/vulnerable-consumers-in-regulated-industries/
18/4/2017	FCA Business Plan 2017/2018	The annual Business Plan gives details of the specific areas of work the FCA is prioritising for the next year, including ensuring markets work well for vulnerable consumers	https://www.fca.org.uk/publications/corporate-documents/our-business-plan-2017-18
18/4/2017	FCA Mission	Understanding user needs, and recognising where some users may be vulnerable, is a key factor in the way the FCA make regulatory judgements.	https://www.fca.org.uk/publication/corporate/our-mission-2017.pdf

Defining vulnerability

The FCA defines a vulnerable consumer as:

“someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care”.

This definition reflects the fact that some consumers may be more vulnerable than others.

Recent research by the European Commission* across all 28 European Union member states provides a broader, evidence-based definition that takes into account the situational nature of consumer vulnerability. This definition distinguishes five dimensions of consumer vulnerability as follows:

A consumer, who, as a result of socio-demographic characteristics, behavioural characteristics, personal situation, or market environment:

- Is at higher risk of experiencing negative market outcomes;
- Has limited ability to maximise his/her well-being;
- Has difficulty in obtaining or assimilating information;
- Is less able to buy, choose or access suitable products; or
- Is more susceptible to certain market practices

*http://ec.europa.eu/consumers/consumer_evidence/market_studies/vulnerability/index_en.htm

Whatever definition is used, it needs to reflect the fact that vulnerability can manifest itself in either physical or mental form (knowingly or otherwise) and is dynamic in nature (short lived, longer term, sometimes permanent, often fluctuating over time).

Whilst vulnerable clients are typically identified as specific groups of people, for example those with Dementia or low literacy skills or without any significant financial buffer against unexpected events, anyone can potentially become vulnerable at some point in their lives.

As such, a robust approach to vulnerability is more than a process designed to ‘treat clients fairly’. Vulnerable consumers/clients are those that need some additional assistance at some point in order to avoid detriment (financial or psychological), either throughout the lifecycle of a product/service or in response to certain events that may occur.

Identifying vulnerability

A good starting point in identifying vulnerable clients (both existing and potential) is to develop a comprehensive understanding of the risk factors that contribute to consumer vulnerability in financial services. Whilst not a comprehensive list, the following list is a good start point (primary source: FCA Practitioner Pack):

- low literacy, numeracy and financial capability skills
- physical disability
- severe or long-term illness
- mental health problems including common mental disorders (CMD)
- low income and/or debt
- caring responsibilities (including operating a power of attorney)
- being 'older old' for example over 80, although this is not absolute (may be associated with cognitive or dexterity impairment, sensory impairments such as hearing or sight, onset of ill-health, not being comfortable with new technology)
- being young (associated with less experience)
- change in circumstances (e.g. job loss, bereavement, divorce)
- lack of English language skills
- non-standard requirements or credit history (e.g. armed forces personnel returning from abroad, ex-offenders; care-home leavers, recent immigrants).

However, when looking to build a robust approach to dealing with vulnerable clients, strict categorisation can sometimes prove too rigid. Huntswood Consulting have suggested an approach called the 3 'C's to help firms ensure they identify all types of vulnerability all of the time. They suggest that understanding these different groups is an effective method of distilling down the various forms of vulnerability before establishing good practice in terms of how to approach them.

Channels & Access
E.g. hearing, sight, language barriers and physical disability

Comprehension
E.g. Mental capacity, low financial understanding and issues relating to old age, such as dementia

Circumstance
E.g. bereavement, family breakdown or illness

https://www.huntswood.com/uploads/files/documents/vulnerable-customers.pdf

Having established a comprehensive understanding of risk factors, the next step to consider is the extent to which they apply to your business model, target market and/or client base;

- Is your target market more susceptible to certain types of vulnerability?
- Is the demographic of your firm's client base linked with an increased likelihood of vulnerability?
- Does your firm have a high concentration of clients in ethnically diverse areas where English may not be their first language?
- If you offer focused advice for a particular demographic or market sector, what are the specific vulnerabilities your firm's clients could be more exposed to?

