

Occasional Paper No.8

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# Consumer Vulnerability

February 2015



Financial Conduct Authority



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### Acknowledgements

This paper has benefited from comments by colleagues at the Financial Conduct Authority. We especially thank Jed Hodgson, Jonathan Phelan, Philip Cooper, Rose Acton, Andrea Pechova, Martin Boffey, and Professor Sharon Collard for valuable feedback and advice. We thank Professor Sharon Collard for reviewing the paper. We thank contributors from consumer organisations, trade bodies and firms for their help and assistance too. All errors are our own.

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## Executive summary

Many consumers in vulnerable circumstances are not receiving fair treatment from their financial services providers. Whilst there are examples of good practice in some firms, some people find communicating with providers or accessing products difficult. They may find that they are unable to obtain a flexible, tailored service that meets their needs from firms. We want to help firms identify consumers in potentially vulnerable circumstances, and to attempt to describe what 'good' looks like in serving those consumers.

This paper aims:

- to broaden understanding and stimulate interest and debate around vulnerability and
- to provide practical help and resources to firms in developing and implementing a vulnerability strategy

During the course of this project the authors were constantly on the lookout for examples of good practice in identifying and interacting with vulnerable customers. These have been collated and presented in a Practitioners' Pack, which may support firms to understand what they could be doing to generate better outcomes for consumers in vulnerable circumstances (see Appendix 4). This resource consolidates a range of good practice guides, tips from industry and consumer organisations, together with case studies.

### Why this matters

Much consumer protection legislation is underpinned by the notion of the average or typical consumer, and what that typical consumer might expect, understand or how they might behave. However, consumers in vulnerable circumstances may be significantly less able to represent their own interests, and more likely to suffer harm than the average consumer. Regulators and firms need to ensure these consumers are adequately protected.

Financial services have become more important as consumers are expected to take greater responsibility for their financial wellbeing. Services including payment systems are essential for full participation in society and are a key gateway to other services; therefore it's vitally important that these services and the customer support that goes along with them are designed in an inclusive way.<sup>1</sup> This is a particular challenge as services are increasingly offered remotely and online – which does not meet the needs of all customers.

Financial services need to be able to adapt to the changing circumstances that real life throws at people, rather than being designed for the mythical perfect customer who never experiences difficulty. Vulnerability can affect people's interaction with any consumer market, but it is particularly challenging in the context of financial services due in part to the long-term nature of commitments, and the complexity of products and information.

Increasingly, policy-makers both in the UK and internationally are realising that a flexible approach is necessary to meet the needs of a diverse customer base.

The FCA has developed the following definition to guide its work in this area:

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<sup>1</sup> We use the definition of *inclusive* in the British Standards Institution publication BS 18477:2010 which is "the availability, usability and accessibility of a service to all consumers equally, regardless of their personal circumstances".



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





## Types of vulnerability

Vulnerability can come in a range of guises, and can be temporary, sporadic or permanent in nature. It is a fluid state that needs a flexible, tailored response from firms. Many people in vulnerable situations would not diagnose themselves as 'vulnerable'. The clear message from the research carried out for this paper is that we can all become vulnerable. To enable firms to identify potential vulnerability and prioritise their efforts, one option is for firms to use a risk factor approach (for example, bereavement, or illness diagnosis, could be considered risk factors – see p.23 for more details). Multi-layered vulnerability, and sudden changes in circumstances, are particular indicators of high risk.

Vulnerability is not just to do with the situation of the consumer. It can be caused or exacerbated by the actions or processes of firms. The impact of vulnerability is strong and many people are trying to cope with difficult situations and limited resources, energy and time. Stress can affect state of mind and the ability to manage effectively. In such conditions, being confronted by a complex telephone menu system that gives no option of talking to a person; a 'computer says no' response; a call handler without time or inclination to listen, or a system that fails to record what may be distressing circumstances and forces the customer to repeat themselves at every point of contact, can all create a spiral of stress and difficulty, resulting in detriment.

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## Case studies

A mortgage customer who was diagnosed with terminal lung cancer made a claim on a critical illness policy. The customer decided to repay the outstanding mortgage with the proceeds. The customer subsequently received a letter from the lender to say that an early repayment charge was payable. Despite contact being made by the family to explain the situation, it was only with the intervention of a third party that the lender waived the charge.

A registered blind person was asked to go into his branch with photographic identification to withdraw funds from his account as his card had been blocked following fraud on his account. He didn't possess a driving licence or passport, and was told by the bank that his blind person's bus pass with a photo on it was not adequate. He was unable to obtain money from his account while awaiting new cards.

When Adnan's mother died, he travelled home to Turkey for a month to organise her funeral. As he would need time off work, he was worried about his mortgage payments. He called his bank to explain the situation and asked if it would be possible to have a four month 'holiday' from his payments. After valuing the house, Adnan and his wife were told they were short of £1,000 in equity in the house to be granted a holiday. Instead, they were offered two months on a reduced payment schedule. Since this time, Adnan and his wife have seen their debt levels rise from £1,000 on credit cards to £13,000 to make bill and mortgage payments, and cover expenses related to the death.

A woman in her eighties had an arrangement with her local bank branch whereby they helped her pay her credit card bill over the counter. Following suspicious activity on her account, she moved to a new bank. The new bank told her she couldn't pay her credit card bill at the counter and she would have to pay over the phone with a debit card. She had never done this before, and it took her some time to manage it. As a result she had a late payment charge.



A customer awaiting surgery for cancer was expected to make a full recovery, but would miss work for three months because of the surgery. Holding a current account, overdraft and unsecured loan with the same bank and anticipating a problem meeting repayments during this period, the customer contacted the bank to discuss options to manage the temporary loss of income. The bank refused to consider any options as no payments had yet been missed and told her to call back when in arrears.



# The scale of consumer vulnerability in the UK

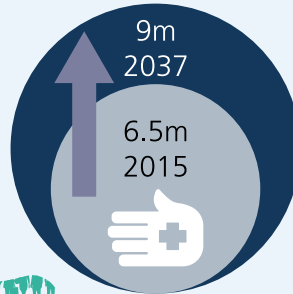
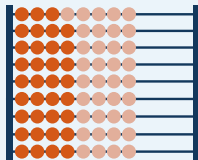


## Literacy and numeracy

One in seven adults has literacy skills that are expected of a child aged 11 or below.

### And...

Just under half of UK adults have a numeracy attainment age of 11 or below  
(Department for Business, Innovation and Skills, 2012)



## Caring responsibilities

6.5m people in the UK have significant caring responsibilities. Carers UK project this will reach 9m by 2037.



1 in 8 adults care, unpaid, for family and friends (Carers UK website, 2014)

## Living with dementia



There are 800,000 people in the UK living with varying degrees of dementia, and this is expected to double over the next 40 years



Dementia affects 1 person in 6 over 80 (Age UK, 2013)

## Internet

Of the 7.1m adults in the UK that had never used the internet in May 2013, over half were disabled (3.7m) and nearly half were over 75 years of age (3.1m).  
(Department for Business, Innovation and Skills, 2012)



## Savings

Almost half of adults do not have enough savings to cover an unexpected bill of £300 (Money Advice Service)

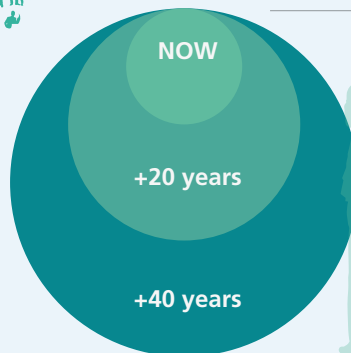
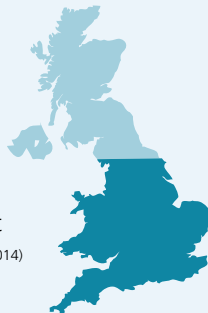


## Cancer

Every two minutes someone in the UK is diagnosed with cancer (Cancer Research UK 2014)

02:00

By 2020 half of the UK population can expect to be diagnosed with cancer at some point in their lives (Macmillan 2014)



## Old age

Over 1.4m people in the UK are aged 85 or over. The number of people over 85 in the UK is predicted to double in the next 20 years and nearly treble in the next 30 years (Age UK, 2013)



Disability 16% of working age adults have a disability (Family Resources Survey, 2011/12).

## Mental illness

In any given year, one in four adults experiences at least one mental disorder (NHS, 2007)



Fair treatment of all customers is central to core conduct










## Who is this relevant to?

Vulnerability can affect consumers across all financial products and services. The issues raised in this paper are relevant to all financial services firms that engage with consumers.

## The FCA's research

To reach a broader understanding of the role of vulnerability in consumers' interactions with financial services, the FCA commissioned research amongst a range of consumers in potentially vulnerable circumstances (Rowe, Holland, Hann, & Brown, 2015 – this is referenced throughout this paper as *Vulnerability Exposed Report*). This was combined with a review of available evidence and literature, engagement with consumer and advice groups, collection of examples of good practice and analysis of information provided by firms, to build up a picture of the market.

This research found that:

						
<p><b>Financial services, products and systems often 'streamline' consumers</b> and are not designed to meet non-standard needs of those who don't fit into a set mould.</p>	<p>The response of <b>frontline staff</b> – whether it's in a branch or on the phone – is crucial to the customer's experience. The firm may have great specialist teams or policies, but if frontline staff don't deal with the situation appropriately, access to a good outcome may be missed.</p>	<p>Staff on the frontline do not need to be experts, but they need <b>sufficient training</b> to facilitate a proper conversation, to know where internal expertise lies, and know how and when to refer on.</p>	<p>Most problems relate to <b>poor interactions, or systems that don't flex</b> to meet needs, therefore making people's situations more difficult.</p>	<p>Some <b>consumers are overwhelmed by complex information</b> and can find it hard to distinguish between promotional material and important messages about their products.</p>	<p>In some areas, an inaccurate interpretation or <b>overzealous implementation of rules</b> (such as those around data protection or affordability) is preventing firms from meeting the needs of vulnerable customers.</p>	<p><b>Many vulnerable consumers may be valuable customers</b> if firms respond to their needs and treat them flexibly. However, these consumers may withdraw from the mainstream market and their problems may spiral if their needs are not met.</p>



## Problem areas

Our review of all the evidence collected for this project showed that there are problems at every stage, from high-level policy, through system design, to the products that are available and ways that staff implement policies and sell products.



### Policy

- Many firms lack an overarching strategy or policy on consumer vulnerability.
- Policies designed to prevent financial abuse and fraud can inhibit staff empowerment to use discretion, particularly regarding legitimate access by third parties.<sup>2</sup>



### Systems

- Failure of internal systems, where firms fail to communicate and connect information internally. For example, this can lead to customers having to tell firms multiple times about bereavement, resulting in numerous duplicate letters from different areas of the business being sent.
- Interfaces or channels of communication that are not inclusive.
- Increasing automation and use of call centres may create challenges in spotting potential vulnerability and ensuring customers are referred on to specialist teams where necessary.



### Products

- Inflexible products and services that are designed for a standardised perfect customer and do not factor real-life events into their design. Some customers who face a change in circumstances are therefore not able to receive a flexible, tailored response.
- Product and information complexity and confusing communications.
- Lack of suitable affordable products for people in some non-standard situations.
- Lack of solutions for temporary delegation (enabling a family member or carer to manage your affairs for a short time) which retain privacy and safety.



### Implementation

- Policy/practice gap at firms, where frontline staff are not aware of or do not implement head office policies. Frontline staff may not refer people on to specialist teams.
- Consumer time is not valued highly and many people give up if the process is too time-consuming, especially if they are in a stressful situation with other demands on their time.
- Inconsistent approach around flexible temporary forbearance.
- Arrangements around temporary delegation (enabling a family member or carer to manage your affairs for a short time) and accompaniment (sitting in or helping with a phone call or interview) not sufficiently developed and flexible to enable family and carers to help.
- Inappropriate selling and sales practices which exploit behavioural biases.
- Issues around disclosure<sup>3</sup> of a vulnerability and data protection – inaccurate or overzealous application creates unnecessary problems.

<sup>2</sup> For example problems faced by those with power of attorney or third party mandates.

<sup>3</sup> Throughout this paper we use the term 'disclosure' to describe the voluntary communication or divulgence of personal circumstances by the consumer to the firm. References to disclosure in this paper are **not** related to the Market Abuse Directive (Disclosure Rules) Instrument 2005.



## What can firms do?

We believe this is an area where firms can take action and have the power and capacity to create good outcomes for the customer if they develop effective strategies and manage interactions well. This can have beneficial commercial outcomes. Products and services that are designed in an inclusive way will also work better for the majority of customers, increasing levels of customer satisfaction. Plenty of resources exist to

assist firms in developing strategies and putting them into practice (see Appendix 4). We outline in this paper what we believe 'good' looks like for the customer, and provide some tips and examples that result from discussions with firms and advice organisations (see *From the firms' perspective: what has been reported to work well*, p85). It is up to firms to decide how to achieve good outcomes.

### Key areas for firms to explore

- To ensure a **consistent approach that is embedded across all operations**, it is important to have a high-level policy on consumer vulnerability in place.
- It is important that **all relevant staff are aware of the policy**.
- Firms could **begin by auditing current practice**.
- **Ongoing evaluation** of the effectiveness of a vulnerability strategy plays a significant role.
- Research demonstrates that it is important for **staff on the front line to have sufficient training to facilitate a proper conversation** and that they know where internal expertise lies.
- **Flexibility in the application of terms and conditions** of products and services plays a significant role in ensuring the needs of consumers in vulnerable circumstances are met.
- **An efficient process for referring consumers on to specialist teams** who have authority to make flexible decisions is important.
- **Good policies and practice in handling disclosure or communication needs** of consumers and recording of that information effectively play a key role for consumers and are helpful to staff. Actively encouraging disclosure, by staff able to have proper conversations, has been shown to be helpful here.
- **Clear, simple information and explanation** throughout the product life cycle is important to all consumers.
- **Policies around data protection in particular, but also safeguarding and affordability, need to be implemented based on a correct understanding**. If staff are well trained they are less likely to apply such policies in an overzealous manner which can create problems for customers. For example, proper affordability is vital to the wider protection of consumers, but firms should have systems in place to allow for appropriate discretion.





## What does ‘good’ look like to consumers?

Based on the FCA’s research, we believe consumers in vulnerable circumstances need to trust that they will experience the following outcomes when they approach financial services providers. Many of these would also be beneficial to all consumers:

- **Having financial products that are clear and easy to understand.**
- A **choice of ways of communicating** to be available whenever you need to make contact and for **these to be designed in an inclusive way** so that they are clear, easy to understand and meet your needs. This could relate to the **method** of communication (e.g. audio/braille/face-to-face) or the **service delivery** (e.g. agreement to talk at a particular time of day depending on carers and medication).
- Feeling that firms will **treat you as an individual** and you won’t face the ‘computer says no’ response just because your personal circumstances do not fit the standard mould.
- Knowing that, should you experience a sudden change in circumstances, you will be offered a **flexible and tailored response** from your financial services provider.
- Being able to **talk to someone who will take the time to listen**, who is flexible enough to let the conversation take its natural course, and who is sufficiently trained to spot signs of vulnerability and refer on to specialists where necessary.
- Being referred on to someone who has the authority and discretion to take a tailored approach to your situation and offer **flexible solutions, including use of specialist sources of help and advice** if necessary.
- Feeling confident that **your firm encourages disclosure**, that they will work with you in your best interests.
- Knowing that if you do disclose information about your needs, that **information will be recorded properly** so that you do not have to repeat it every time you make contact with all departments of a particular firm.
- Knowing firms will **proactively contact** you if they suspect you may be having financial difficulties.
- Knowing appropriate **action will be taken if a firm spots suspicious activity** that may signal abuse or fraud.
- If you are trying to speak to a firm in a **caring capacity, finding that the firm listens** and makes a note of your concerns even though it may not be able to divulge any information to you.
- If you are recently bereaved, have a power of attorney or a third party mandate, receiving **consistent advice and treatment**.





## Case studies: what ‘good’ can look like

Although vulnerability is a complex area and there are no quick fixes, there are firms that are already implementing positive policies. During the course of our research we talked to a number of firms that put fair treatment of vulnerable customers high on their agenda. For more details, see Chapter 7.

### Approach embedded throughout organisation

A relatively new bank told us that its approach is embedded throughout all aspects of the organisation. It reports that it educates staff to see customers as people rather than statistics. Staff are encouraged to understand the reasons behind debt, and take on board the longer term implications of not resolving the situation for the customer (such as an impaired credit record).

### Training and feedback

A firm in the credit sector told us it uses speech analytics software to help with auditing performance. This analyses all calls and picks up on specific key words that may be triggers or clues to vulnerability, such as mention of illness, treatment, diagnosis, depression etc. Managers can then assess how these calls have been handled, and give feedback where improvements are needed. Performance assessment includes managers listening to a sample of calls, and assessing how potentially vulnerable people are handled.

### Excellent links with charities

Close collaboration with the advice and charity sector has been instrumental in developing another firm’s approach to vulnerability. It uses the Money Advice Trust and Royal College of Psychiatrists tools such as TEXAS and COMPASS to assist with implementation and finds these very effective (for more information on these see Appendix 4). It has different levels of training for mainstream collectors and the specialist unit, and has worked extensively with charities such as StepChange, Macmillan Cancer Support, the Samaritans and Christians Against Poverty to develop this area. It points out that signposting is most effective

if a firm puts time and effort into building relationships with the advice sector, knowing what parts of which charities can offer specialist help, and ensuring customers are passed to the most relevant person. It believes that handling vulnerable customers in the right way leads to better job satisfaction.

### Creditors are not rescuers

Another firm told us that one element of its approach to vulnerability is to recognise that creditors are not rescuers. Staff need to know where they can get help and signpost people appropriately, rather than rescuing people themselves. In its view, obtaining help and support so that people can get back in control of their financial situation is vital to its vision. The firm told us that it values emotional intelligence highly, both for frontline staff and their specialist team. Frontline staff use the TEXAS model (see Appendix 4) and pass on to the specialist team where necessary. It told us that staff are encouraged to listen and look out for a wide range of clues, some of which can be subtle. This includes signs of agitation such as pitch, tone of voice and breathing, as well as indicators such as “I’ve not taken my tablets”. Staff are empowered to move away from scripts where they have a gut feeling that something isn’t right. Training for staff in the specialist team involves lots of role play around emotionally difficult situations so that staff feel confident in handling these sorts of calls.

### Banking accessibility

We also came across examples of creative approaches in the banking sector, including roadshows that demonstrate a bank’s accessible services (such as high visibility debit cards and talking ATMs), and highlight partnerships with key charities.



# Introduction

## Why is this on the FCA's agenda?

The financial services market is not serving many consumers in vulnerable circumstances consistently or well. Whilst we have found some examples of good practice, evidence gathered both from dedicated research, and from interactions with consumer organisations, reveals that, many consumers in vulnerable circumstances are being let down by their financial services providers. This is despite the FCA's stated desire for firms to place customers at the heart of the business (FSA 2011, Woolard 2013, FCA 2014/15)<sup>4</sup>, and longstanding promotion of the need to treat customers fairly. This paper aims to provoke debate about what more is needed to assist firms in taking practical steps to tackle this issue.

Financial services are becoming essential, as consumers are expected to take more responsibility for their financial well being. Financial services, including payment systems, are essential for full participation in society and they are a key gateway to other services, but they do not work consistently well for all consumers. In addition, increasingly these services are offered remotely and online, thereby increasing the challenge for firms to engage effectively with certain potentially vulnerable customers.

In recognition of the essential nature of financial services, the FCA is pursuing an active agenda around vulnerability based on improved intelligence gathering, strong relationships with consumer and advice organisations, and a practical focus on good outcomes.

## Vulnerability is relevant to all aspects of financial products and services

Vulnerability is an issue that cuts across all financial services sectors. Vulnerability is not restricted to particular product areas, although there may be a higher prevalence in certain areas. While there are some specific requirements already in place, for example for lending and financial difficulties, we believe the over-arching principle of fair treatment is important wherever consumers interact with financial services firms.