Whilst the immediate experience of vulnerability is incredibly personal, the everyday consequences of vulnerability are often similar across individual clients. Typical impacts of vulnerability that may be observable include:

- Heightened stress levels due to difficult personal circumstances
- Increasing time pressures, leaving less time for 'personal admin'
- Increasing pre-occupation – 'brain is elsewhere' – limiting ability to manage
- Processing power and ability decreases due to competing pressures (e.g. side effects of treatment or emotional distress)
- Lack of perspective, especially when experiencing something for the first time – and therefore not fully understanding the broader implications, 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.

For further information on how to identify vulnerable clients, please see:
http://www.justadviser.com/documents/technical-bulletin-vulnerable-clients-1311888.pdf

Good practice

Establishing good practice is essentially about delivering appropriate levels of care relevant to vulnerable clients. Firms should consider taking a proactive approach and prepare all staff to identify, support and provide solutions for vulnerable clients. Whilst not an exclusive list, it should include the following:

"One size doesn't fit all"/treating clients as individuals

- Flexible, tailored responses that do not rely on outdated assumptions or automated processes
- Recording of communication and service needs accurately and in line with data protection and Mental Capacity Act requirements
- Application not just to advice requirements, but also the presentation of information and an overall approach that tailors responses according to individual circumstances
- The avoidance of 'digital exclusion'
- At clients' request, firms should make it easy for a friend or family members to help
- Flexibility around appointment locations, times of day and duration
- Considerations in respect of office accessibility (for those with health conditions and/or disabilities)
- Reflecting the complexity of advice and making reasonable adjustments (e.g. staggering advice over several meetings and/or time for greater reflection before execution).

Products and services that are clear and easy to understand

- Vulnerable clients should be able to access practical, jargon-free information and help in respect of products and of services that each firm provides
- Firms could consider applying for a 'Plain English Crystal Marking' for key pieces of literature/documentation: **http://www.plainenglish.co.uk/services/crystal-mark.html**

A choice of ways to communicate

- Vulnerable clients should be able to communicate with firms through the range of communication channels in ways that best suits them as individuals. While digital technology allows for new communication channels, including new ways to deliver financial advice, there needs to remain a choice of alternative channels so that advice services are inclusive
- Should include **methods** of communication (e.g. face-to-face, phone, post, email, text, large print, web chat, audio, Braille, video relay, Type Talk or text relay, interpreting services) as well as **service delivery** (e.g. agreement to talk at a particular time of day depending on carers and medication).

Front line staff who will take time to listen and are sufficiently trained to spot and respond to vulnerability

- Recruiting for and encouraging listening skills, emotional intelligence and empathy
- Create an environment where staff are not fearful and can be empathetic and in so doing enable difficult conversations
- Ensure that frontline staff are:
  - able to respond appropriately by taking time to listen to what the client is saying
  - flexible enough to let the conversation take its natural course
  - able to pick up on warning signs in the information being relayed to them and asking the right questions
- There are some practical tools designed to assist frontline staff when dealing with conversations around vulnerability. The Royal College of Psychiatrists and Money Advice Trust have developed three protocols as follows (further details are available via FCA Occasional Paper 8 – Practitioners Pack)
  - TEXAS drill – can help all frontline staff manage disclosures effectively which is a key part of creating an organisation where clients are confident to disclose. It can be used as a training tool for managing initial conversations
  - IDEA – to be used by specialist staff to help structure and manage more in depth conversations, ask the right questions, and identify relevant information
  - CARERS – developed to assist with handling disclosures from carers to ensure that helpful information is not lost due to staff concerns about data protection
- Consistent guidance in appropriate referral to those within firms that have relevant specialist knowledge and/or understanding (such as assessing capacity)

Good practice continued

- Be smart in their use of technology and processes in order to offer their clients a good outcome and experience, particularly where vulnerability is identified, while respecting data protection and privacy rights. For example, proper recording of information so that the client doesn't have to repeat themselves every time they make contact with a different individual/department
- Clear processes for reporting suspected abuse or fraud
- Access to appropriate training sessions such as the Alzheimer Society Dementia Friends programme.