## Wholesale Implications

Although this paper has a retail focus, we recognise that there are some wholesale implications to this work. For example, wholesale institutions originate complex investment products which, while being suitable for some sophisticated clients at the outset of their relationship, may

<sup>4</sup> Getting a fair deal for consumers is at the heart of our approach (FSA 2011); "We are striving to put a better understanding of consumers at the heart of how we regulate. We want firms to put consumers at the heart of their business models". (Woolard, C. Improving the consumer experience, 2013); "Our supervision focuses on firms' culture, looking at their business models to ensure that consumers are at the heart of what they do". (FCA 2014/15)

no longer continue to be so where the client experiences a deterioration in their physical or mental well-being. In addition, in some circumstances, a client of a retail institution may have little or no appreciation of the fact that the relationship they have with their bank will expose them to decisions made in the wholesale market. This may occur, for example, where the mortgage that they have with a high street lender is bundled and sold to a third party. In this case, the treatment of the customer in difficulty may well be different to that which they may have expected: while the high street lender may have exercised discretion or forbearance to a customer in distressed circumstances, a professional investor may be less accommodating. We would therefore encourage wholesale institutions to consider this paper and where they may also have the potential to make decisions that impact vulnerable consumers.

### **Vulnerability is broad**

It is common when thinking about vulnerability to fall into an 'us and them' mind set, which categorises vulnerable consumers into specific minority groups, like the very old and frail, or those with disabilities. This approach perceives vulnerability as purely related to the individual's characteristics. In reality, consumer vulnerability is much broader than this and it is simplistic and unhelpful to categorise people in this way. While some circumstances that cause vulnerability may be longstanding, others may happen almost overnight, and could affect anyone, whatever their circumstances, level of income or capability.

### **Vulnerability affects us all**

Vulnerability can affect any of us, at any time. We, or our family and friends, can all face times of stress and difficulty, when our abilities to cope may be compromised. For example, we may experience a change in circumstances such as job loss or bereavement, or onset of a serious illness. In some cases these difficulties may be short lived, but for many they may be longer term or permanent. Large numbers of people have longstanding physical or mental conditions that can make interacting with financial firms challenging. Financial services should be designed so that they make the hard times easier – whereas, in reality, some of the barriers people face when interacting with financial services make an already stressful situation worse, and result in further harm for consumers.

Vulnerability has many forms. It can be caused by long-term characteristics such as a disability, or short-term circumstances such as job loss. It can be sudden, such as the diagnosis of serious illness, or gradual, like dementia. It can fluctuate and be episodic, as in the case of some mental illness. Most of us will experience some sort of vulnerability at some point. People are particularly at risk in their interaction with financial services when they experience a change in circumstances that leads to a financial shock. Income shock is common and could come in the form of an unexpected large expense, or a loss of income due for example to job loss, reduction in hours, illness, bereavement, or taking on caring responsibilities.

### The role of firms

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Vulnerability is not just something to do with the characteristics of the consumer – it can be created or exacerbated by the policies and practices of firms. The way firms design their systems and processes can make a huge difference to the ease with which consumers interact with them. Training staff to listen and understand, equipping them with flexible options and, where appropriate, providing staff with the ability to refer particular problems to specialists within a firm that have the expertise and discretion to address difficult situations can also help. Rather than designing products and processes for a mythical perfect customer, we believe the broad range of experiences of real consumers needs to be taken into account.

There has been much good work carried out around vulnerability related to mental health and debt, particularly in the credit industry. Much of the industry is aware of the fact that, to treat consumers fairly, particular steps may be required for those who are vulnerable. Beyond the debt sector, some good practice guides, specific policies, and pockets of good practice do exist in some areas. However, it is clear from the FCA's research – both primary and secondary – that much of the good practice is not widely practiced elsewhere in the financial services industry. Even within the same firm, good practice within a collections department may not be promulgated more widely within the firm. Consequently, consumers can find that products and services aren't flexible enough to meet their needs when things get difficult.

### Impact

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The impact on the consumer of a firm failing to deal appropriately and flexibly with vulnerability can be severe. From a financial point of view, people may be tipped into a spiral of debt, feel the need to take out high-cost products (such as payday loans) or take on higher risks (e.g. travel without insurance). Some may withdraw from the market altogether, preferring to maintain control by keeping cash at home. An unsatisfactory interaction with financial services can create additional stress, increase isolation, dependency or exposure to fraud (for example by sharing cards and PINs), and take up valuable time and energy for people who are already in a difficult situation.

### No quick fixes

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Our discussions with many experts both within industry and the consumer advice sector have underlined that tackling vulnerability is not an easy area. There are no quick-fix rules. Consumer distrust may make it less likely that people openly disclose information. We also recognise that in some instances consumers do not always behave in a way that makes it easy to facilitate a good outcome. On the part of firms, worries over safeguarding customers from fraud and financial abuse, and data protection concerns, may create barriers. This is an area where judgement has to be applied, and there may be some grey areas where there are no hard and fast rules. However, it is vital that firms take up the challenge.



# Chapter 1

## What is vulnerability?

### Summary

- Definitions of vulnerability used by firms vary but putting a strategy into practice is the most important aspect.
- Vulnerability involves the interplay between individual circumstances, situations and market factors.
- A consumer's state of mind can have a major impact on behaviour and decisions.
- A change in circumstances, and multi-layered risk factors, are particular flags for potential vulnerability.
- A risk factor approach can be used to help firms spot vulnerability.
- The number of people involved is large and rising. Prioritisation is vital to achieve a realistic approach.

### Definitions

This chapter draws on a review of available literature and assessment of approaches to vulnerability by other regulators and bodies active in this area, to attempt to identify what creates vulnerability.

Vulnerability in consumer policy has been widely discussed and is recognised in legislation; however, definitions tend to vary widely. Other regulators have come up with their own definition while developing a vulnerability strategy. The characteristics of the individual, their circumstances, static and transitory states, and the practices of providers, all appear in these definitions in various ways. What is clear is that, however finely nuanced the definition of vulnerability is, the real challenge lies in how to operationalise it: how to embed it both in the culture of the regulator, and the practices of firms. Regulators are increasingly trying to understand vulnerability in its broadest sense. We recognise that this is challenging for some firms that may find it easier to operate with a fixed definition, or a checklist of people who may be affected. We hope to demonstrate in this paper that vulnerability is a fluid state that needs a flexible, tailored response. In this paper we have aimed to gather as much practical information as possible around good practice in the area of vulnerability, which we hope will be helpful when developing and embedding strategies.

### Definitions

**The FCA** – A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care.

**Ofgem** – Whilst we recognise that any consumer can face detriment in a market, our work under this strategy focuses on those consumers in vulnerable situations who are most in need of protection or support. For this purpose we have defined vulnerability as when a consumer’s personal circumstances and characteristics combine with aspects of the market to create situations where he or she is:

- Significantly less able than a typical consumer to protect or represent his or her interests in the energy market; and/or
- Significantly more likely than a typical consumer to suffer detriment, or that detriment is likely to be more substantial. (Ofgem 2013)

**Ofcom** – Some people’s ability to participate in communications markets and society is affected by factors such as their age, disability, income or geographical location. Life events such as bereavement or illness can temporarily reduce people’s ability to participate in society and/or increase their dependence on certain communications services.

Vulnerability is about people’s circumstances, which can change over time. In relation to communications, it can have a range of negative consequences:

- People may suffer financial detriment, for example if they are a victim of mis-selling or if they are unable to access the best deals
- They may become isolated if they are unable to keep in touch with family and friends
- They may not be able to participate as fully in society as they would wish. (Ofcom, 2014)

**Consumer Focus** – People who cannot choose or access essential products and services which are suitable for their needs, or cannot do so without disproportionate effort/cost/time. (Consumer Focus, 2013)

**Citizens Advice** – We suggest that vulnerability should be identified through understanding risk factors, awareness of behavioural triggers, and a recognition of the potential barriers caused by existing systems. (Citizens Advice, 2011)

**British Standards Institute** – The condition in which a consumer is at a greater risk of mis-selling, exploitation, or being put at a disadvantage in terms of accessing or using a service, or in seeking redress. (British Standards Institute, 2010)

## Developing the analysis of vulnerability

A review of the literature on consumer vulnerability was carried out to inform this paper. Understanding vulnerability started with an appreciation of limitations on the capacity of the individual – either physical or mental (Ringwold, 1995; Smith & Cooper-Martin, 1997 quoted in Cartwright, 2011). This was supplemented by an understanding that the situation or circumstances of the individual – such as being on a low income, becoming a carer, and living in a particular area/without internet access – could contribute to vulnerability, regardless of the capacity of that person (European Consumer Consultative Group, 2013; Citizens Advice, 2011). A further enhancement was awareness that vulnerability is not necessarily a permanent state (United Nations, 1998). People can move in and out of vulnerability, and can be suddenly plunged into a vulnerable state by a dramatic life event – for example bereavement, sudden diagnosis of serious illness, or job loss. Vulnerability can also vary depending on what goods or services are being purchased, and how or by what method of communication the interaction between the consumer and the provider is being carried out (Consumer Affairs Victoria, 2004).

### The role of the market

A key element of vulnerability that needs to be recognised is the part that market practices play in contributing to vulnerability and often in crystallising risk into real detriment. The role of providers, and the way that modern markets work can contribute to, or even cause vulnerability, putting some consumers at a disadvantage in interacting or accessing the services or help they may need (George and Lennard 2010; British Standards Institute 2010). As an illustration, the range of communications options that firms offer may create barriers or reduce access for some consumers. Automated telephone systems, premium rate numbers, complex bills, and internet-only communication are all examples of systems that can create barriers. Sending consumers marketing material that may be ‘disguised’ as information about their existing products, or targeting particular groups of consumers with marketing material for a product that is unlikely to provide good outcomes for the profile of that group could be other examples. Lack of competition and affordable products in certain markets is another aspect of the role of the market in exacerbating vulnerability (Fingleton, 2008). The risk of detriment is highest when individual circumstances and organisational barriers coincide.

The extent of vulnerability of an individual consumer depends on the interaction between the consumer’s individual combination of characteristics on the one hand and marketing practices on the other.

### **(European Commission, 2011)**

Understanding vulnerability involves understanding the interplay of individual circumstances, situations and the part played by market or firm behaviour. It involves recognising that people’s circumstances and situations may lead them to behave in ways that may increase the risk of detriment. Therefore, there is a greater onus on firms to take these customers’ needs into account (Thoresen, 2008).

A more sophisticated understanding of vulnerability, together with an idea of how to identify and respond to it, may help regulators, trade bodies and firms to work smarter in this area.

### **Why is vulnerability important in financial services?**

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Vulnerability can affect people in their interactions with any market, not just financial services. Detriment may be more likely to result when people have less familiarity with the product or service they are buying, and when those products and services are more complex. Financial services fall into both of those categories (Office of Fair Trading, 1999). Additionally, financial services can involve extended commitments, and the financial impact of decisions can be life-changing. Poor advice and poor decisions can have long-term effects.

Detriment is also particularly likely to occur when the product or service is essential to the needs of the consumer, rather than optional. Financial services are increasingly being recognised as essential – particularly as a gateway to other services (Consumer Futures 2013; Citizens Advice 2011, Age UK 2011). So the need to tackle vulnerability in financial services is urgent.

#### **Access to services is critical**

Financial services and access to money are so integral to people's lives that the consequence and potential detriment arising from problems and barriers is critical.

In many cases an individual's interaction with a financial services provider is not the cause of the vulnerability, however that vulnerability may make it more difficult for them to interact effectively with a firm, and this can lead to greater problems.

#### **Risk factors**

One approach that has proved useful to developing vulnerability strategies in some sectors is based on the notion of risk factors. Risk factors are useful in that they capture not only the varied and fluctuating nature of vulnerability, but they also cover the interaction between the individual and the service provider. Identifying risk factors reduces the need to categorise or stereotype groups.

### Examples of risk factors for vulnerability

Certain risk factors are particularly important within financial services:

- low literacy, numeracy and financial capability skills
- physical disability
- severe or long-term illness
- mental health problems
- 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)

An important factor in understanding vulnerability is the realisation that people are often exposed to multiple risk factors.

What is noticeable is that the experience of one type of vulnerability may lead to a cascade of others. For example, consumers with low basic skills are also more likely to be unemployed, and carers often also suffer from ill-health and/or unemployment. Perhaps unsurprisingly, many of our older respondents were also suffering from a recent bereavement and long-term illness... (***Vulnerability Exposed Report***)



### Impact of change in circumstances and income

A change in personal circumstances can cause a consumer to fall into a vulnerable situation – all the more so if the consumer already has one or more risk factors.

People are particularly at risk in their interaction with financial services when they experience a change in circumstances that often leads to a financial shock. This shock could be an unexpected large expense or a loss of income. A drop in income, or income volatility, can cause particular problems due to the ongoing commitment presented by many financial products. A reduction in ability to meet these financial commitments can cause both immediate and longer term problems.

Most people, about 60%, manage to ‘make ends meet’, but they do not have the resilience to weather financial shocks. As a result, they can easily be knocked down the staircase by an unexpected or unplanned event. It is well known that two thirds of people who fall into serious debt problems do so because of some form of income shock.

**(Money Advice Service, 2014)**

Research shows a sudden drop of income is a common event. Many consumers have very little in the way of a financial safety net, so have no buffer to ride out a sudden change in income (Money Advice Service, 2013).<sup>5</sup> Income shock is a major cause of debt problems. Research by the debt charity StepChange reveals that job loss and reduction in income due to reduced hours are the major causes of falling into debt.

These shocks are widespread and many people lack a sufficient financial safety net to cope for long. In fact, almost half of adults do not have enough savings to cover an unexpected bill of £300.<sup>6</sup> Sudden changes in circumstances are often associated with stress and a reduction in people’s ability to deal with tasks, thus exacerbating the problem. Many of the respondents in the FCA’s research amongst vulnerable consumers (Rowe et al., 2015) reported that their ability to manage their finances had diminished as a result of their vulnerability. For others a change in circumstances such as bereavement or caring responsibilities has changed their role in financial decision-making.


<sup>5</sup> Money Advice Service research found that over a third of people have experienced a shock to their finances in the last three years; 21% of people had experienced a large drop in income in the last three years, mainly due to job loss or change in salary or hours.

<sup>6</sup> Ibid: only 58% of people could cover an unexpected bill of £300

### An unexpected change in circumstances is common

- Over a third of adults have experienced a shock to their finances in the last three years; and 21% had experienced a large drop in income due to job loss, change in salary or hours. (Money Advice Service, 2013)
- A change in circumstances such as separating from a partner also caused a sudden drop in income. (Office for National Statistics, 2011)
- Every two minutes someone in the UK is diagnosed with cancer (Cancer Research UK, 2014). By 2020 half of the UK population can expect to be diagnosed with cancer at some point in their lives. The number of people living with cancer is set to rise from 2 million to 4 million by 2030. (Macmillan Cancer Support, 2014)
- Every year there are approximately 152,000 strokes in the UK – one stroke every three and a half minutes. Most people affected are over 65, but anyone can have a stroke. (Stroke Association)
- Every day another 6,000 people take on a caring responsibility. (Carers UK)
- 74,000 people die each year in the UK from coronary heart disease – 25,000 of these people are under the age of 75. (British Heart Foundation)
- There were 506,790 deaths registered in England and Wales in 2013. Each of these potentially leaves someone dealing with the consequences of bereavement. Of these, accidental deaths account for over 17,000 deaths per year. (Office for National Statistics, 2014)

### The impact on state of mind

 “The minute he passed away, my mind was not anywhere to be quite honest, because he died suddenly. You have to get your head around that and then speak to certain people.”

**(Consumer, bereaved)**

In some instances, vulnerability and the associated stress can have an effect on people’s emotional state, cognitive ability and ability to function. This may include feeling stressed and anxious, feeling unable to cope, too upset to talk, finding it difficult to concentrate, think clearly, assimilate information and make decisions, and finding it difficult to deal with new or unfamiliar tasks. In these conditions, the impact of a problem or difficult interaction can be magnified, and vulnerability to unscrupulous practices is increased, creating a vicious circle. The individual’s practical ability to seek redress may also be diminished.

### **A good vulnerability strategy will benefit all customers**

Our argument is that, in many ways, products and services that are designed in an inclusive way to respond better to the needs of those in vulnerable circumstances will also work better for the majority of customers, increasing levels of customer satisfaction.

So embedding an inclusive strategy that aims to make services available, usable and accessible to all regardless of personal circumstances, will lead to better performance for everyone in the longer term and, arguably, greater levels of consumer satisfaction across the board.

### **The scale of vulnerability**

Even if we consider only those consumers who are in typically identifiable vulnerable 'groups', the numbers are large, and in many cases on the increase:

- In any given year, one in four adults experiences at least one mental disorder (NHS, 2007). Mental health problems peak in middle age, with almost a quarter of people aged between 45 and 54 having some sort of 'neurotic disorder' (Mental Health Foundation, 2007). Mental health issues include depression and anxiety. These can be long-term, episodic or short-term.
- Sixteen percent of working age adults, and 45% of those over state pension age have a disability, defined as limiting long-term illness, impairment of disability (Family Resources Survey, 2011/12).
- Over 1.4 million people in the UK are aged 85 or over. The number of people over 85 in the UK is predicted to double in the next 20 years and nearly treble in the next 30 years (Age UK, 2013).
- An estimated 4 million older people, or 40% of all people aged over 65 in the UK, have a limiting longstanding illness (Age UK, 2013).
- There are 800,000 people in the UK living with varying degrees of dementia, and this is expected to double every 20 years. Dementia affects one person in 6 over 80 and 1 in 3 over 95 (Age UK, 2013).
- More than 8.9 million people are deaf or hard of hearing (RNID, 2010).
- About 2 million people in the UK have significant sight loss (RNIB, 2008).
- More than 10 million adults consult their GP each year with arthritis and related conditions (Arthritis Research UK, 2008).
- One in seven adults has literacy skills that are expected of a child aged 11 or below (Department for Business, Innovation and Skills, 2012).
- Just under half of UK adults have a numeracy attainment age of 11 or below (Department for Business, Innovation and Skills, 2012).
- In terms of financial capability, a quarter of those aged over 55 fail to correctly identify the available balance on a bank statement (Money Advice Service, 2013).

- 1.5 million people have some form of learning disability. (Foundation for People with Learning Disabilities).<sup>7</sup>
- Six and a half million people in the UK have significant caring responsibilities. According to the Carers UK project this will reach 9 million by 2037. One in eight adults care, unpaid, for family and friends (Carers UK, 2014).<sup>8</sup>
- The number applying for power of attorney is rising. There are now more than 1 million power of attorneys registered with the Office of the Public Guardian.<sup>9</sup>
- Thirty-three percent of UK men and 9% of women born in 1953 had at least one criminal conviction by the age of 53 (Unlock).
- Increasingly, people living without internet access are potentially vulnerable, due to lack of access to their own accounts and information, as well as the more general ability to shop around and find the best deals. Under half (48%) of those over 65 have ever used the internet compared to 84% of the overall adult UK population. People on a low income and with a disability were also less likely to have used the internet (Ofcom 2014b).
- Of the 7.1 million adults in the UK that had never used the internet in May 2013, over half were disabled (3.7 million) and nearly half were over 75 years of age (3.1 million) (Office for National Statistics, 2013).

### Financial hardship and vulnerability

Although it is not a necessary condition of vulnerability, being on a low income plays an important role, particularly when combined with other vulnerabilities. Not everyone on a low income is vulnerable; however, it is often the case that low income when combined with other risk factors can create particularly difficult circumstances (Office of Fair Trading 1998; George, Graham and Lennard 2011). It is important to appreciate the role and impact of low income on people's coping abilities.

The number of people struggling to make ends meet in the UK is rising. Research by the Money Advice Trust reveals that price rises in 'basics' such as food, rent and energy have a disproportionately high impact on lower income households (Money Advice Trust, 2014). It argues that this has created a new model of debt, with many families driven into arrears by basic household bills as the increased cost of essential items outstrips their income. The result is that debts on utilities and rent have been on the rise for a number of years. This leads to people cutting back on all non-essential spending, and being increasingly vulnerable to income shock.

As the statistics in this section demonstrate, the numbers of people who have characteristics that could make them vulnerable, or are in a situation where they could be vulnerable to detriment, is large and is growing. An unexpected change in circumstances could then tip

<sup>7</sup> 'Learning disability' is the term that the Department of Health uses within its policy and practice documents. In *Valuing People* (2001), it describes a 'learning disability' as a:

- significantly reduced ability to understand new or complex information, to learn new skills
  - reduced ability to cope independently which starts before adulthood with lasting effects on development
- [www.learningdisabilities.org.uk/help-information/about-learning-disabilities/definition-learning-disability/](http://www.learningdisabilities.org.uk/help-information/about-learning-disabilities/definition-learning-disability/) 25.9.14

<sup>8</sup> 'Carer' is defined as "looking after, or giving any help or support to family members, friends, neighbours or others because of either long-term physical or mental ill-health/disability or problems related to old age- not paid employment"

<sup>9</sup> Office of the Public Guardian, personal communication

anyone over into a state of difficulty, be it temporary or long term. This issue cannot be safely ignored by firms or policy makers.

#### **Facts and statistics around financial hardship and multi-layering**

- Direct experience of redundancy, the threat of redundancy, reduction in working hours and wage freezes are all very real experiences for consumers (Financial Services Authority, 2012).
- In 2013 over half of people surveyed by the Money Advice Service said they were struggling with finances (Money Advice Service, 2013).
- Families with disabled members are more likely to live in poverty compared with others (Office for Disability Issues).
- 1.7 million (14%) pensioners live in poverty and a further 1.1 million have incomes only just above the poverty level (Age UK, 2013). Carers face significantly increased costs and many struggle to pay essential bills (Carers UK, 2013).<sup>10</sup>
- Four in five people with cancer are on average £570 worse off per month as a result of their diagnosis – comparable with an average mortgage payment (Macmillan Cancer Support, 2014).
- Over a third of people diagnosed with cancer are of working age, with the diagnosis therefore presenting a risk to their income (Macmillan Cancer Support, 2014). People calling the support line of Macmillan Cancer Support are 25 times more likely to seek help with financial issues than with death or dying.
- Low financial capability is associated with low income (FSA, 2009).
- Three times as many adults with mental health problems report being in debt or arrears compared to those without mental health problems (Mind, 2011). One in two people with debts also has a mental health problem.<sup>11</sup>

<sup>10</sup> When caring affects families, the financial pressure often comes from two sides – as household income takes a hit from reduced earnings, outgoings also rise as a result of the extra costs of ill-health or disability. For many, this results in lasting financial hardship and debt, often exacerbated by delays in accessing financial support or advice on combining work and caring. One in ten carers had used up all their savings to pay basic bills and almost half (44%) had ended up in debt. A fifth were using their overdraft (22%) or credit cards (20%) to make ends meet. Carers UK, Caring and Family Finances Enquiry 2013.

<sup>11</sup> [www.rcpsych.ac.uk/workinpsychiatry/qualityimprovement/research/debtandmentalhealth.aspx](http://www.rcpsych.ac.uk/workinpsychiatry/qualityimprovement/research/debtandmentalhealth.aspx)

# Chapter 2

## The FCA's role in protecting consumers in vulnerable circumstances

### Summary

- Part of the FCA's role is to protect consumers. Fair treatment is integral to this.
- Consumers in vulnerable circumstances may be less likely than others to be able to represent their own interests, and more likely to suffer severe detriment if something goes wrong. In order to be treated fairly, customers need well-designed, straightforward to understand products that meet their needs over their lifetime, and flexible service that is able to respond to individual circumstances.

### General remit

It is one of the FCA's objectives to secure an appropriate degree of protection for consumers. The FCA must have regard to "the differing degrees of experience and expertise that consumers may have" (Financial Services and Markets Act, 2000 1C). This acknowledges that different types of consumers may need different treatment. The risk of detriment from a failure to address vulnerability is high, so this clearly falls within the regulator's consumer protection objective. As the FCA's research shows, the impact of vulnerability on everyday life should not be underestimated. Vulnerability is often characterised by a range of emotional and practical consequences that impact on peoples' ability to deal with their finances and interactions with firms. Detriment could take many forms including emotional aspects such as stress and anxiety; financial detriment arising from sub-optimal or reduced choices, a debt spiral, or inappropriate purchases; and, wasted time spent in resolving issues. A negative and unfair experience with a financial service can have a disproportionate effect on people in vulnerable situations, often making a difficult situation worse.

### Is specific action needed?

Much consumer protection legislation is underpinned by the notion of the average or typical consumer, and what that typical consumer might expect, understand or how they might behave. Consumers in vulnerable circumstances may be significantly less able to represent their own interests, and more likely to suffer detriment, than the average consumer. Regulators need to ensure that these consumers are adequately protected.



## Coverage

While there are some specific requirements already in place, for example in relation to lending and financial difficulties, we believe the overarching principles of fair treatment and inclusive design (services that are available and accessible to all consumers equally, regardless of their personal circumstances) are important for all aspects of this work and are relevant to all aspects of financial services.

## Principles and rules

There are a number of specific principles and rules within the FCA's Handbook that are relevant to vulnerability:

### The FCA's principles and rules

#### **FCA Principles for Businesses 6 & 7:**

*A firm must pay due regard to the interests of its customers and treat them fairly.*

*A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.*

**ICOBS** has rules requiring:

- customer communications to be clear, fair and not misleading (ICOBS 2.2.2R)
- information provided to be appropriate for an informed decision (ICOBS 6.1.5R)
- insurers to handle claims fairly (ICOBS 8.1)

#### **CONC 8.2.7:**

*A firm must establish and implement clear and effective policies and procedures to identify particularly vulnerable customers and to deal with such customers appropriately.*

#### **DEPP 6.5A.2 (calculation of enforcement fines):**

*In deciding which level is most appropriate to a case involving a firm, the FCA will take into account various factors, [including]...Whether the breach had an effect on particularly vulnerable people, whether intentionally or otherwise....and the inconvenience or distress caused to consumers.*

#### **Draft Individual Conduct Rules**

Rule 4: You must pay due regard to the interests of customers and treat them fairly.

## Treating customers fairly

Under the Treating Customers Fairly (TCF) initiative, which the FCA has committed to prioritising (FCA, 2013), the FCA has set out consumer outcomes that are core to what it expects of firms. These include:

- ensuring that consumers can be confident that they are dealing with firms where the fair treatment of consumers is central to the corporate culture
- designing products that meet people's needs
- giving clear information, and
- creating no unreasonable barriers to change product, switch provider, submit a claim or make a complaint after sale

Placing consumers at the heart of the business, and doing the right thing for the customer, are at the heart of the FCA's approach. The FCA's Principles for Businesses require firms to treat customers fairly and to communicate with them in a clear, fair and non-misleading way.

Fair treatment of consumers in vulnerable circumstances is central to what 'good' looks like in this area. As stated by the FCA's Director of Strategy and Competition, "*Put simply, we expect firms to treat customers fairly when they are dealing with people with vulnerable circumstances*" (Chris Woolard, 2013). When people are in a difficult situation, or under stress, and may not have the capacity to function as a 'savvy' consumer, then it is all the more critical that they are treated fairly. It has been recognised that differing degrees of experience and expertise of different consumers necessitate a flexible approach to protection (FSA, 2011).<sup>12</sup> It has also been acknowledged that consumer behaviours and biases can have an effect on outcomes. To deliver on these objectives, both the FCA and firms need to develop a better understanding of the needs of vulnerable consumers.

In the consultation CP14/13 *Strengthening accountability in banking: a new regulatory framework for individuals*, 2014, on proposed reforms to the regulation of individuals in deposit-takers and PRA-designated investment firms, the FCA consulted on a framework that would include the majority of individuals working within these firms being required by an enforceable Conduct Rule to treat customers fairly, building on the existing TCF requirements at firm level. This would have implications for frontline, customer-facing staff, among others.

Some financial services firms have policies and strategies that relate to elements of consumer vulnerability, and more are developing them (see Chapter 7). This is laudable, but could be meaningless unless the firm's practices actually implement those policies. This means systems need to be able to deliver. Our research points to frontline staff needing to know what to do, being empowered to act in an appropriate way that may be outside standard parameters, and feeling confident in doing so. Evidence points to products and services in general needing to be designed with realistic expectations about changes in circumstances (such as illness, or bereavement) in mind.

<sup>12</sup> The FCA will adopt a differentiated approach to protecting different categories of consumer. Key considerations are reasonable presumptions about:

- the differing degrees of risk involved in different kinds of investment or other transaction
- the differing degrees of experience and expertise that different consumers may have.

### A broader approach

Understanding the needs of customers (and potential customers) and any potential risk factors that may affect their interaction with the firm are valuable to ensuring fair treatment. It is our belief that in taking steps to ensure that consumers in vulnerable circumstances are treated fairly, firms will be improving their interactions with all consumers. This is about well-designed, clear and easy to understand products that meet people's needs over their lifetime, and flexible service that is able to respond to individual circumstances, which are often not that uncommon.

How vulnerable consumers are treated at all stages of the financial product lifecycle is important – from marketing, promotions and targeting, through product design and sales, to the ongoing relationship with the customer and any changes in circumstances, right through to exiting the product or service. Inclusive services are, in general, good for all consumers.

### Vulnerability and social policy

When analysing issues around consumer vulnerability, there will be instances where there is some overlap with access and financial inclusion. It is useful to clarify where the dividing line is between social policy and the conduct powers of the regulator. To take a recent example of where Government can act in this area, the Government intervened to ensure a scheme was in place to make flood insurance available and affordable in high risk areas.<sup>13</sup> Action around access can also be prompted by European Commission directives – for example, activity that led to the introduction of basic bank accounts, to facilitate banking inclusion.<sup>14</sup> However, ensuring that firms make clear the availability of basic bank accounts, and honour their obligations on proof of identity requirements, is within the FCA's remit.

13 See DEFRA *Securing the future availability and affordability of home insurance in areas of flood risk* June 2013, and DEFRA *Government response to the public consultation on securing the future availability and affordability of home insurance in areas of flood risk* November 2013.

The ABI and the Government agreed a Memorandum of Understanding (MoU) in June 2013 on how to develop a not-for-profit scheme - Flood Re - that would ensure flood insurance remains widely affordable and available. The MoU is a first step towards establishing Flood Re, and confirms it as the Government's preferred option. [www.abi.org.uk/Insurance-and-savings/Topics-and-issues/Flooding/Government-and-insurance-industry-flood-agreement/The-future-of-flood-insurance](http://www.abi.org.uk/Insurance-and-savings/Topics-and-issues/Flooding/Government-and-insurance-industry-flood-agreement/The-future-of-flood-insurance)

14 See Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2013 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

# Chapter 3

## Market Research – the impact: vulnerability exposed

### Summary

The FCA commissioned research that found that:

- Vulnerability can affect us all and can trigger an especially challenging moment in people's lives.
- Many financial products, services and systems seem not to be designed to respond to inevitable vulnerability. Humans are not predictable, things go wrong, and consumers need firms to factor that into product design, support and service delivery.
- Financial services, products and systems often 'streamline' consumers and are not designed to meet the non-standard needs of those who don't fit into a set mould. This leads to negative experiences and detriment.
- Most problems relate to poor interaction, or systems that don't flex to meet needs, therefore making people's situations more difficult.
- Many vulnerable consumers may be valuable customers if firms respond to their needs and treat them flexibly; these consumers may withdraw from the mainstream market if their needs are not met.
- A combination of vulnerability and firm behaviour can and does result in negative and detrimental outcomes for consumers.
- Consumers need better practice and a more flexible approach around disclosure; simple, clear information and explanation; they need to be able to trust firms.

For a review of the research findings, please see the [full report](#).<sup>15</sup>

When embarking on the work that contributed to this paper, the FCA was aware that it needed to find out more about the experiences of consumers at times of vulnerability across a wide range of financial services. Much evidence was available from charities and advice organisations. However, the FCA wanted to supplement this by gaining an independent perspective of the detailed life situations of a range of people, how their interactions with financial services impacted on this, and what part firm conduct played.

So, the FCA commissioned qualitative research with a range of consumers in circumstances that acted as 'proxies' for potential vulnerability.

<sup>15</sup> Rowe, B., Holland, J., Hann, A., & Brown, T. (2015). *Vulnerability exposed: The consumer experience of vulnerability in financial services*. London: Financial Conduct Authority, available here. See Appendix 1 for full details on methodology. All quotes and case studies in this paper are taken from this research unless referenced otherwise.

### Methodology

The research comprised in-depth interviews with consumers, with experts from organisations representing the interests of particular vulnerability groups, and with frontline staff in support or advice-giving roles, and group discussions with consumers attending support groups. An analysis of case studies was also carried out.

A small number of specific 'risk factors' were selected as sampling focal points to ensure breadth in the research. These were chosen because they are recognised as 'proxies' associated with a range of circumstances contributing to financial detriment that may apply to consumers in a broad range of vulnerable circumstances:

- Long-term/significant illness
- Carers
- Older people (over 65)
- Low basic skills - people who struggle with literacy and/or numeracy, with or without a formally diagnosed learning difficulty
- Job loss/unemployment
- Bereavement (individuals who have recently lost a partner/spouse or a parent)

More details can be found in Appendix 1.

### Key messages from the research

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#### Vital importance of interaction with financial services

Most vulnerable consumers want to retain their independence rather than rely on support, and they want their financial services to enable this for them. It is widely recognised that remaining in control has positive outcomes, both financial and emotional. Therefore it is vital that when people are going through a particularly challenging time, they have access to the products and services they need to support them, and are helped rather than hindered by their financial services providers.

#### Susceptibility to detriment

People in a vulnerable situation are particularly susceptible to detriment. Detriment- as seen from the consumer perspective as expressed by interviewees in the research- can take many forms including:

- Emotional aspects such as stress, embarrassment and anxiety, knock-on effects include inability to cope and function.
- Financial detriment arising from arrears or debt and impact on credit history; sub-optimal or reduced choices, higher prices, or inappropriate purchases.
- Loss of trust in firms.
- Withdrawal from financial services altogether and consequent exposure to risk e.g. keeping large amounts of cash at home.

- Reduced ability to obtain redress.
- Wasted time spent in resolving issues.

For some consumers in vulnerable circumstances, their characteristics mean that they have few options for effective communication with firms and fewer tools at their disposal for asserting their needs and achieving a good outcome. In many cases, vulnerability coincides with low income, thereby reducing the ability to ride out a crisis or to cope if things go wrong. People who are already in a difficult situation can find that unnecessary and additional stress is created by interaction with a financial services provider. For some, depending on the nature of the vulnerability, problems may be one-off or episodic. For others, interaction may be hard on an ongoing basis. For all, problems can have a disproportionate effect on people in vulnerable conditions. There is a knock-on effect: problems with finance regularly impact on other areas of people's lives and can exacerbate an existing difficult situation.

### Products and services not designed for humans

The research found that the streamlined systems approach of many firms do not respond well to the fact that vulnerability can affect us all, and we may all experience challenging life events and circumstances. Many financial products, services and systems seem not to be designed to respond to inevitable vulnerability. The research found that many consumers in vulnerable circumstances feel that services have become streamlined, designed for the 'perfect customer', and do not meet the needs of non-standard consumers who do not fit the mould or whose personal circumstances may have changed. Indeed, many of the negative outcomes uncovered by the research appear to be unintended consequences of this streamlining, which cannot flex when put to the test. The vast majority of consumers approach firms in good faith, not expecting charity, but needing support and flexibility, or a greater degree of sophistication and willingness to engage. In fact they find that they struggle to make services and products 'work' for them.

### Knock-on effect if needs not met

It is a common feeling amongst vulnerable consumers that individual needs have not been met. This leads to people developing their own strategies which may be time-consuming (such as travelling a long distance to a branch where a 'good' cashier works); or expose them to a greater degree of risk (for example by sharing PINs or passwords with a carer or relative to enable them to access an account). An unsatisfactory interaction with a firm may be the catalyst to a debt spiral, if someone has sought help and that help is not forthcoming.

As a result some people may turn to high cost or high risk alternatives (for example using high cost short-term credit or loan sharks, keeping large amounts of cash at home or travelling without insurance). Some may withdraw from financial services altogether, to avoid stressful contact with banks.




"I've been let down too many times. Why would I put my money in there [the bank] when all they do is try to sell me things, try to charge me for my account, put extra charges on too? It's better here, I can't afford for them [the bank] to make my life any more difficult than it already is." **(Consumer, bereaved and with a long-term illness).**



### Key findings: the consumer experience

There were some examples of commendable behaviour which customers found very helpful.

 “She was amazing. I can’t tell you how brilliant she was. After all those people [other staff members] I had tried to deal with, at last there was this angel who came out of nowhere to help me. The sad thing is, she helped me for a bit, but now I don’t know where she has gone and I’m back to square one.” **(Consumer with low basic skills)**

On the other hand, an inflexible or negative interaction with a firm can trigger a more severe problem with long-term consequences such as an impaired credit history, or a debt spiral. The research also suggests that some vulnerable consumers are at risk of exploitation such as opportunistic sales practices.

Many negative outcomes appear to be unintentional and so should be avoidable. The research points to a need for better training, process and/or systems design, and centres of expertise with staff trained to a higher level of emotional intelligence and higher levels of discretion.

The research found a range of issues around the ways firms interacted with consumers in vulnerable circumstances. These revolved around technological innovation and digital exclusion, poor frontline interactions, and inappropriate and predatory sales. Consumers’ experiences are summarised in Chapter Four.

### What do vulnerable consumers need from financial services providers?

The research was able to identify areas of common need across a range of vulnerabilities.

#### Better disclosure practices

Some individuals in the research struggled to admit or ‘diagnose’ their own vulnerability, thereby making it hard to share this with firms. Others felt they had disclosed vulnerability but this was not appropriately recorded or shared, resulting in unnecessary problems. Some consumers need firms to encourage disclosure based on trust and good relationships, and/or be able to identify signs of vulnerability with a genuine interest in understanding the customer’s situation.

#### More flexibility and space for judgement to be used by staff: one-size doesn’t fit all

This research found that people do not expect charity from firms. However, they do expect more intelligent and sophisticated products and processes that work for ‘real people’. They need firms to demonstrate understanding and awareness of their situation, and an openness to engage and work with them to find solutions.

*Many vulnerable consumers feel that financial services have become so streamlined and one-size-fits-all, designed around a mythical perfect customer, that they cannot meet the needs of the many 'non-standard' consumers who do not fit this mould.*

#### **Straightforward and clear information**

A common experience of the individuals in our research across a range of difficult situations was the feeling of being under pressure and struggling to take in and process information. Dealing with the complexity of financial products and services can be particularly problematic here. Lengthy product documentation and confusion between marketing literature and important product information were examples given. This can lead to people ignoring material (such as correspondence) altogether, or making poor decisions. Firms need to take on board that people may not be able to attend to the detail of complex financial matters, and clear, straightforward processes and communication are very important.

#### **Trust that the firm will act in their best interests**

Many people in vulnerable situations need to rely on others for support, and they often need to put their trust in the good nature of others. Interviewees reported that they should be able to trust firms to act in their best interests.

In the following chapter we explore a range of particularly problematic areas in more detail. In Chapter 7 we go on to discuss what practical steps firms can take to move forward on these issues. Appendix 4 pulls together helpful information for firms and shares tips and resources.

# Chapter 4

## Problem areas

### Summary

As a result of our research, we have highlighted the following key problem areas in the treatment of potentially vulnerable customers:

- Lack of strategic approach.
- Policy practice gap where frontline staff are not aware of or do not implement Head Office policies. Problems with power of attorney are a particularly important example.
- Failure of internal systems, where firms fail to communicate information internally—for example customers needing to tell a firm multiple times about bereavement, and receiving numerous letters from different business areas.
- Inflexible products and services designed for the mythical perfect customer that do not factor real-life events into their design, so that customers who face a change in circumstances are not able to receive a flexible, tailored response.
- Product complexity and confusing communications.
- Interfaces or channels of communication that are not inclusive, and digital exclusion.
- Questions around a lack of suitable affordable products for people in some non-standard situations.<sup>16</sup>
- Increasing automation and use of call centres create challenges in spotting potential vulnerability and ensuring customers are referred onto specialist teams where necessary.