Further recommendations and commentary designed to improve outcomes for clients in vulnerable circumstances can be found in the following report published by The Financial Services Vulnerability Taskforce (which brings the financial services industry together with charities and consumer groups, and has outlined steps designed to build on the work already undertaken by many institutions): **https://www.bba.org.uk/news/press-releases/financial-services-establishes-new-gold-standard-for-customers-in-vulnerable-circumstances/#.WYrmVf6GPIV**

Looking ahead, the FCA has stated within Feedback Statement 17/1 – Our Mission 2017 issued April 2017, its intention to introduce "vulnerability mapping" in a bid to identify the areas it should prioritise to prevent harm to vulnerable clients. At time of writing, we also await the FCA 'Approach to Consumers' paper due summer 2017.

As access and vulnerability initiatives gather momentum across the industry, firms will need to keep a close eye on developments.

Practical steps on creating a robust Vulnerable Client Policy/Strategy

We suggest all firms should consider defining their understanding of what vulnerable means for them with reference to the earlier parts of this paper. Consideration should be given to setting out in writing a firm based approach to vulnerability that reflects good practice, as well as more detailed guidance for staff roles across a firm (rather than relying on employees to apply their own judgment).

All firms should look at their client base and processes and consider with reference to page six of this paper how they may need to react if (or when) they have vulnerable clients.

Within their Practitioner Pack, the FCA has developed a process map as illustrated below. Whilst not an official FCA view, we believe this is a good, easy to understand structure to use when it comes to developing an overarching policy relevant to your firms and clients circumstances.

Audit Current Practice	Review current propositions, processes and client communications – do problem areas identified have the potential to occur in your firm?
Develop Strategy	High level policy to drive consistent approach across firm. More detailed lower level policies specific to individual roles.
Roll out	Communicate policy/strategy to staff and clients/ consumers. Roll out staff guidance and training. Embed processes.
Evaluate, change, review	Evaluate performace against policy key success indicators. Seek feedback/MI. Maintain training. Implement periodic review and re-evaluation.

Audit current practice

- Carry out a current state assessment of treatment of vulnerable clients based on agreed definition of vulnerability (all types), to include:
  - able to respond appropriately by taking time to listen to what the client is saying
  - Propositions
  - Markets
  - Processes (e.g. can firm identify vulnerable clients and communicate and connect relevant information internally?)
  - Means of engagement (e.g. are there suitable or affordable products/services for people in exceptional situations?)
  - Client communications
  - Feedback mechanisms
- Conduct a gap analysis.

Practical steps on creating a robust Vulnerable Client Policy/Strategy continued

Develop Strategy

1. A high level strategy to ensure a consistent approach that is embedded across all operations and staff and that is owned from a first line oversight perspective. To include:
   - A champion at a senior level
   - A definition of what vulnerability means to your firm
   - Key success indicators
   - A written approach (to propositions, markets, processes etc) via a policy for working with vulnerable clients. This should include how they are identified and/or encouraged to disclose potential known vulnerabilities, and how they are assessed against the various aspects of the policy.
2. More detailed lower level policies that relate to specific individual roles and responsibilities

Roll Out

- Ensure all relevant staff are aware of the strategy and have access to the written approach
- Create a training programme to embed appropriate behaviour within all relevant staff.

Evaluate, change and review

- Evaluate performance against key success indicators
- Seek ongoing MI and feedback
- Maintain/change training
- Implement periodic reviews and re-evaluation.