<sup>16</sup> For example Macmillan Cancer Support has asked questions around whether current risk profiling is used for people who have recovered from cancer, especially with the advances made in cancer treatment over the years.

- Consumer time is not valued highly and many people give up if the process is too time-consuming, especially if they are in a stressful situation with other demands on their time.
- Lack of solutions for temporary delegation.
- Inconsistent approach to temporary forbearance.
- Policies designed to safeguard consumers from financial abuse/fraud can create barriers to legitimate assistance by family or carers.
- Inappropriate sales.

When preparing this paper, we took into account:

- findings from the FCA's dedicated research with vulnerable consumers
- a request from the FCA for information from a sample of firms
- evidence from consumer groups and organisations representing the interests of particular consumers
- a literature review
- evidence from the FCA's internal systems including correspondence from consumers, and
- engagement with a network of consumer organisations in the vulnerability field

Intelligence from this range of sources was reviewed to identify areas within consumer experience of financial services that appear to give rise to particular problems.

### Lack of overall strategic approach

*Our research indicates a need for a commitment to and a strategy around recognising vulnerability, translated into practical policies and guidance for specific business areas. If this is cascaded effectively to staff, customers have a better chance of experiencing consistent and appropriate treatment. In practice many firms do not have a top-down strategy.*

### No strategic approach

Some firms already have some form (or elements) of policy for dealing with consumers in vulnerable circumstances, either broad or specific. Through our engagement with representatives of larger firms, we believe that in many cases, firms and indeed trade bodies understand what 'good practice' means. However, much of the time policies are piecemeal, good practice is often found in pockets, if at all, and there is often a lack of consistency and strategic approach across the firm. Also, while certain more obvious vulnerabilities may be addressed, a more holistic approach that can adapt to the reality of a wider range of vulnerable circumstances is missing. It appears from our investigations, and from levels of reported problems, that even when policies exist, they are not routinely embedded within the organisation. We found minimal evidence around implementation of policies and evaluation of effectiveness.

### Policy/practice gap

#### Even where a policy does exist, staff may not implement it at the frontline.

The response of staff on the frontline, whether it's in a branch or on the phone, is crucial to the customer's experience. The firm may have great specialist teams, or policies on dealing with issues such as a power of attorney, but if the frontline team doesn't deal with the situation appropriately, access to a good outcome may be denied. Staff on the frontline do not need to be experts, but our research indicates that the consumer outcome is likely to be more positive if they are sufficiently trained to facilitate a proper conversation, to know where internal expertise lies, and how to refer on.

Evidence from the FCA's research into this area suggests many day-to-day problems arise because staff on the front-line are not aware of policies that may exist at Head Office level. Power of attorney and third party mandates, and dealing with bereavement, are areas where firms may have high-level policies but where despite this, frontline staff may not implement these effectively. Other examples might include staff not being aware of chip and signature cards as an alternative for people who cannot manage PINs, or who are unfamiliar with the non-standard forms of proof of identity that can be provided for account opening.



“How long have we lived in a world where people die? And many of these financial services providers continue to be unable to deal with the circumstances surrounding bereavement effectively.”

**(Expert from a consumer organisation)**

#### Case study

Alisha has been her mother's legal carer since the age of 18. Her mother lost her sight when Alisha was 16. Despite having third party access, Alisha has experienced problems with a cashier refusing to serve her, and another cashier refusing to accept her blind mother's signature. Alisha's persistence sorted the issues out on both occasions but both she and her mother felt upset, particularly when staff treat her mother as if she is stupid. (Rowe et al., 2015)

#### Case study

A case was reported to FCA by the RNIB of a registered blind person who was asked to go into his branch with photographic identification, in order to withdraw funds from his account as his card had been blocked following fraud on his account. He didn't possess a driving licence or passport, and was told by the bank that his blind person's bus pass with a photo on it was not adequate. So he was unable to obtain money from his account while awaiting new cards. He said this wasn't the first time he'd had problems with the bank relating to photographic ID.

### Power of attorney issues

This falls under the policy/practice gap but merits a dedicated section due to the large number of problems in this area that we found evidence of.



“I went into the branch, they told me to call customer services. I called customer services, they told me to go into branch. Round and round in a loop. I ended up crying in the bank. I got to the end of my tether. I have power of attorney! I should be able to organise my mother’s finances, but no one would help me.” **(Consumer, female carer)**

In 2013 the British Bankers’ Association, the Office of the Public Guardian and the Building Societies Association issued guidelines on managing a bank account for someone else.<sup>17</sup> Stakeholders included the Law Society, Solicitors for the Elderly and the Alzheimer’s Society. Despite this, problems with powers of attorney continue.

- The Office of the Public Guardian has reported that the largest problem is around difficulties in lodging the power of attorney (Office of the Public Guardian, 2014).<sup>18</sup> Lack of awareness amongst staff also created problems.<sup>19</sup>
- Other problem areas include a reduction in the types of banking facilities available, difficulties experienced with the transfer of monies from one bank to another, and staff not interpreting customer-specific tailored instructions contained within the power of attorney.
- The Alzheimer’s Society (2013) reports that 80% of carers said that banks need a better understanding of power of attorney.
- The Financial Ombudsman Service reports mentions problems with the way banks recognise power of attorney (Financial Ombudsman Service 2013/14).<sup>20</sup>
- Which? reported to the FCA difficulties with operation of power of attorney – with some institutions proving extremely uncooperative, demanding the donor attends interviews in branch, insisting original documents are sent by post rather than certified copies, and denying online access to accounts.

<sup>17</sup> [www.bba.org.uk/publication/leaflets/4162-2/](http://www.bba.org.uk/publication/leaflets/4162-2/)

<sup>18</sup> Office of the Public Guardian External Partnerships - Financial Sector Key Themes Report 2014. This report reveals that 44% of complaints received between January to December 2013 were around the practicalities of lodging the deed with a financial institution. This includes issues such as banks using different registration formats, often requiring the attorney/deputy to present several institutions with differing information on a theme, all at the same time. It also included issues such as paperwork being lost by the financial institution, an insistence on seeing the original deed (even when a bone fide office copy is produced) as well as an expectation that the donor travels to branch to identify themselves; along with the attorney/deputy, even where capacity is lost.

<sup>19</sup> The results also show that 18% of complaints received during the same period were regarding awareness. This includes branch staff not being aware of the Mental Capacity Act nor the roles of deputies and attorneys, branch staff not recognising a legal deed, staff not understanding the two types of Power Of Attorney and banks insisting on a Legal Power of Attorney when an Enduring Power of Attorney is presented.

<sup>20</sup> The report says “We have also continued to see disputes during the year about powers of attorney. Typically the complaints involved problems that arose when someone who had been given power of attorney by the account holder had tried to register it with the bank. Other consumers complained to us about problems they had faced when they later tried to access the account – or obtain information – under the power of attorney. We continued to see examples of bank branch staff who had dealt nervously with someone who held power of attorney for their customer – and who could have benefited from more in-depth knowledge about powers of attorney. In some cases we found that bank staff had assumed – wrongly – that granting or registering a power of attorney can be effective only if the ‘donor’ (the consumer who has given someone else power of attorney for them) no longer has mental capacity to deal with their own affairs.” FOS annual review 2013/14 [www.financial-ombudsman.org.uk/publications/ar14/about.html](http://www.financial-ombudsman.org.uk/publications/ar14/about.html)



FCA's research found a range of problems that can lead to significant stress for someone who is already taking on additional responsibilities. For example, inappropriate conversations in public about the situation of the donor (Financial Ombudsman Service, 2014), and ultimately a denial of access to money the individual is legally entitled to.

### Case study

Two brothers became 'joint and several' attorneys for their father's affairs. One son went alone to bank X to register the power of attorney and had no problems but when he tried to register it with bank Y, they refused.

Bank Y insisted that both brothers must attend the bank in person to register the power of attorney. When he explained that it was a 'joint and several' power of attorney and so one brother could act independently, they said that didn't count, and he was refused access to his father's account.

The father is physically frail and has dementia, so he can't get to the bank to close the account himself. The son took the original copy of his 'joint and several', validated, power of attorney document in to the branch along with his passport and his father's account details. But he was told that the head office had set those rules and so he was unable to register his power of attorney alone.

### Case study

A consumer who holds power of attorney for an elderly relative and was trying to open a bank account to pay the proceeds of the sale of her house into. The consumer struggled to provide the proof of identity and address requested by all the high street banks that he approached because his relative is 94, doesn't drive or have a passport, and lives in a residential care home.

## Failure of internal systems and communication

### **A failure to react appropriately and effectively to information given by someone in a vulnerable situation can cause great distress for that individual.**

The FCA's research shows that it can be extremely frustrating and stressful for customers who have disclosed important and sensitive information to a firm to have to repeat that information a number of times. Many customers see a firm as a unified organisation and will assume that information is shared within it. Some consumers feel that they go to great lengths to alert their provider, only to find that the latter later denies knowledge of the information, or blames the individual for telling 'the wrong part of the organisation'.

Many of our bereaved respondents like Pamela, in her 40s, struggled with the process and consequences of informing their bank of the death of a loved one. They were often told that this was 'not the right time', or they were ignored by the relevant departments. Pamela received 'late payment' letters addressed to her deceased husband every month for seven months from her mortgage lender after they had received the death certificate. (***Vulnerability Exposed Report***)

One particularly distressing example of a failure of internal communications is when bereaved consumers have to notify a bank of their loved one's death repeatedly, and have to go through a bureaucratic process with different people. Bereaved relatives also find it distressing when they have disclosed a death to one part of the organisation, but they still receive automated mail outs from other departments. Such examples demonstrate a lack of communication and recording within a firm. Limitations of firms' system results in not being able to record and share information about a customer's needs across the organisation, cause unnecessary distress, worry, wasted time and expense (for example, having to obtain multiple death certificates).

### **Products and services that are designed for super humans rather than real people**

**The research indicates that some financial products that involve long-term commitments are not designed to cope with the fact that people may face adverse circumstances; they do not reflect real life and match consumers' needs. Customers need products that are flexible enough to meet their needs when they face adverse events, and they need access to staff who are sufficiently trained and knowledgeable to offer this flexibility.**

Firms are increasingly seeking to use data to understand potential customers' needs and preferences in order to personalise the services they offer to them. A one-size-fits-all approach in some circumstances such as marketing or product offering is seen as no longer acceptable (Datamonitor, 2012). Whilst this sophisticated approach may be adopted in terms of the way firms promote their products and services, evidence from the research conducted for the FCA indicates that it is less well-developed when customers have a problem or a non-standard requirement. The FCA has also identified that systems and responses from frontline staff are often not flexible enough to deliver good customer service (FCA, 2014a).<sup>21</sup>

Some consumers facing a change in circumstances face problems because processes or products are not flexible enough to adapt to people's needs. Crises and adverse events can affect us all – the perfect customer who never experiences any form of difficulty is a myth rather than reality. Bereavement, job loss, hospital admission, serious illness, and caring for a loved one are common in life, but most consumers don't factor them into their planning. However, firms with their own wealth of data collection and analytics are likely to be in a much better position to

<sup>21</sup> See also FCA (2014) Mortgage lenders' arrears management and forbearance which identified that staff don't feel empowered to make judgements and 'one-size-fits-all' approach "failed to empower agents to tailor solutions to individual customer circumstances".

know the likelihood and impact of such events. They are arguably in a good position to be able to forecast likely needs, and apply terms and conditions in a flexible, tailored manner rather than rigidly.

Vulnerable consumers...need systems, processes services and policies to pay greater attention to consumers' individual circumstances and to be able to flex to consumers going through a difficult situation. In short, they could benefit from being more sophisticated and intelligent so that they reflect, and can respond to, real human beings' circumstances and financial needs.

#### **(Vulnerability Exposed Report)**

Evidence from the research showed that many financial products and systems are not designed to support consumers in vulnerable circumstances. The research revealed some examples in which consumers requested flexibility with the products or services that they are already using to help their financial situation improve (for example, being able to cancel an agreement midway or pay off a loan early). However, the research found that respondents were rarely greeted with systems and frontline staff geared to meet these 'willing' individuals half-way with negotiating options. This caused problems (and greater expense) for all parties later down the line.

#### Case study

A customer awaiting surgery for cancer was expected to make a full recovery, but would miss work for three months as a result. Holding a current account, overdraft and unsecured loan with the same bank and anticipating a problem meeting repayments during this period, the customer contacted the bank to discuss options to manage the temporary loss of income. The bank refused to consider any options as no payments had yet been missed. (Macmillan Cancer Support)

#### Case study

A customer who was diagnosed with terminal lung cancer had a mortgage and a critical illness policy. A claim was made on the policy and the customer decided to repay the outstanding mortgage with the proceeds. The customer subsequently received a letter from the lender to say that an early repayment charge was payable. Despite contact being made by the family to explain the situation, the lender was unwilling to waive the charge. Following Macmillan's intervention, the charge of £2,300 was eventually waived. (Macmillan Cancer Support)

Firms could start by auditing their existing products and practices to see if they meet the needs of people in a range of vulnerable circumstances, and evaluating whether their policies around fair treatment are actually implemented by frontline staff.

### Product and information complexity

**Complex terms and conditions or marketing practices that exploit a lack of understanding or confusion can make anyone vulnerable to detriment, but are of particular concern for people who are already in a vulnerable situation. Consumers need products to be as straightforward as possible with marketing strategies that do not exploit vulnerabilities. Consumers also need clear and understandable information, delivered effectively and at the right time in order to make an informed decision.**

The complex nature of the terms and contractual details of many financial products mean that even consumers with good levels of literacy struggle to understand them, let alone those who struggle with literacy or numeracy. The FCA's research on behavioural economics (FCA 2013 OP1) identifies confusion as one early warning indicator of bias leading to potential consumer mistakes and detriment. If consumers with particular biases are vulnerable to specific product features or sales tactics, it is possible for firms to exploit this to increase profits. This research notes that behavioural biases can affect how consumers react to information.

Research (Consumer Focus, 2011) has found that degree-level education was necessary to understand a high street bank's loan agreement and PhD level in order to understand payment protection insurance details.<sup>22</sup> Other research (Which?, 2012) has criticised the time it would take consumers to read the terms and conditions of standard bank accounts for the main providers.<sup>23</sup>

The FCA's research revealed that a very common characteristic of feeling vulnerable is 'having your mind elsewhere'. When people have to deal with pressing and difficult issues in their life, they have less capacity to dedicate time and energy to navigate complex products and processes, and lengthy or complex information. Consumers with low levels of financial literacy, with mental health issues and learning disabilities are particularly at risk. This is an issue that faces all consumers. Dealing with complex financial information is therefore particularly problematic and increases the risk of detriment.

The FCA's research highlighted a range of issues in relation to confusion:

- Some consumers are confused by communications received from firms, finding it difficult to distinguish between marketing material, changes to terms, and important letters that require action. The research found that where information is not presented in a simple manner, consumers can struggle to know if action needs to be taken – especially if they

22 Consumer Focus response to HM Treasury on the Draft Financial Services Bill, September 2011: "Compounding this lack of basic understanding is the complex nature of many financial product contracts despite years of effort by regulators to improve disclosure. Three examples: the consumer documentation from a major high street bank for a personal loan requires degree level education to understand; the standard text describing a PPI product requires PhD level education to comprehend; and it takes 55 minutes to read a standard consumer credit agreement, let alone understand it. It would therefore be unreasonable to argue that where a consumer has failed to fully read through and fully understand a complete set of terms and conditions they should automatically receive a lower level of protection. Problems of this kind were for example behind the recent Payment Protection Insurance scandal."

23 "Only one in ten Which? members surveyed told us they had read their bank's T&Cs thoroughly when they opened their account, which is unsurprising when our research suggests it would typically take between 25 minutes and over an hour and a half to read a set of terms and conditions from the ten major banks".

are under stress and struggling to cope. Other respondents struggled with the length and layout of documents, and were often confused when sent vast amounts of information about 'changes to your account'. This can lead some people to ignore or miss key messages.

- A change of name or style of products that were previously familiar can cause confusion. Some respondents were unsure whether they had a credit card or debit card on a bank account. In some cases, consumers were confused with new styled product names that did not relate to their existing understanding of the market – for example, not understanding the features of different accounts and lack of familiarity with market innovations such as packaged bank accounts, resulting in misunderstandings about what products they have or are applying for.
- Some consumers did not fully understand the nature of insurance products that they may have taken out in the immediate aftermath of a crisis such as a diagnosis of long-term illness. This is particularly the case with pre-existing conditions in health insurance. This may lead to consumers buying products that are unsuitable for their needs.

### Case study

Sam, in his 50s, provides an example of a failure to understand the terms and conditions of a policy. Sam, who suffers from diabetes, had taken out health insurance after his diagnosis as a precautionary measure. However he was entirely in the dark as to what the implications of having a pre-existing condition would have for the validity and scope of the insurance policy. (Rowe et al., 2015)

- When faced with difficult circumstances such as a diagnosis of illness, some consumers find that products they own that they thought would offer protection do not actually cover their situation (for example, critical illness cover that doesn't cover their diagnosis, or what they thought was life insurance is in fact health insurance). Complexity at the time of purchase therefore crystallises as detriment at a time of need, making the situation worse.

### Case study

A couple of bereaved respondents, like Sheila, in her 40s, were surprised to discover that what they (and the deceased) had believed to be a life insurance policy was actually a health insurance policy. In this instance, the complexity of the financial product, its long-term nature, and possibly an inappropriate sales process meant that the problem emerged at a time of difficulty. (Rowe et al., 2015)

Products that are built around behavioural characteristics which apply in particular to certain potentially vulnerable groups of consumers, are targeted at a demographic that may be susceptible to vulnerability, or which rely on a lack of understanding, are potentially exploitative of vulnerable consumers. In one example, the FCA recently fined Stonebridge International Insurance Limited for selling accident insurance products targeted at low and middle income

customers without university degrees or professional qualifications, without providing clear, fair and balanced information (see p.75 for more details).

Customers need to clearly understand the nature of the product they are buying, including key exclusions and restrictions. There is a particular need for a duty of care in relation to consumers who are identified as less sophisticated in terms of ability to understand and process information. Firms have a responsibility to ensure that customers have an appropriate understanding of the key exclusions of their policy.

### **Wider FCA work on consumer communications**

This paper and other FCA-commissioned research, thematic reviews and market studies have identified specific examples from across the various sectors that the FCA regulates, of poorly designed product or service information that does not adequately inform, engage or empower consumers. Firms regularly argue that FCA rules prevent them from producing simpler information or communicating it in more innovative ways. The FCA wants to work collaboratively with industry to drive improvements.

The FCA will soon publish a Discussion Paper exploring how the FCA and the industry can work together to deliver information to consumers about the products or services they have bought or are thinking of buying in smarter and more effective ways. The paper will draw on insights from behavioural economics and innovative examples from within and beyond UK financial services to encourage firms (and their advisers) to consider how to make information as effective possible. The paper will also discuss areas where the FCA sees opportunities for improvement and invites stakeholders to share their research and ideas for improving the effectiveness and delivery of information to consumers about products or services.

To drive progress, the FCA is also inviting firms to work with it to test new ideas or techniques that could better support customer understanding of financial products and services and improve engagement. A large amount of information is currently provided to consumers in paper format. So, the FCA is particularly interested in ideas that take advantage of technological developments that are accessible and helpful for the intended customers. Where an idea has strong potential for consumer outcomes to be improved, the FCA may consider waiving or modifying certain disclosure rules, if appropriate, to allow testing. Firms that would like to talk to the FCA about testing ideas can find more information here: [www.fca.org.uk/firms/firm-types/project-innovate/test-ideas](http://www.fca.org.uk/firms/firm-types/project-innovate/test-ideas).

### **Access: interfaces and affordable products**

**People can become vulnerable if the range of options by which they can access their financial services, or communicate with a provider, does not meet their needs. Vulnerability can also be caused if people cannot find products available on the market at a price they can afford, as this can expose them to risks.**

#### **Interfaces**

Access can mean issues around how people communicate or interact with products and services and how they deal with interfaces. Physical access to branches, the ability to use ATMs and card readers, the ability to fulfil security procedures, the ability to use telephone menu systems and online options would come under this category.



Much work has been done by banks in particular in recent years to make services such as branches and ATMs accessible to customers with physical disabilities. However, access covers more than physical dimensions. Cognitive and learning disabilities are a less developed area. Chip and signature cards do provide an alternative to remembering a PIN, although research (Dosh 2014, Scope 2013) shows awareness amongst target groups is not high.<sup>24</sup> Information in Easy Read formats, longer appointment times, offering follow-up meetings, and providing a quiet place where information can be provided and explained, are some options that firms could offer. Alternative security measures for people who cannot remember passwords is another area where more work could be done. Biometric alternatives such as vein recognition do exist in some areas of the financial services market and it could be very beneficial to some consumers if this became more widely used.<sup>25</sup>

### Digital exclusion

Digital exclusion is a particular concern. As financial services are increasingly accessed online, and the Government has an explicit strategy to encourage online access to services (Government Digital Strategy, 2013) and payment of benefits into bank accounts, the potential problems faced by those without online access are increasing. The FCA has recognised this risk in its thematic review of mobile payments (FCA, 2014 TR14/15).

While there are great benefits to online access for some potentially vulnerable consumers and it can be a force for greater inclusion, those benefits are not evenly spread. Some older customers may view technology and automation with distrust or fear (Ellison, Whyley and Williams, 2012, Age UK 2011). Ofcom research shows that fewer than half of adults over 65 access the internet, although that number is rising (Ofcom, 2014).<sup>26</sup> Older age and disability correlate to a lack of internet access according to the Office for National Statistics (2014), with almost a third of adults with a disability not having internet access. Lack of access to information, comparisons, communication options, deals, and products and services can all result from digital exclusion.

Branch closures, any reduction in access to a full range of services for some such as basic bank account holders, and cutbacks in paper statements, can make the situation particularly problematic. Some vulnerable consumers in the FCA's research found the reduction in face-to-face contact and the increasing mechanisation of services alienating.



“Banks should... try not to do everything on the phone. They should do things face to face. And when they're talking to you, instead of turning a computer to you and telling you what's on that - I don't understand it. A lot of my friends say they dread going in. It'd be much better if we could speak to a person. They should realise we're not in their world, we're not as clever as they are... we weren't brought up in that generation.”

**(Consumer, elderly)**

<sup>24</sup> Dosh (2014) quotes research that 9% of people with learning disabilities not aware of Chip and PIN. Scope (2013) report “Four in ten people (43%) say they know a lot or a fair amount about chip and signature cards, and a further 26% say they know a little”.

<sup>25</sup> See for example [www.theguardian.com/business/2014/sep/05/barclays-introduce-finger-vein-id-readers](http://www.theguardian.com/business/2014/sep/05/barclays-introduce-finger-vein-id-readers) accessed 13.10.14

<sup>26</sup> The proportion of people aged over 65 that are accessing the web reached 42% in 2013, up nine percentage points from 33% in 2012, which is a 27% increase over the year. One reason for this is an increase in the use of tablet computers by older people aged 65-74 to go online, up from 5% in 2012 to 17% in 2013. <http://consumers.ofcom.org.uk/news/tablets-help-drive-increase-in-older-people-going-online/> Accessed 24.9.14



“You go into a bank and the first thing they do is turn the computer to you...as soon as I see that computer I dread it.” **(Consumer, elderly)**

A common problem for many across the sample (including – but not limited to – older people and consumers with fluctuating capacity) was the challenge of remembering passwords and logins – and the trauma associated with being locked out of accounts when they had forgotten or mis-entered their details. In many instances, vulnerable individuals rely on writing down their information – they know this could get them into trouble with their provider, but it is the only practical solution for their needs. This problem is particularly acute for those with the greatest support needs or in more fluctuating circumstances, where writing account details and passcodes down enables others to effectively deal with their finances on their behalf (this is especially important where there are multiple carers involved who may all need to have access at some point).

#### **Suitable and affordable products**

Access can also mean whether people can obtain the financial services they need. Particular problems can be faced by people with non-mainstream circumstances who do not meet pre-determined criteria. An automated or overly-prescriptive approach can mean that people with ‘non-standard’ situations such as forms of identification, impaired or non-standard credit history, medical history, having a criminal conviction, and being over a certain age amongst other examples, may be locked or priced out of mainstream products. Upper age limits have been criticised by Age UK<sup>27</sup> and Which?<sup>28</sup> Scope has questioned the validity of approaches to disability and insurance (Scope, 2013). Many people in these ‘non-standard’ situations are unable to use price comparison websites and therefore unable to access competitive deals. This can exacerbate vulnerability, putting people at a double disadvantage, and increase the risk of people turning to poor value products. Lack of affordable health or travel insurance due to pre-existing medical conditions would come under this category, as would lack of affordable credit due to non-standard characteristics. For example, many armed forces personnel face challenges in accessing credit products when returning from overseas postings, due to low credit scores as a result of being posted abroad for several years. Automated credit checks within some firms fail to take into account the reasons behind a lack of transaction history, or absence from the electoral roll. This means many armed forces personnel are being denied access to credit products, through no fault of their own financial dealings.

<sup>27</sup> See for example, [www.ageuk.org.uk/latest-press/archive/older-people-still-facing-discrimination-in-car-insurance/](http://www.ageuk.org.uk/latest-press/archive/older-people-still-facing-discrimination-in-car-insurance/) accessed 29.10.14.

<sup>28</sup> The vast majority of travel insurers impose an upper age limit on travel insurance, meaning many people are unable to find adequate cover for while they are away. Which? Money found that 86% of policies had a maximum age limit, while only 29% of policy providers would cover the over-80s. [www.which.co.uk/news/2011/05/older-consumers-face-travel-insurance-problems-254174/](http://www.which.co.uk/news/2011/05/older-consumers-face-travel-insurance-problems-254174/) accessed 13.10.14

## Case study

Financial advocates for people with learning difficulties have reported on problems they face. Proof of identity documents such as passport, driving licence or child benefit book are often not held by people with a learning disability and this means they may have to apply for a passport to achieve this proof. They do however often have other forms of documentation related to benefits they receive, or health and social care support services they access.

People with learning disabilities often have little or no credit history as they may have never had any loans, mortgages or credit cards. (Dosh financial advocacy)



“I’ve not got any ID, I’ve not got a passport, I’m not a driver, so [switching banks] would be a task for me.” **(Consumer with an illness)**

### **Outdated assumptions and inaccurate underwriting criteria**

The FCA’s research found that assumptions about the circumstances of vulnerable consumers cause problems in relation to a range of credit, insurance and mortgage products. The research reported problems with excessive labelling, stereotyping about certain problems or conditions, and not keeping up with advances- for example, in medical treatments. The research also found that in some instances, sales are being refused to individuals identified as vulnerable, often with limited justification or any sense of what the individual would need to do to be able to qualify in future (‘the computer says no and there is nothing more you can do’).

Consumers with long-term health conditions, and older people, sometimes find that the response they receive from financial service providers does not take full account of their situation. Firms are only allowed to differentiate on the grounds of a disability or long-term condition if in doing so they are relying on reliable evidence from a reasonable source. Relying on assumptions and generalisations could constitute discrimination. Some of the consumer organisations the FCA has liaised with as part of its work to address consumer vulnerability have questioned whether insurance calculations are relying on accurate risk profiling for some groups of people.

## Case study

Laura, in her 50s, had breast cancer in 2004. That year she had a mastectomy which involved removing one breast as a preventative measure. Since then, she has been given the all-clear and continues to take preventative medication. For a recent holiday to Florida, Laura's travel insurance cost her £1,800, with an excess of £5,000. She was informed that this was because the medication she was taking was for cancer. She feels it is unfair that, despite having the all-clear from the medical profession, she is penalised, whereas her husband, who has never had any checks, has no trouble getting affordable insurance. (Rowe et al., 2015)

## Case study

The wife of a man with a criminal conviction reported difficulties in obtaining house insurance. "I now had to look for insurance. I was getting refused from everybody. Nobody seemed willing to look at our circumstances. Why should I be punished just because my partner has a conviction? Luckily, I managed to find insurance with the help of UNLOCK. With hindsight, things could have been a lot worse. Three months into this new policy, I had to make a substantial claim against my property due to damage caused by subsidence. Fortunately, my insurance was able to cover me. However, if it hadn't been for the help of UNLOCK, I would be left to foot the bill – all because my husband made a silly mistake.

Insurers should look at each individual's circumstances before tarnishing everybody with the same brush. I accept that they may not want to insure somebody with a record of fraud, but at the moment they just refuse to cover anybody." (UNLOCK)

## The challenges created by automation and call centres

**A heavy reliance on telephone contact can erect barriers to good interactions with customers. Some customers may find menu-driven services impossible to navigate. When consumers contact call centres, they need to talk to frontline staff who are appropriately trained to pick up on signs of potential vulnerability, and to be enabled to have a quality rather than process-driven conversation.**

Most financial services are moving towards remote methods of communication, both online and via telephone. If designed in an inclusive way, these methods can be empowering for some consumers in vulnerable circumstances, enabling them to retain independence and manage their finances without third party assistance. However, they can also present barriers to some consumers.



“I phoned the credit card... and I tried to speak to them on the phone. You can’t speak to them on the phone. You can do it all by a robot but you can’t speak to a live human being.”

**(Consumer, elderly)**

### Navigating systems

*The FCA’s research found that the vast majority of problems experienced by consumers related to poor customer interaction or systems that fail to flex to consumers’ needs, thereby making a difficult situation worse for people.*

Call centres are the first point of contact for many consumers needing to interact with their financial services provider. Call centres, call routing systems and security procedures can introduce a range of barriers for some consumers in vulnerable circumstances. For example, people with cognitive impairments may find passwords, dates and numbers difficult to remember. People with dexterity or visual impairments may find it difficult to use keypads to follow instructions. People with speech impairments may find voice recognition systems difficult.



“They go, ‘we’ve got a very high demand for calls at the moment, it will be at least 20 minutes’ and then I just think to myself, ‘I’m not sure I have that much life left to live’ and give up.”

**(Consumer, elderly)**


As our society ages, the number of people experiencing these barriers is likely to grow. Research (George and Lennard, 2008) has highlighted the difficulties presented by automated call centres for people under stress or in vulnerable circumstances, exacerbated by the need to remember and key in numbers and passwords. Research amongst disability organisations shows that transparency (around call charges, processes and service standards); choice (around methods of interaction); and flexibility (understanding of impairments, requirements and needs) are common areas for improvement. Contact with a call centre or call routing can have a major impact on a consumer’s opinion of a brand, and there is advice available on what works well and how to develop inclusive systems. Companies have legal obligations under the Equality Act 2010 to ensure they do not discriminate against disabled people.<sup>29</sup> This means firms need to consider the potential barriers created by call centres and call routing systems, and make reasonable adjustments if necessary. These might include a range of options for contact by phone and alternatives to phone-based systems.<sup>30</sup>

<sup>29</sup> See [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents) accessed 29.10.14.

<sup>30</sup> See [www.equalityhumanrights.com/sites/default/files/uploads/documents/Old\\_Guidance/PDFS/Business/ea\\_as\\_a\\_service\\_provider.pdf](http://www.equalityhumanrights.com/sites/default/files/uploads/documents/Old_Guidance/PDFS/Business/ea_as_a_service_provider.pdf) Plus Employers’ Forum on Disability: Your call is important to us includes more information on this area and best practice recommendations [http://pelorous.totallyplc.com/public/cms/261/564/62/192/Your%20Call%20is%20Important%20To%20Us%20\\_generic\\_2010.pdf?realName=HMw4c2.pdf](http://pelorous.totallyplc.com/public/cms/261/564/62/192/Your%20Call%20is%20Important%20To%20Us%20_generic_2010.pdf?realName=HMw4c2.pdf) accessed 29.10.14.

Reviewing all contact points for customers to ensure that a range of options is always available and customers are made aware of these options at the point of need (for example, contact centres, email, chat or instant messaging, text and post) is one way that firms could evaluate their performance in this area. This audit could include engagement with a wide range of older and disabled customers to ensure services are inclusively designed.

### Having an effective conversation

 “She seemed to really understand my situation. If there’s something I didn’t quite get, she would read it over again. She explained things really well, great customer service. I think when you get that it makes a real difference to your experience.”

### (Consumer with low basic skills)

#### Case study

Asha had a stroke and treatment for cancer that significantly affected her ability to carry out normal day-to-day tasks. Her vision was affected and she found it difficult to speak. She was racking up charges for late and missed payments during her treatment. When she tried to phone the bank she found that customer advisers kept telling her to speak up and speak more clearly, and didn’t give her the chance to explain that she was unwell and that speaking was difficult for her. They frequently hung up on her as she was trying to explain. (Rowe et al., 2015)

In the FCA’s research, interviewees talked of various ways in which they have to spend extra time or money in trying to reach a satisfactory outcome. This often means making repeated phone calls, having to escalate what should be normal transactions to manager level, or travelling further to find a branch with more helpful or sympathetic staff. The FCA’s research demonstrated the powerful difference that a helpful interaction with a member of staff can make.

Even when the consumer gets to talk to a person, telephone contact presents obvious challenges when trying to pick up on signs of potential vulnerability. On the one hand the call handler has no access to body language or facial expressions. All they have to go on is what is expressed verbally and signs such as pauses or breathing. On the other hand, rigid processes and scripts can mitigate against open conversations where vulnerability may be noted. Processes that limit flexibility for staff to offer a tailored approach, and time pressure on agents leading to poor recording of customer information were both singled out for criticism in the FCA’s work on mortgage forbearance (FCA 2014 TR14/3).<sup>31</sup> Other research (FSA 2012)

<sup>31</sup> FCA TR14/3 *Mortgage lenders’ arrears management and forbearance* February 2014 found that insufficient recording of information “appeared to be due to pressure on agents to move on to the next call before they were able to complete notes of typically complicated and in-depth discussions” p12 and ... process-driven approaches allowed little flexibility for collections agents to apply judgement or tailor actions to individual customer circumstances.



has criticised processes that obfuscate, and call centres that can't deviate from the script/are too rigid with their processes. Some call centre staff may be relatively inexperienced, therefore possessing less developed skills in listening and communication. The Money Advice Trust and Royal College of Psychiatrists have developed useful tools for helping both frontline staff and specialist teams handle calls from vulnerable customers (see TEXAS and IDEA in Appendix 4).

### Referral to specialist teams

The response of frontline staff can make a huge difference to someone experiencing difficulty or stress, yet FCA's research indicates that inconsistency and negative experiences are very common. Many firms, particularly in the credit sector but increasingly in other sectors, now have specialist teams who are trained and experienced at interacting with vulnerable consumers and who have authority to implement more tailored outcomes. However, if frontline staff do not engage with customers in sufficient depth to know that the customer would benefit from the specialist team, that opportunity will be missed. Therefore, we believe consumers in vulnerable circumstances need consistently to encounter frontline staff trained to recognise triggers and to understand when to hand over to a specialist staff member or team.

Experts from the advice sector interviewed for this research echoed concerns over call handlers and some had come up with strategies to help:



“We call it call centre bingo! We often advise people to just call back straight away if they don't get the response they are looking for from one person. More often than not, if you give it a few tries, you get someone who is a bit more understanding.”

**(Expert from a consumer organisation)**

### Consumer time

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The amount of time that it takes to deal with a problem is another potential barrier that affects all consumers but can impact particularly harshly on those in vulnerable circumstances. People dealing with a difficult situation, or with overlapping vulnerabilities, may well have less time to devote to sorting out problems than usual. Many people may give up if the process is too time-consuming.



“It’s always on you. They don’t seem to care about the time it takes to deal with problems. You speak to each person and they are all very nice and apologetic which is all well and good, but if it’s taken you 10 hours to get something sorted then it’s 10 hours that you can’t work, 10 hours that you can’t provide care, 10 hours that you can’t do the other jobs you need to do to ensure that all the things you are trying to manage don’t fall over.”

**(Consumer, a carer in her 60s)**

In the FCA’s research many respondents mentioned time wasted trying to communicate with firms and finding a way to interact that suited their situation.

***Consumer organisations have asked the FCA why, when the regulator places a value on time for firms (as a resource consideration), it does not seem to as readily consider this factor for consumers?***

The research results point towards a clear need for consumers to spend their time wisely when dealing with firms. In some cases, being vulnerable can make time particularly precious, and wasted time spent sorting out problems can be very stressful and costly.

### **Difficulties with temporary delegation**

**If crisis strikes and people are temporarily unable to manage their finances, they need to delegate control. Others may need to delegate specific tasks on a longer term basis to enable family members or carers to shop or withdraw cash on their behalf, for example if they are housebound. Research has demonstrated that financial services as they are currently designed often do not meet these needs effectively. Informal workarounds expose people to increased risk.**

People need flexibility to enable them to manage their finances when crisis strikes. This may mean that family members or carers need to get involved in their finances. Some banks do offer a range of options such as third party mandates. Here, a customer can authorise someone else to operate their account on their behalf for example while they are in hospital, and temporary authorisation from the customer should enable a carer to speak on their behalf. Systems such as third party mandates, which have to be set up in advance, do not always provide a solution at a time of sudden crisis, nor do they meet the needs of all consumers wanting to delegate. It is up to firms to develop processes that balance the need to safeguard the customer in a proportionate way with the flexibility to deal with the occasional need for temporary delegation.

The Payments Council identified the inability to delegate as a key failing in its analysis of the needs of older users of payment services (The Payments Council, 2012). As a result, informal

coping strategies such as sharing PIN numbers and other access details in order to access cash or make payment was found to be widespread amongst elderly people and those living with a disability. More extended sharing, for example adult children keeping an older parent's credit or debit card to shop for them, was also common, as was sharing of access details for internet banking. While this sort of informal delegation did not necessarily raise concerns amongst family members, it was potentially problematic where carers were concerned, particularly occasional carers. In this situation both the carer and the account holder are potentially vulnerable. The legal and consumer protection implications of these practices were a concern to some.

The inability to delegate payment services in a limited manner, safely or with privacy is a critical service failing, particularly for those living alone or reliant on carers.

**(Ellison, Whyley and Williams, 2012)**

Better systems for temporary delegation are identified as a key need for people with a cancer diagnosis. Research (Demos, 2013) has identified that it can be very difficult for relatives or friends of a cancer patient to manage an account for them, leading to overdrafts and consequent charges. Patients themselves can find it difficult to access accounts from hospital, so the need for delegation is vital.

Even when a formal arrangement such as a third party mandate is in place, such an arrangement only works in practice if frontline staff are aware of its existence and rules of operation. This is an area where an unhelpful or inflexible approach from the firm can make an already stressful situation even more difficult. Macmillan Cancer Support report a range of problems with the operation of mandates in practice, including difficulty getting banks to acknowledge and register them, and inconsistency in how banks treat them (Macmillan Cancer Support, personal communication with FCA, 21.7.2014).

### Case study

A customer complained to the FCA following her experience with her bank. Being hard of hearing, and wanting to apply to extend her mortgage, she asked her bank if her nephew could listen in on the call, to help her to ensure she understood what was being said, but not make any decisions on her behalf. The bank refused, citing data protection reasons, unless the nephew had power of attorney. Other banks do have policies where they will allow accompaniment for some customers.

## Case study

A bank customer was hospitalised in the final stages of terminal illness, unconscious and unable to speak to the bank about managing direct debits. A couple of direct debit payments had been missed, charges applied and the customer's overdraft was cancelled. This resulted in more payments being declined and further charges of over £300 in one month. The bank declined two insurance policy premium payments which almost resulted in the cancellation of the policy and loss of £100,000 life cover. The bank would not deal with the customer's relative to try and manage the situation and the uncomfortable 'resolution' was to transfer the customer's direct debit payments to another bank account that was still jointly held with an ex-spouse. (Macmillan Cancer Support)

### Inconsistent approach to temporary forbearance

**Flexible treatment of customers who may be struggling, or who anticipate struggling, to meet their financial commitments on a temporary basis, can have beneficial outcomes for both the customer and the firm. Customers need their individual circumstances to be taken into account when assessing potential solutions.**



"It was the incessant calling, the harassment. The language barrier on the phone. There was no forbearance; they demanded money you couldn't afford at that moment in time. The bank, they just wouldn't bend. It was actually better when they went to the debt collectors, they were much better and the harassment stopped."

#### (Consumer in his 50s who had lost his job)

FCA rules regarding mortgage arrears, payment shortfalls and repossessions are detailed in MCOB 13.<sup>32</sup> These rules set out how the FCA expects firms to treat customers experiencing financial difficulty, including a range of forbearance options that must be considered alongside the customer's individual circumstances.

As discussed in Chapter 6, constructive intervention has been shown to lead to better outcomes for customers and firms in terms of the eventual payment of debt, so it is in firms' interests to be flexible in this area.

However, evidence from organisations representing consumers, and the FCA's research (see Chapter 3), indicates that firms are not always responding flexibly to customers' circumstances.

<sup>32</sup> See: <http://fshandbook.info/FS/html/FCA/MCOB/13> accessed 4th November 2014

“Customers suffering difficulties in making mortgage repayments or whose accounts are in arrears are frequently vulnerable as a result of financial problems and may be suffering from associated difficulties such as unemployment, relationship breakdown, bereavement or illness. It is important that firms proactively engage with these customers to ascertain the cause of their difficulties and their future financial prospects and to identify swiftly payment solutions appropriate to customers’ individual circumstances and which are fair. To do this effectively, staff dealing with customers need to be adequately trained, sufficiently skilled and provided with appropriate guidance” **(FCA 2014, Yorkshire Building Society Final Notice)**

The FCA expects firms to engage sensitively with borrowers who have specific needs or circumstances that are likely to limit their ability to engage effectively.<sup>33</sup> The FCA’s Thematic Review on Mortgage lenders’ arrears management and forbearance (FCA 2014 TR14/3) identified that, although firms’ arrears management has improved in recent years, there was a range of areas where firms could do more to produce consistently good outcomes for customers. For instance, customers with circumstances that require particular care were not consistently identified or appropriately probed by front-line staff in some firms, even when they were explicitly referred to by borrowers. And although some firms have one or various specialist teams to assist vulnerable customers, referrals to those teams were sometimes missed or made late in the process.

Whilst this review focused on mortgage arrears, there is likely to be a strong read-across to other forms of debt and forbearance.

Some people seeking help before they get into difficulties, but who anticipate problems, are told that the firm cannot engage with them until they are actually in arrears. As outlined in the FCA’s recent thematic review, identifying borrowers experiencing financial stress at an early stage, engaging appropriately with them and tailoring solutions to their individual personal and financial circumstances is likely to result in better outcomes.

From our liaison with industry representatives, we also have some evidence to suggest that firms are citing the FCA’s recently revised affordability rules as a barrier to offering forbearance. It should be noted that an affordability assessment is not required where a customer is seeking a variation to their mortgage for forbearance purposes (MCOB 11.6.3R(3)).

<sup>33</sup> Financial Conduct Authority (2014) *TR14/3 Mortgage lenders’ arrears management and forbearance*.

## Case study

When Adnan's mother died, he travelled home to Turkey for a month to organise her funeral and other parts of her life. The time he needed to spend off work for this worried Adnan – and he was especially worried about this mortgage payments. He called his bank to explain the situation and asked if it would be possible to have a four month 'holiday' from his payments. After valuing the house, Adnan and his wife were told they were missing £1,000 in equity in the house to be granted a holiday. Instead, they were offered two months on a reduced payment schedule. Since this time, Adnan and his wife have seen their debt levels rise from £1,000 on credit cards to £13,000 in order to make bill and mortgage payments, and cover expenses related to the death. The equity position, according to Adnan, was a major reason for this increase in debt. (Rowe et al., 2015)

## Case study

A mortgage customer was diagnosed with breast cancer and her husband gave up work to look after her. They requested a short payment holiday, or conversion to interest only for a short period to help them to manage their money. Their original mortgage product was a tracker (0.75% above base). They were advised that if they wished to convert to interest only, even temporarily, they would have to submit a new mortgage application which would be subject to standard affordability criteria. They were told that they would not meet the affordability criteria due to their changed employment status. Staff demonstrated little empathy or understanding. After a protracted and difficult negotiation (the lender refused to accept a letter of authority), they were offered an interest-only period of six months at the original interest rate. This occurred after weeks of negotiation by Macmillan's Financial Guidance Service and the need for internal escalation. (Macmillan Cancer Support)

### Financial abuse/fraud policies inhibit empowerment

**It is clear from the FCA's research and information provided by firms that in some cases procedures put in place by firms to safeguard customers from abuse can get in the way of enabling legitimate access in the interest of helping some customers in vulnerable circumstances. Clearer procedures are needed on how the two can be aligned, and how staff can take proactive action if they suspect abuse.**

There is a clear relationship between enabling potentially vulnerable consumers or those who need to act on their behalf, and safeguarding those who may be vulnerable to abuse or exploitation. It became clear from some of the responses to the FCA's request for information from firms that some smaller firms' work on vulnerability focuses solely on protecting vulnerable customers from financial abuse.



### **Safeguarding and enabling need to be balanced**

To have a rounded vulnerability strategy, it is important that policies around safeguarding from financial abuse, and enabling assistance for some customers in vulnerable circumstances, are joined up and consistent. While protection from abuse is critical, it can sometimes create a tension with allowing legitimate access by third parties. The FCA's research found that many people were frustrated with a safeguarding approach that prevented them from accessing and using services. This was particularly likely to occur for people in caring roles, and those with long-term illnesses. A failure to recognise deputyship, power of attorney or third party mandates was often the root of the problem. Some forms of accompaniment (by a relative or friend), or third party action such as authorisation to act if a person is temporarily incapacitated, are completely legitimate, and may be essential. It can make a stressful situation even worse if an over-zealous approach forms a barrier to this sort of access. Evidence gathered for this paper indicates that training around fraud and abuse could be balanced by ensuring good awareness about power of attorney and third party mandates.

Many individuals expressed particular frustration with over-zealous safeguarding...policies that effectively prevented them from accessing and using services and products. This point was echoed by experts who highlighted the challenges for firms in balancing 'enabling' and 'empowering' vulnerable consumers with 'safeguarding'... many firms appear to lack the flexibility of process to enable and empower individuals – and in many cases their families and carers – to manage their affairs in a way that best suits them. Many of the frustrations revealed by the research are examples where this balance is felt to be misjudged or where measures in place to protect consumers did not actually end up serving their best interests. (*Vulnerability Exposed Report*)

### **Signs of potential abuse could be proactively identified**

Of course identifying customers who may be at risk of financial exploitation and abuse is a vital part of a vulnerability strategy. Evidence shows that older consumers are particularly susceptible as targets for investment fraud and other forms of financial crime (Graham 2014). Firms may have a range of tactics at their disposal such as spotting unusual patterns of spending behaviour on the part of consumers who have been 'flagged' as potentially vulnerable, unusual account activity, or picking up on clues during phone calls that the caller is uncomfortable or under stress. Consumers are likely to benefit from clear procedures so that staff know how to deal with suspicions, and maintain excellent contacts for referral on to fraud agencies in this area.



“As it turns out foolishly now, I took that money out of my pension pot and passed it to this other man, who then proceeded to invest it in these various schemes... everything that I had invested was in trouble and there was no sign of me seeing any money for the foreseeable future... two or three of the schemes which I had thought I had lost my money in, have been recouped by the Financial Conduct Authority. I think the man has been taken to task and fined and struck off [the Financial Services Register].” **(Consumer, elderly)**

#### Inappropriate selling and inappropriate sales

**Customers who may be stressed, in a time of crisis, or may just have disclosed a vulnerability to a firm, need to know that firms will not use this as a chance to make an opportunistic sale. If disclosure is to be encouraged, it is particularly important that the information consumers provide is not abused.**

#### Case study

Sarah, who has dyslexia, feels overwhelmed by the written communications she receives from her bank. She therefore finds it difficult to stay on top of her finances. When she was offered the chance to have an ‘accounts review’ she was excited at the prospect of being able to talk everything through face to face. However, when she arrived at the bank, the member of staff spent the whole interview trying to sell her various insurance products. (Rowe et al., 2015)

Consumers may be exploited by unscrupulous sales agents who see the vulnerability as an opportunity for a sale. In the FCA’s research, we came across a woman who tried to tell her financial services provider that she had been diagnosed with cancer, only to find that they sold her health insurance.

The research also found that consumers in vulnerable circumstances feel susceptible to sales tactics and what they describe as ‘exploitative’ behaviour by financial services firms. This was experienced throughout the customer journey, but included many individuals who experienced it at the point of disclosure of their difficult circumstances. For example, the research team heard several stories of frontline staff suggesting an individual bought an additional insurance product when they were attempting to disclose a problem – one such case even occurring while the individual was calling from hospital after an unexpected cancer diagnosis. This reflects the


sales culture / focus of some firms, where an attempt to disclose vulnerability is taken as a sales opportunity.

The FCA's research found that some vulnerable consumers need time to digest and reflect on what they have been sold or read through. Some may have an enhanced need to trust the firm as their difficult situation may make it impossible to spend time or energy self-researching or questioning. Some respondents felt susceptible to heavily targeted sales tactics. Some firms told the FCA they do build 'reflection time' into their approach with vulnerable consumers, an approach that would allow people to change their mind.

### Case study

Hope was diagnosed with leukaemia two years ago. When she phoned her mortgage provider to tell them that she had been diagnosed, they quickly turned from an empathetic tone to talk about 'the death stuff', asking her straight out if the condition was terminal. In the same phone call, from her hospital bed, the provider added home insurance and health insurance to her monthly mortgage payment. Hope did not request this insurance, but the provider told her it was 'too risky' not to have it. Hope has never seen or signed any paperwork about this insurance and is still unclear about the terms and conditions. She doesn't feel she has the energy to continue to chase this. (Rowe et al., 2015)

Some consumers had taken out a product at a time of vulnerability when they were not thinking clearly, and then found it difficult to rectify:

 "I signed it (a credit card with cash advance) because I just thought it felt like a good deal in the moment. A few days later I couldn't believe what I had done and tried to give it back. I hadn't spent the money, I just wanted to give it back. But they wouldn't have it, they just kept saying "no you can't give the money back". That was the start of a whole load of problems, because obviously I then spent the money and you know how it goes."  
**(Consumer in his 50s with a chronic illness).**

## Case study

Richard was made redundant in his 60s and struggled to manage month to month. He wanted to avoid the embarrassment of having his card declined in public so made an appointment at the bank to ask about an overdraft. The manager not only tried to encourage him to arrange a higher overdraft facility than he'd requested, but he then went on to attempt to sell him home, travel and car insurance. A week later Richard received a call to say the overdraft request had been declined. (Rowe et al., 2015)

A frequent consumer complaint related to products taken out in good faith before the onset of vulnerability – which at a later date turned out to be unsuitable in some way for the situation they found themselves in. Consumers often feel that the details of exclusions and exceptions are not properly explained.

Behavioural economics also plays a part here. The FCA's paper on behavioural economics (FCA 2013 OP1) outlined a range of biases that may influence consumer decisions. A number of these, such as persuasion (e.g. liking the adviser), framing (e.g. overestimating the value because a product has been presented in a particularly attractive way that highlights benefits and under-emphasises charges), and over-confidence about good events occurring, may have a bearing on these sorts of purchase decisions. The paper outlines that biased consumers may disregard or misinterpret the available information, which may play a part in this scenario. Such biases point to a heightened emphasis on clear explanation by the firm.

# Chapter 5

## Vulnerability disclosure and data protection issues<sup>34</sup>

### Summary

- A range of issues relating to disclosure of information can act as barriers to good outcomes.
- Consumers may be reluctant to disclose if they do not trust what firms will do with their information.
- Evidence indicates that firms do not always handle disclosures in line with data protection rules and principles.
- Clear expert guidance does exist; however, if staff are unaware or untrained, 'data protection' may be incorrectly used as a reason for not recording important information.

Identifying potential vulnerability is key to interacting with consumers appropriately. Firms can only deal with customers in vulnerable circumstances if they are aware of their needs. However, there may be a range of reasons why some people may be reluctant to disclose personal or sensitive information. Research indicates that firms do not always encourage disclosure or react to it appropriately (Royal College of Psychiatrists and Money Advice Trust, 2010 and 2014). This is not an easy area, and some myths exist that are not helpful. There is guidance available to firms, in particular that published by The Money Advice Liaison Group and Royal College of Psychiatrists. The TEXAS drill is also a useful tool (see Appendix 4).

Vulnerability is often never fully disclosed. Instead, we catch fleeting glimpses. These provide an opportunity to take the initiative to probe further, understand the situation, and offer the customer support. **(Fitch, 2014).**

### Barriers to disclosure

The FCA's research revealed that some people may struggle to accurately 'diagnose' their own vulnerability, thereby creating a barrier to disclosure. They may be reluctant to give personal information either because they feel there is nothing to be gained by disclosing, or they fear negative repercussions from financial services providers. Furthermore, some had had negative

<sup>34</sup> Throughout this paper we use the term "disclosure" to describe the voluntary communication or divulgence of personal circumstances by the consumer to the firm. References to disclosure in this paper are not related to the Market Abuse Directive (Disclosure Rules) Instrument 2005.

experiences in the past and frequently found disclosure to be a waste of time – ‘with information being ignored by overzealous sales people’ or ‘not logged onto the system’ (Rowe et al., 2015).

Research (Mind 2008 & 2011) indicates that worries about how they will be treated often deter some customers from disclosing mental health problems. These worries include concern that disclosure will affect future access to credit or other financial services; feeling they wouldn’t be believed or understood; not thinking it would make a difference; and expecting they would be treated unfairly or that debts would be recovered from their welfare benefits. Firms need to be sensitive to these concerns.

### How firms react to disclosure

Even when a potential issue is disclosed, firms do not always take appropriate action. For example, Mind’s research found that where customers do disclose an issue, many feel their mental health problems are not taken into account (Mind, 2008). Research has revealed that many staff did not make any note on the file, and of those that did, many did not explain how that information would be used, or seek consent (Royal College of Psychiatrists and Money Advice Trust, 2010 and 2014).<sup>35</sup> Macmillan Cancer Support also reported to the FCA that firms sometimes fail to record customers’ disclosures about cancer, mistakenly believing that it would be a breach of the Data Protection Act to record it (personal communication with FCA, 21.7.2014).<sup>36</sup> The FCA’s work on mortgage forbearance (FCA 2014 TR14/3) found that information about customers’ circumstances was not always identified or sufficiently probed, and referrals to specialist teams were sometimes missed or made late in the process.

Collecting information about customers’ circumstances is clearly beneficial as it enables firms to take that information into account and be more responsive to the person’s needs. It saves the customer having to repeatedly disclose sensitive information. In theory it should allow the customer’s interaction with the firm to proceed more smoothly however contact is made, as the firm will have the full picture. Research amongst people with disabilities reveals that some customers are keen to have information about their disability captured and used to improve their experience (Employers’ Forum on Disability, 2010). However, consumer distrust on the one hand, and confusion over data protection by staff, mean that disclosure is not a simple solution.

### Concerns about data protection

Organisations that are experts in vulnerabilities such as mental health want to encourage disclosure and the collection of relevant information, in line with the Data Protection Act.

From our meetings with industry it has become apparent that concerns about data protection rules, or a lack of clear internal guidance from head office, sometimes prevent staff from recording information. Such concerns can act as an excuse when staff are confronted with a situation they do not feel confident in handling. If staff are nervous about how to handle personal information, they may be less likely to encourage disclosure, therefore reducing the opportunity to find out more about the customer’s needs and how to help. This is a common theme in our discussions with firms. However, the Information Commissioner’s Office has

<sup>35</sup> This research amongst 1,270 collection staff found that:

- every 30 seconds, a disclosure of a customer mental health problem was made to staff
- despite this, 20% of staff did not make a note on the customer’s file about the reported problem
- 33% of staff rarely or never asked disclosing customers about how their mental health problems affected their ability to repay
- 20% of staff did not know whether their organisation had a specialist team
- among staff who did make a note of the disclosure, 39% never explained why their information was being recorded or how it would be used; 47% never asked for explicit consent to record or use the information. Both of these present potential breaches of the Data Protection Act

<sup>36</sup> “We have also been told by financial firms that they are unable to record a customer’s disclosure that they have cancer, even when the customer has given their consent as this would constitute a breach of the DPA. This is not only factually incorrect, but also particularly unfortunate as poor recording of information such as this often prevents customers from accessing the specialist help available in many firms, in addition to the lack of sensitivity that customers encounter when they try to engage with the firm again and have to repeat the information about their situation, starting from the beginning”.

stated that staff need not have any reservations about noting reasonable concerns about an individual's ability to manage their own affairs. While the Data Protection Act gives the customer a right to access information relating to them held by organisations, staff should not be concerned about recording their opinions in a professional manner.

### **The Data Protection Act**

The Data Protection Act (1998) requires that firms clearly explain to customers how their information will be used, stored and shared. This duty is strongest when the information might be confidential or sensitive. Customers should receive an explanation of how their data will be used, stored and shared, and they should give their permission for this. Having a written policy on personal information will help ensure a clear and consistent approach. That policy must then be communicated to staff who need to be trained to explain it to customers. This can also help frontline staff who may not know what to do with sensitive information. Frontline staff can be encouraged to raise concerns with line-managers, who should be appropriately trained to determine when information should be shared outside the organisation – for example, with members of an individual's family, health professionals, or carers.

There is expert guidance available to firms in this area and these issues are not new, so there should be no reason for concerns about data protection to prevent the gathering and recording of relevant information about vulnerability (Money Advice Trust and Royal College of Psychiatrists, 2014; Direct Marketing Association, 2012).<sup>37</sup> Banks and other firms have asked in the past for clarification in this area and various organisations have issued helpful guidance. This includes a Briefing Note about mental health problems by the Money Advice Liaison Group and Royal College of Psychiatrists, developed with the Information Commissioner's Office, which is relevant to all areas of vulnerability.<sup>38</sup>

Firms interviewed for this research who have developed policies in the area of vulnerability tend not to see data protection as an issue, as they have a clear understanding of what they need to do.

Having identified that concerns about data protection might be proving to be a barrier to good outcomes around vulnerability, the FCA has worked to bring together banks, the Financial Ombudsman Service, Office of the Public Guardian and the Information Commissioner's Office to increase understanding in this area.

<sup>37</sup> For example the Money Advice Trust and Royal College of Psychiatrists: *Lending, debt collection and mental health: twelve steps for treating potentially vulnerable customers fairly* (2014); Direct Marketing Association: *White paper Guidelines for call centres dealing with vulnerable consumers* (2012)

<sup>38</sup> Money Advice Liaison Group and Royal College of Psychiatrists (2013) Briefing Note 4: *Appropriately processing data from individuals with mental health problems under the Data Protection Act* (1998)



### Financial Ombudsman Service

The Financial Ombudsman Service (the ombudsman service) is clear that data protection is not a barrier to recording relevant information: *Our opinion is that if you ask a proper question, record factual information (not your opinion) and explain to the customer why you're recording this information down (to meet their needs/provide best level of care) there's no issue with DPA. That's what we do.* The ombudsman service recommends:

- recording things in the customer's own words
- not making assumptions, and
- recording the needs or adaptations that the customer asks for rather than an assumed underlying condition

(Financial Ombudsman Service personal communication with FCA 22.10.14)

### Information Commissioner's Office

The regulatory body in this area, the Information Commissioner's Office (ICO), has communicated to the FCA that, in the right circumstances, and for the right reasons, data protection should not act as a barrier to the recording of information, when this recording would lead to a fair outcome for the customer. The ICO seeks to exercise its regulatory powers in a proportionate way, and it is likely that action would only be taken against a firm where the recording of the information in question had been unfair and/or led to an unfair outcome for an individual. The ICO made it clear that it would have to judge the merits of each individual case to assess whether it was fair for certain information to be recorded. However, provided the outcome achieved is right for the customer it is unlikely that a complaint would subsequently be made to the ICO. Quality conversations with customers are the key to success, and the right training, systems and processes need to be in place to facilitate this. Focusing on the adjustments that the customer needs rather than making assumptions about underlying conditions, and seeking an agreement with the customer when those adjustments might need to be reviewed, at the outset, are identified by the ICO as a sensible approach (ICO personal communication with FCA 6.11.14).

## Involvement of a third party

### Case study

One person we talked to in the course of our research gave his account of his experience when his father was taken into hospital with a severe illness.

The son contacted two banks/credit card providers to try to tell them that his father would not be able to use his account or make payments for a while. One bank refused to talk to him or make any note of the conversation, stating data protection rules prevented them from doing so. The other bank, while making him aware that they could not divulge any information about his father's accounts, listened to him, expressed concern and said that they could make a note of the conversation so that his father's condition could be taken into account in the future. This gave the son the reassurance he needed that the bank were aware of this father's situation.

These are two different responses to the same person, trying to cope with a difficult situation, resulting in very different outcomes for the individual. (Personal communication with firm 10.9.2014)

### Case study

Frank's father is dying from liver cancer, and Frank cares for him full time. When his father was admitted to hospital, Frank contacted his mortgage lender to let them know a payment might be late but they would not speak to him or log the information. This led to a late payment charge and a few hours on the phone trying to get things resolved. (Rowe et al., 2015)

Firms expressed concern about how they should respond when a third party (such as a relative or carer) is involved with someone's finances (as is often the case with some vulnerable consumers). It is true that firms cannot disclose information about a customer's account to a third party without authorisation or an arrangement such as a power of attorney or third party mandate. However, if a customer needs assistance in making a call, and the nominated person has the security information they need to conduct a transaction, they should be enabled to carry out the call on the customer's behalf.<sup>39</sup> In addition, if a third party contacts a firm to let them know that a customer cannot manage their financial affairs for a while, because of, for example, a deteriorating health condition or a sudden crisis, there is nothing to stop a firm making a note of the circumstances so that appropriate action can be taken when they can be in contact with the customer. This does not involve disclosing any information to the caller. Sometimes this is all that is required to reassure concerned relatives that the firm understands the situation. Firms may also want to use the information provided by a third party to investigate further and seek a separate conversation with the customer when appropriate to do so. This may be important in preventing abuse as well as clarifying the customer's needs.

The Money Advice Trust and Royal College of Psychiatrists have developed a tool to assist staff in dealing with information disclosures from carers (see Appendix 4).

<sup>39</sup> Source: Employers' Forum on Disability, Your call p.13

# Chapter 6

## The case for action

### Summary

- There is increased interest at European and international level in work around vulnerability.
- Other non-financial regulators are developing strategies around vulnerability.
- There are a range of commercial benefits to firms in developing good practice, in addition to legal and regulatory requirements, and moral reasons.

### The international picture

Interest is growing both at European and international level in the need for a flexible approach to consumers in vulnerable circumstances. Both the OECD and the European Commission are carrying out work in this area (personal communications with the FCA 7.10.2014 and 13.10.2014).<sup>40</sup>

While many financial regulators internationally have rules around the suitability of products and advice, and the fair treatment of customers, specific strategies in relation to a broad range of vulnerable consumers are unusual. The OECD recently carried out some research amongst financial regulators that investigated their approaches to vulnerable groups. This was part of its work on developing effective approaches to the high-level principles on financial consumer protection as agreed by the G20 countries. Principle three covers the 'Equitable and Fair Treatment of Consumers'.<sup>41</sup>

We believe that, in developing a holistic and wide-ranging definition of vulnerability, and focusing on practical implementation by firms of policies around fair treatment, the FCA is a leading proponent of forward thinking. According to the OECD, "There is no uniform definition of consumer vulnerability across, or even within, jurisdictions" (OECD 2014). Internationally, as in the UK, the consideration of the needs of consumers in financial difficulties is mainly focused around consumer credit, and the provision of basic bank accounts.

<sup>40</sup> "One of the four main objectives of the European Consumer Agenda is aligning consumer rights and policies to changes in society and the economy. Within this context, consumer vulnerability is identified as one of the key challenges to be tackled in the near future". From European Commission Executive Agency for Health and Consumers *Call for tender EAHCI/2013/CP/08 concerning a study on consumer vulnerability across key markets in the European Union*.

<sup>41</sup> In February 2011, the G20 called on the OECD, the Financial Stability Board (FSB) and other relevant international organisations to develop common principles on consumer protection in the field of financial services. These principles were endorsed at the G20 meeting on 14-15 October 2011.

Some financial regulators have programmes focused on priority groups. For example, the US Consumer Financial Protection Bureau prioritises older Americans, students, service personnel and consumers on low incomes (Consumer Financial Protection Bureau, n.d.).<sup>42</sup> The Australian regulator has an outreach programme for indigenous Australians.<sup>43</sup> Beyond that, any broad definition of 'consumer vulnerability', specific programmes of work around vulnerability or expectations of firms in this area appears to be extremely unusual.

The EU is currently conducting a study into consumer vulnerability across three market sectors, of which financial services is one. The study is not yet published but indications again are that the FCA is unusual in terms of developing a broad, holistic vision of vulnerability across all financial product areas, carrying out dedicated research amongst consumers in vulnerable circumstances, and embedding vulnerability firmly within the role of the regulator. The FCA is very interested in pursuing a debate with other financial services regulators to share learning in this area and learn from others who are grappling with similar issues.

#### **What are other non-financial services regulators doing?**

It is useful to look at the powers and activities of regulators in other sectors that provide essential services to consumers: energy, water and communications. Although these regulators are different from the FCA in their remit and background, as financial services become ever more essential for everyday needs and as a gateway to other services, it is relevant to compare their role to the FCA's.

The regulators of communications, energy, and water – Ofcom, Ofgem and Ofwat – all have statutory requirements to have regard to certain groups, for example older people, disabled people, those on low incomes or in rural areas. All are moving towards a broader understanding of vulnerability and one that recognises the role played by the market as well as consumers' own circumstances. As markets become more complex, with a larger number of firms, new risks have been created for consumers necessitating a more holistic approach.

At the European level, the EU Electricity and Gas Directives<sup>1</sup> place obligations on Member States to ensure there are safeguards in place for vulnerable consumers, although the definition of 'vulnerability' is left up to Member States. Ofgem has an obligation to protect vulnerable consumers under these Directives. Ofgem also has a role in the Government's (DECC) aims to reduce fuel poverty, with particular emphasis on low income and vulnerable groups.<sup>2</sup>

<sup>42</sup> The Consumer Financial Protection Bureau website clearly represents the three priority groups: Students ([www.consumerfinance.gov/students/](http://www.consumerfinance.gov/students/)), Older Americans ([www.consumerfinance.gov/older-americans/](http://www.consumerfinance.gov/older-americans/)) and Service members ([www.consumerfinance.gov/servicemembers/](http://www.consumerfinance.gov/servicemembers/)).

<sup>43</sup> The Australian Securities & Investments Commission details their indigenous outreach programme that works closely with Aboriginal and Torres Strait Islander people and their organisations and businesses in urban, rural and remote areas. See [www.moneysmart.gov.au/life-events-and-you/indigenous/indigenous-outreach-program](http://www.moneysmart.gov.au/life-events-and-you/indigenous/indigenous-outreach-program)

Regulators are moving in the same direction by looking beyond the specific groups that they have a statutory duty to consider, and broadening their definitions of vulnerability. Ofgem has developed a consumer vulnerability strategy, which defines the issues and sets expectations for the companies it regulates. Rather than listing vulnerable groups, the strategy recognises that “vulnerability can be complex, multidimensional and transitory” (Ofgem, 2013). Ofgem’s approach is based on risk factors and recognises that individual characteristics, circumstances, and the way goods and services are designed and delivered all play a part.

Ofcom has set out its approach to consumer vulnerability, which recognises the needs of all consumers in vulnerable circumstances (see [consumers.ofcom.org.uk/disability/consumer-vulnerability](http://consumers.ofcom.org.uk/disability/consumer-vulnerability)). It has developed a consumer interest Toolkit that helps ensure that consumer interests are taken into account in regulatory policy development and implementation. The Toolkit contains a number of references to vulnerable consumers.<sup>3</sup>

Ofwat doesn’t have a specific consumer vulnerability strategy, but it is in the process of developing one (personal communication with FCA 3/11/2014).

1 Directive 2009/72 (Electricity) Article 3(7), Directive 2009/73 (Gas) Article 3(3). Directive 2009/72 (Electricity) Article 36, Directive 2009/73 (Gas) Article 40.

2 DECC ‘Social and environmental guidance to the Gas and Electricity Markets Authority’ see [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/48134/2151-ofgem-review-final-report.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48134/2151-ofgem-review-final-report.pdf)

3 Ofcom (2006) Capturing the consumer interest: A toolkit for regulators and government. Retrieved at [www.communicationsconsumerpanel.org.uk/downloads/Policy/Consumer%20InterestToolkit/Publications/capturing\\_the\\_consumer\\_interest%20a%20toolkit%20for%20regulators%20etc.pdf](http://www.communicationsconsumerpanel.org.uk/downloads/Policy/Consumer%20InterestToolkit/Publications/capturing_the_consumer_interest%20a%20toolkit%20for%20regulators%20etc.pdf)

## Why should firms care?

### Commercial reasons

There are a range of reasons why doing the right thing for consumers in vulnerable circumstances can be commercially beneficial to firms.

#### *Flexible treatment is beneficial*

The view that treating customers who may be in a difficult situation with flexibility and offering options such as forbearance where appropriate is likely to lead to better outcomes in repayment of debt has been a common theme in the FCA’s investigations. The FCA’s review of mortgage lenders’ forbearance found that “firms that made it easy for customers to obtain early money advice saw better outcomes”. Transferring borrowers directly to debt advice agencies, and pre-arrears strategies involving early identification of financial stress were both singled out for praise (FCA 2014 TR14/3).

Money Advice Trust research amongst users of the National Debtline finds that 84% of clients reported they felt it less likely they would be in a similar position of financial difficulty again, and 92% of clients who set up an arrangement with their creditors, say they have maintained it (Money Advice Trust personal communication with FCA, 2014).

Within the credit industry, frontline staff have reported that if they could take a customer’s mental health fully into account, they would be more likely to recover the debt (Fitch and Davey, 2010).

Citizens Advice reports that creditors as well as people in debt benefit from good practice:

**People in debt will be more likely to engage, and stay engaged, with their creditors and sustainable repayments will mean creditors spend less time and resources chasing payments. (Citizens Advice 2010)<sup>44</sup>**

One firm in the credit sector told us during our research that debt repayment arrangements for consumers in vulnerable circumstances who are dealt with in a flexible way by a specialist team are more sustainable than those arrangements made by staff on the front line. Therefore identifying and treating these customers flexibly leads to a better business outcome.

#### *Early intervention*

The Lending Code (which sets minimum standards for banks, building societies and credit card providers in how they deal with customers, and covers personal loans, credit and charge cards and current account overdrafts), recommends that lenders should proactively contact customers who may be at risk of financial difficulty, listing factors such as regular unarranged overdrafts, increasing numbers of unarranged overdraft charges, changes in account behaviour, and missed or overdue payments as signs or indicators of risk (The Lending Code, 2011). Macmillan Cancer Support argues that providing early help to people diagnosed with cancer, who anticipate that they may face financial difficulty, may reduce banks' exposure to bad debt, and lead to greater loyalty from the customer with cancer and their family and friends (Macmillan Cancer Support, 2014).

Research in the credit sector has demonstrated the beneficial effects of early and constructive intervention. Research (Barclays and Money Advice Trust, 2011) on people who had used the Barclays pre-arrears service revealed very positive perceptions about the help people have received, and positive outcomes in terms of their financial situation. Many people welcomed the proactive early intervention, and went on to receive help such as the rescheduling of personal loans, agreeing a payment plan for customers to repay unauthorised overdrafts, sorting out administrative errors on accounts that had resulted in customers incurring charges, and referral to an independent advice service.<sup>45</sup>

Citizens Advice recommends that creditors identify people who may be facing financial difficulty by monitoring income, payment history and spending habits, and intervene early. Using a credit card to pay for essentials such as council tax could be an indication of difficulty. Missed or failed repayments may also act as triggers to early intervention (Citizens Advice, 2010).

#### *Early intervention can help detect fraud*

Proactive identification of abnormal payment patterns can also be used to spot potential financial abuse and fraud. Work on scams by Trading Standards has shown that a high level

44 Quote from Citizens Advice report: *Stability, ability and willingness*: "we'd much rather someone paid what they can on a regular basis than have to chase people for payments they can't afford. When we started taking this approach to collections in the Somers Town area of Portsmouth we saw collection rates go up by 2,000 per cent." FC Collections

45 Understanding financial difficulty: Exploring the opportunities for early intervention (Barclays, 2011)  
 "The overwhelming conclusion of this report is that if lenders can effectively identify those customers who appear to be struggling with their commitments and apply a sensitive strategy for contacting and helping these customers, there is potential to significantly widen the range of options available to them.... An added benefit is that this increases the number of people receiving early advice on financial difficulties, which can have a positive impact on the financial health of households across the UK. So, should a lender be proactive in contacting borrowers who appear to be on the edge of financial difficulty? Our conclusion is an unequivocal 'yes', and we very much look forward to working together with Barclays and with other lenders to help get their customers back to financial health". (Extract from Foreword)  
 Customers generally reported a positive financial impact of addressing their financial difficulties with Barclays. In the case of personal loans, this resulted from an often quite significant reduction in the repayment amount, which eased household budgets considerably. Customers who had stopped incurring over-limit overdraft charges also found it easier to manage now that they no longer had to meet these costs (p.9).

of cheque use by older consumers is often correlated with scams. Firms can use abnormal patterns as a trigger to contact the customer and check out the situation (Trading Standards, personal communication with the FCA, 2014).

#### *Better support for staff*

Our interviews with firms and experts in vulnerability revealed that dealing with sensitive or difficult issues can be frightening and demoralising for staff if effective training and guidance is not in place. It was commonly reported by some firms that staff on the frontline and in specialist support teams feel more empowered and motivated if they feel they know how to help people. Research (Macmillan 2014, Demos 2013) shows that customer-facing staff can be embarrassed or panic when a customer tells them they have a cancer diagnosis. Fear of causing offence, or using the wrong words, can also prevent staff from getting into conversations (Money Advice Trust, personal communication 2014). Staff can feel deeply frustrated if they don't have the skills to provide support or aren't aware of where to direct people. Better training and support to staff could therefore boost morale and job satisfaction, improving retention.

#### *Good for reputation*

Research (Martenson, Gronholdt, & Kristensen, 2000) has found a link between corporate reputation and financial performance. Sabate & Puente (2003) report that customer satisfaction and loyalty seems to be directly related to the image of banks. So treating all customers well, including those in vulnerable circumstances, is likely to be good for a firm's reputation and thereby its profitability. Social media outlets can serve to amplify the effects of a negative experience, so firms need to be mindful of this.

One firm reported to the FCA that making progress on its vulnerability and accessibility strategy has generated positive outcomes around measures such as net promoter scores, trust and liking.

#### *Loyalty*

Loyal customers are valuable to firms, in terms of their likelihood to remain with that firm in the future, their inclination to buy additional products from them, and in terms of advocacy, according to Datamonitor (2013). Good customer service has been linked to both loyalty and brand advocacy (Kumar, Petersen, Leone, 2007). The insensitive or inflexible treatment of a customer when they are in a difficult or stressful situation could have a long-lasting negative impact on that customer's perception of the firm. Studies on customer retention have shown that acquiring new customers can cost five times more than satisfying and retaining current customers (CMO Council, 2008).

#### *Lost business*

The FCA's research (Rowe et al., 2015) revealed that some customers who experience inflexible treatment from financial services firms will withdraw from the market altogether, for example by keeping large amounts of cash at home rather than operate a bank account to retain control over their finances. Firms can miss out on business if they let down or fail to appeal to these consumers.

#### **Legal reasons**

There are a number of pieces of legislation which firms need to bear in mind when developing an approach to vulnerability.



- The Equality Act (2010) makes it unlawful for a firm to discriminate against a person using or seeking to use its services because of a protected characteristic.<sup>46</sup> Service providers must make reasonable adjustments to procedures, policies or practices where these put disabled people at a substantial disadvantage. The Equality and Human Rights Commission gives the following guidance to financial services providers:

If you are a financial service provider, you need to think particularly about different communication needs that disabled people may have, and how to combine meeting these needs with the requirement of confidentiality. Depending on the circumstances, meeting people's needs in this way may be a reasonable adjustment

**(Equality and Human Rights Commission Guidance, 2010).**

If financial firms do treat people differently on the grounds of a protected characteristic, they must have reasonable grounds for doing so based on reliable evidence from a reasonable source. Relying on assumptions and generalisations could constitute discrimination. Many long-term health conditions as well as disabilities are covered by the Act (Ibid.).

- The Consumer Protection from Unfair Trading Regulations (2008) are designed to protect consumers from unfair practices, with a greater level of protection for vulnerable consumers.
- The Mental Capacity Act (England and Wales 2005) and Adults with Incapacity Act (Scotland 2000), deal specifically with mental health issues.
- The Data Protection Act (1998) is another key piece of legislation in this area as it includes specific requirements about how sensitive data must be handled.

It may be useful for firms to reflect on whether and how they are compliant with these laws, when developing a vulnerability strategy.

*FCA enforcement*

In addition to requiring firms to treat their customers fairly and the other rules outlined in Chapter 2, FCA enforcement action takes into account "*whether the breach had an effect on particularly vulnerable people, whether intentionally or otherwise*",<sup>47</sup> in assessing the seriousness of a rule breach by a firm or an individual. The seriousness of the breach is relevant to the level of penalty that is imposed – the more serious the breach, the higher the level of penalty. In assessing the effect of a breach on a vulnerable person, the FCA will take into account, among other things, the inconvenience and stress caused to the person, as well as financial loss.

Between April 2013 and April 2014, the FCA issued four Final Notices, which referred to the effect on vulnerable people of breaches of FCA rules. The penalties imposed in those Notices totalled £45.8m.<sup>48</sup>

<sup>46</sup> Protected characteristics in this context include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. See [www.gov.uk/discrimination-your-rights/types-of-discrimination](http://www.gov.uk/discrimination-your-rights/types-of-discrimination)

<sup>47</sup> See FCA Handbook: DEPP 6.5.A.2(6)(d) and DEPP 6.5.B.2(8)(d): <http://media.fshandbook.info/content/FCA/DEPP/6.pdf>

<sup>48</sup> FCA Final Notices, 2013/2014: [www.fca.org.uk/static/documents/final-notices/santander-uk-plc.pdf](http://www.fca.org.uk/static/documents/final-notices/santander-uk-plc.pdf), [www.fca.org.uk/static/documents/final-notices/homeserve-membership-limited.pdf](http://www.fca.org.uk/static/documents/final-notices/homeserve-membership-limited.pdf), [www.fca.org.uk/static/documents/final-notices/axa-wealth-services-ltd.pdf](http://www.fca.org.uk/static/documents/final-notices/axa-wealth-services-ltd.pdf), [www.fca.org.uk/static/documents/final-notices/gurpreet-singh-chadda.pdf](http://www.fca.org.uk/static/documents/final-notices/gurpreet-singh-chadda.pdf)

### Moral reasons

If financial services are seen as essential to modern life (such as payment services, affordable credit or insurance products), then there is an argument that access to those services needs to be 'equitable and appropriate' (Citizens Advice, 2011). Some consumer organisations argue that, in addition to treating all customers fairly, firms need to offer services and products that meet the needs of members of society who currently are unable to access affordable and/or suitable products and services – so that certain consumers are no longer marginalised (Age Concern 2008, Macmillan 2014, Transact, n.d.). In an increasingly connected society, and with financial services being a conduit for many other essential services, marginalisation in financial services can lead to marginalisation in other essential services and have a seriously detrimental effect. Society as a whole then loses out, both in terms of cost and cohesion. This leads to questions for both the regulator and the Government, reflecting each organisation's remit and powers.

### Case study

Enforcement case study: The FCA fined Stonebridge International Insurance Limited over £8m in August 2014 for mis-selling personal accident plans. Stonebridge failed to provide consumers with fair information, upsold more expensive products and placed post-sale barriers to cancelling products. It also actively targeted vulnerable consumers. The FCA Final Notice states that: "Stonebridge failed to take reasonable steps to ensure that its customers were treated fairly. It identified its target market as being persons who typically were in the middle-to-low income bracket and did not have a college degree or professional qualification". When calculating the value of the Stonebridge penalty, a number of factors were taken into consideration, one of them being vulnerability of customers. (FCA Final Notice 2014: Stonebridge International Insurance Limited)

# Chapter 7

## What action is being taken?

### Summary

- Consumer information is of limited help in this area. More specific action is needed.
- The FCA's analysis of the policies and practices of a sample of firms revealed a patchy, disjointed approach with pockets of good practice and specialist teams in some areas but little in the way of an overarching policy approach.
- Guidance for firms from expert organisations does exist.
- We provide examples of what good outcomes look like for consumers, and examples of what seems to work well in practice based on conversations with firms.

The provision of information to consumers is sometimes viewed as a solution to problems in financial services. We argue in this chapter that simply providing more information to consumers has particular limitations in the area of vulnerability, where more specific action by firms is required. We then go on to assess current practice in a range of firms.

### Consumer information and self-help guides

A number of firms and trade bodies publish self-help guides to assist consumers in various potentially difficult circumstances, particularly on issues such as power of attorney, bereavement, proving identity, and dealing with debt.<sup>49</sup> This may help those who are aware of the existence of these guides, are able to track one down and to follow it. However, their usefulness may be minimal to many in vulnerable circumstances. Self-help guides are not a substitute for constructive interaction with knowledgeable staff and firms dealing appropriately with consumers in a tailored fashion. The FCA's research demonstrated that many consumers in vulnerable circumstances face high levels of stress and a reduced ability to cope, sometimes leading to poor decision-making. In these circumstances, seeking out a self-help guide might not be the most likely recourse. Some consumers in vulnerable circumstances show a preference for face-to-face contact rather than other forms of communication when discussing financial matters (Thoresen, 2008).

### The limitations of consumer information

Providing information to consumers is one strategy that policy makers have adopted across many sectors to try to redress the imbalance of expertise between consumers and firms

<sup>49</sup> See for example [www.bba.org.uk/publication/leaflets/](http://www.bba.org.uk/publication/leaflets/) and [www.bsa.org.uk/information/publications/industry-publications/](http://www.bsa.org.uk/information/publications/industry-publications/)

(National Consumer Council, 2007).<sup>50</sup> This is of limited use in tackling vulnerability for a number of reasons. Work on behavioural economics – how people behave and the way they make decisions (Lunn & Lyons, 2010) indicates that non-rational biases affect decision-making competence. Some groups of consumers are particularly liable to biases that expose them to making poor choices when faced with complex decisions. Written information has obvious limitations for those with low levels of literacy, or reduced cognitive abilities. The FCA's work on behavioural economics indicates that behavioural problems are particularly acute in financial services due to the complexity of products, trade-offs between present and future interests, and assessing risk and uncertainty, amongst other factors (FCA, 2013 b). The FCA's research revealed that some people in vulnerable circumstances cannot process written information, are overwhelmed by the quantity of material they receive, find it difficult to prioritise, and develop a very short-term outlook.

It has been argued that the emphasis on providing consumer information can actually increase vulnerability and injustice, as consumers in some vulnerable circumstances derive the least benefit as they are less likely to make use of it (Cartwright, 2011). Research (National Consumer Council, 2007) has revealed that complex information in financial services can be difficult and humiliating or alienating for some.

Given the limitations of increased consumer information in this area, we believe it is all the more important that firms consider taking specific actions to ensure their products and services meet the needs of consumers who may be vulnerable.

### What are firms doing?

In order to balance the perspective provided by the consumer research with an understanding of what firms were doing, the FCA collected information from firms. In addition, we interviewed a range of firms to find out what worked from their perspective.

In 2014 the FCA asked twelve firms including retail banks, building societies and insurance firms to submit policy documents relating to the treatment of vulnerable customers, guidance/training for frontline staff, and for information related to implementation and evaluation. Information related to customer-facing satisfaction surveys regarding vulnerability was also requested. The intention of this request was to understand what measures financial services firms were taking to understand, and act on, the needs of their vulnerable customer base.

### The FCA's findings

- The FCA's analysis of the current activities of firms around consumer vulnerability paints a picture of a patchy, somewhat disjointed approach, with pockets of good practice but little in the way of overall strategy. Some firms have dedicated centralised support teams that look at issues separately, for example bereavement or power of attorney. However, the existence of one team that acts as a centre of expertise in a range of vulnerability issues is not widespread.
- A small number of firms within the sample had a consolidated strategic/overarching policy, specifically about vulnerable consumers. Many other firms submitted a range of extracts from relevant policies (e.g. treating customers fairly policy/financial abuse policy/accessibility policy).

<sup>50</sup> NCC found that 64% of obligations on UK business in consumer policy fall into this category.

- In some large firms, different areas of the business may define vulnerability differently.
- Larger retail banks tend to be more sophisticated than smaller firms in their conceptualisation of vulnerability. In some smaller firms within the sample there was confusion between vulnerability to financial abuse/fraud and vulnerability in a broader sense.
- There are some examples of inclusive product design and good practice within the industry. For example, we came across firms offering accompaniment to customers who may be vulnerable; offering alternative security questions for people with Alzheimer's and dementia; getting rid of time limits on phone calls for customer advisers, and offering specialised customer support for customers who are identified as possibly vulnerable.
- In terms of implementation, evidence of activities such as customer satisfaction monitoring involving vulnerable customers, research, and evaluation of programmes, was minimal.

#### **Lack of overall policy**

From the FCA's information request and communications with firms and trade bodies, in practice we believe very few firms, whether large or small, have an overall strategic policy in place, although they may act in specific areas. Some had specific policies and centralised or specialist teams – for example, on dealing with bereavement, customers in financial difficulty, or those who are elderly or have a power of attorney. At the level of implementation, little practical detail is evident.

Some firms had done work around accessibility to branches, ATMs, call centres and providing information in various formats for customers with physical impairments.

There was a highly developed awareness amongst firms offering investments of the need to be particularly careful when interacting with older customers, around suitability of products and advice.

Some firms' concept of vulnerability seemed to be limited to consumers who may be at risk of financial abuse or fraud. This was the case particularly with some of the smaller firms, where protecting customers from abuse and crime was their only vulnerability-related activity.

Within the area of financial difficulty and debt, policies and practices towards people in financial difficulties were more developed. Signposting to advice agencies and awareness of good practice guidelines were more common. Some firms highlighted their forbearance policies.

#### **Lack of practical implementation**

The FCA noted a distinct lack of detail on practical implementation in many of the firms, even when the high-level theory was relatively comprehensive. Information on how staff can be trained and supported in looking out for triggers, either on the phone or face-to-face, and identifying potentially vulnerable customers; and, what action would then be taken, was often lacking, even when firms said they had a policy on certain vulnerabilities. Specialist units clearly exist in some areas, but the criteria for referral to these units, and staff awareness of them, were less clearly outlined.

#### **Guidance for firms**

Firms have a wealth of guidance at their disposal authored by consumer organisations, charities, and trade bodies, which can be used to draw best practice examples, guide planning for a range of vulnerabilities and to contribute to the creation of an overarching policy. There is also a British Standard on inclusive service provision which focuses on vulnerability. A list of key reports is provided in Appendix 4.

There are many common themes that run through the recommendations within these publications, including:

- confidence and skills of frontline staff
- consistent guidance in appropriate referral
- expertise in specialist teams
- flexible, tailored responses
- encouraging conversations and disclosure
- recording communication and service needs accurately and in line with Data Protection and Mental Capacity Act requirements
- clear processes for reporting suspected abuse or fraud

This list is by no means exhaustive but we want to emphasise that strategies for dealing with consumers in vulnerable circumstances should not be developed in isolation within specific sectors. Sharing principles and good practice across all financial services is likely to lead to better outcomes.

#### Consumer needs: what can good look like?

- Having **clear and easy to understand financial products** that do not contain surprises that may only become apparent when crisis strikes.
- A **choice of ways of communicating** to be available whenever you need to make contact and for **these to be designed in an inclusive way** so that they are clear, easy to understand and meet your needs. This could relate to the **method** of communication (e.g. face-to-face, phone, post, email, text, web chat, audio, braille, video relay, Type Talk or text relay, interpreting services) or the **service delivery** (e.g. agreement to talk at a particular time of day depending on carers and medication).
- Feeling that **firms will treat you as an individual** and you won't face the 'computer says no' response just because your circumstances do not fit the standard mould, and will not rely on outdated assumptions or automated processes.
- Knowing, should you experience a sudden change in circumstances requiring a flexible approach, that you will be offered **a tailored response** from your financial services provider.
- Being able to **talk to someone who will take the time to listen**, who is flexible enough to let the conversation take a natural course, and who is sufficiently trained to spot signs of vulnerability and refer on to specialists where necessary.

- Being **referred on to someone who has the authority and discretion** to take a tailored approach to your situation and offer flexible solutions. This may be someone who can bring their expertise to bear to help you plan your finances with a good awareness of specialist sources of help and advice if necessary, and who will refer you if appropriate in a way that makes that referral easy.
- Being offered **flexible outcomes**. Temporary forbearance may be appropriate but this is just one example of a potential need. Others include alternative ways to pay a bill or make a transaction, help registering a power of attorney, stopping constant letters being sent addressed to a deceased person, alternative formats for information to be created/used, not relying solely on an automated process for determining credit worthiness.
- Feeling confident that **your firm encourages disclosure**, that they will work with you in your best interests, will work collaboratively to find solutions, and will use any information you disclose for positive outcomes to meet your needs.
- Knowing that if you do disclose **information about your needs, that information will be recorded properly** so that you do not have to repeat it every time you make contact across all departments of a particular firm.
- Knowing **firms will proactively contact you** if they suspect you may be having financial difficulties.
- Having **firms who spot suspicious activity** which may signal abuse or fraud and take appropriate action.
- If you are trying to speak to a firm in a caring capacity, finding that **the firm listens and makes a note of your concerns** even though they may not be able to divulge any information to you.
- If you are recently bereaved, or have power of attorney or a third party mandate, **receiving consistent advice and treatment**.



## Innovative practice within industry: Case studies

We spoke to a number of firms that were brought to our attention as having well-developed policies around vulnerability. Our aim was to pinpoint practical elements of the firm's approach that seemed in their opinion to work in practice. Many of the examples below come from the credit and debt management sector, but we feel the general approach is relevant across all areas of financial services.

### ***Approach embedded throughout organisation***

A relatively new bank told us it was able to establish a debt management programme that built in the need to treat customers fairly from the outset. It believes a flexible approach is supported at board level and relevant managers feel they have the autonomy to implement this in practice. The approach is embedded throughout all aspects of the organisation "like a stick of rock" (Firm personal communication with FCA 3.9.2014). It reports that it educates staff to see customers as people rather than statistics. Staff are encouraged to understand the reasons behind debt, and take on board the longer term implications of not resolving the situation for the customer (such as an impaired credit record). Staff are trained to look out for tell-tale signs of stress, including late payments, changes to dates of payments and manual payments, as well as what customers say in phone calls. It identifies consistency of approach across all customer-facing teams; staff training; a specialist support team, and a Vulnerable Customer Committee that assesses individual cases as part of the keys to success. Another key point is an incentive scheme that was radically altered to reflect quality in managing vulnerable customers and finding successful solutions.

### ***Training and feedback***

A firm in the credit sector told us that its approach to vulnerability includes extensive training, a specialist customer support team, and signposting to support agencies at every opportunity. Incentives for staff to identify and deal effectively with vulnerable customers by building this into their performance assessment are also key. Performance assessment includes managers listening to a sample of calls, and assessing how potentially vulnerable people are handled. According to the firm, if these customers are not passed onto the customer support team appropriately, and if calls are not dealt with in a friendly, empathetic manner, this will impact on staff rewards. The firm uses speech analytics software to help with auditing staff performance. This analyses all calls and picks up on specific key words, which may be triggers or clues to vulnerability, such as mention of illness, treatment, diagnosis, depression etc. Managers can then assess how these calls have been handled, and give feedback where improvements are needed.

***Excellent links with charities***

Close collaboration with the advice and charity sector has been instrumental in developing its approach to vulnerability, according to one firm. It uses the Money Advice Trust and Royal College of Psychiatrists tools such as TEXAS and COMPASS to assist with implementation and finds these very effective (see Appendix 4). It has different levels of training for mainstream collectors and the specialist unit, and has worked extensively with charities such as StepChange, Macmillan Cancer Support, the Samaritans and Christians Against Poverty. The firm reports that staff in the specialist unit do not have scripts or time limits to work to. They are encouraged to try to get to the bottom of a person's situation. This can involve some difficult calls and emotions, and it recognises that, in addition to knowing how to deal with this and signpost effectively to organisations that can help, staff themselves may need help dealing with the aftermath of such calls. It points out that signposting is most effective if a firm puts time and effort into building relationships with the advice sector, knowing what parts of which charities can offer specialist help, and ensuring customers are passed to the most relevant person. It believes that handling vulnerable customers in the right way leads to better job satisfaction.

***Creditors are not rescuers***

Another firm told us that one element of its approach to vulnerability is to recognise that 'creditors are not rescuers'. It is not its staff's job to rescue customers in difficulty; however it is their job to know where they can get help and signpost people appropriately. In its view, obtaining help and support to deal with a difficult situation so that people can get back in control of their financial situation is vital to its vision. The firm told us they value emotional intelligence highly, both for frontline staff and their specialist team. Frontline staff use the TEXAS model (see Appendix 4) and pass on to the specialist team where necessary. It told us staff are encouraged to listen and look out for a wide range of clues, some of which can be subtle, including signs of agitation such as pitch, tone of voice and breathing, as well as indicators such as "I've not taken my tablets". Staff are empowered to move away from scripts where they have a gut feeling that something isn't right. Training for staff in the specialist team involves role play around emotionally difficult situations so that staff feel confident in handling these sorts of calls. Once a customer is identified as vulnerable, they are removed from automatic dialling systems. Their file is flagged so that any future contact will be handled by the specialist team. Records are kept that may include details such as best times to contact the customer, which may for example be built around timetables for dialysis or chemotherapy, or timings for medications or carer visits, which might make a significant difference to the customer. Involvement with the Samaritans, StepChange and Macmillan Cancer Support has been key in developing its approach. It sees a business culture that wants to do the right thing and the prioritisation of excellent communication skills as key features of this approach.

### **Promoting accessibility in banking**

We also came across examples of creative approaches in the banking sector. For example, one bank has been touring the UK with Accessibility Roadshows throughout 2014, visiting branches, head office locations and operation areas within the bank, as well as presenting at external events. The aim to bring to life some of the accessible services the bank can provide to make customers' lives easier. The roadshows include demonstrations of the bank's accessible services, such as its Talking Cash Machines and high visibility debit cards for people with visual impairments, or the Sign Video services for British Sign Language users. The roadshows also highlight how its partnerships with charities such as the RNIB and the Alzheimer's Society are helping the bank understand the needs of its customers. The bank provides detailed training to its staff in advance of the roadshow arriving in a branch, meaning they are confident in answering customer queries about accessibility services and can proactively provide the right support on an ongoing basis. Since the start of the roadshows, the bank has seen the use of high visibility debit cards and Talking ATMs increase significantly.

Another example came from a satisfied customer of a bank that has recently taken steps to improve procedures in establishing, and monitoring the continued operation of power of attorneys:



*"I set up a power of attorney account with the bank. This took a little time but the bank allows you to ring directly to the branch. They also have a dedicated legal team who handle the setting up of power of attorney. They wrote to me shortly after I had visited the branch. In their letter was a direct phone line number which I rung a couple of times and found the team both understanding and helpful." (Personal communication with the FCA 30.10.2014)*

## Insurance sector: Case studies

### **Support in obtaining death certificate**

Following the death of a policyholder, a life insurance firm tried, over many months, to obtain the death certificate from the widower so they could pay out the benefits from his late wife's pension policy. Unfortunately, he was finding it very difficult to deal with this, and so the firm arranged to get a copy of the death certificate. Having received this, they were able to send him the forms to enable the payment to be made easily. The result was that the payment was issued without adding to the considerable stress that the customer was experiencing.

### **Pension life cover and tax penalty**

A widow urgently needed the proceeds of her late husband's pension life cover policy to avoid a tax penalty. Unfortunately, she completed the discharge forms incorrectly, which needed valuable time to correct. The firm arranged for a courier to deliver new forms, and return them correctly completed. The firm was then able to meet the customer's deadline and the tax penalty was avoided.

### **Transferred benefits**

A confused, elderly gentleman contacted the firm about his pension. The firm established that his policy had been transferred away many years earlier, and the adviser who had dealt with the policyholder's affairs was no longer available. The firm, therefore, contacted the receiving provider, only to find that the benefits had been transferred again to another provider. The firm contacted them, explained the background, and put them in touch with the elderly gentleman so he could receive his benefits.

### **Customer communications – plain language review**

Members of the executive committee of a life insurance firm feel personally accountable for the standard of communications with customers. Based on their first-hand experience of customer complaints and focus group feedback, the firm set up a letter writing group to establish best practice. As a result, a letter writing workshop has been introduced that all customer service staff must attend.

Following policyholder feedback on the firm's retirement process, it undertook an end-to-end review. Some of the most important changes concerned the letters and forms issued to retiring policyholders. In particular, colour coding the various retirement options so that policyholders can navigate the retirement forms much more easily. The covering letters to policyholders were significantly reduced in length, and the options available put into the order that is most likely to interest them. For example, for retirement funds under £10,000, the cash option is the first one covered. Since introducing the new forms, letters and processes, retirement-related complaints have reduced by two-thirds.

Policyholder focus groups have consistently told the firm that the most important communication they receive is the annual statement, and that they are principally interested in the values. Consequently, the statements have been redesigned so that the policy value is the very first thing policyholders see when they open the envelope. This presentation has been tested on new focus groups and found to be much valued.

## Emerging themes

During this project, we were constantly looking for examples of good practical implementation of policies and strategies for identifying and interacting with vulnerable customers. Most work around good practice in identifying potential vulnerability is in the area of lending, debt collection and mental health. There is a clear link between mental health and debt, with consumers with mental health problems being three times more likely to be in debt than others – therefore the credit industry has had good reason to take action in this area.<sup>51</sup> There is specific legislation in this area, and it has long been on the radar of regulators, particularly in the credit arena. Trade bodies in the credit industry have also been active over the past ten years or so in promoting good practice in relation to mental health. The Office of Fair Trading published guidance on mental capacity and lending and the FCA has now taken over responsibility for this area, including specific references to vulnerability and mental health in its Handbook.<sup>52</sup> The Money Advice Liaison Group, Money Advice Trust and Royal College of Psychiatrists have developed comprehensive guidelines that are backed up by training programmes (see Appendix 4). These are supported by trade associations, and our discussions with firms in the credit sector showed their use is commonplace.

Our interviews with a number of firms provided some valuable insights into what works well on the ground.

### From the firms' perspective: what has been reported to work well

This list is not designed to be comprehensive or prescriptive; rather it is a collection of the tips that have arisen from discussions with a range of firms and conversations with experts in the field.

**A company-wide commitment to tackling and 'doing the right thing' in this area:** *Changing company process and systems that may have been developed in a process-driven, scripted way is not easy. It takes time and resource so needs to be supported from the top down, whether that be by having a senior-level champion or commitment from the whole of management.*

**A culture where staff are encouraged to understand and empathise with vulnerability:** *Many staff in call centres who provide the first point of contact with customers may not have much experience of people in vulnerable circumstances. Building knowledge of various vulnerabilities and the number of people involved, encouraging an appreciation of what life can be like for some people in difficult circumstances and encouraging a desire to help, is key to this culture. Some firms have chosen to do this by bringing in third sector organisations that specialise in certain vulnerabilities, or individuals who have experienced certain illnesses, to train or talk to staff.*

**An emphasis on training:** *all staff who deal directly with customers to know enough about vulnerability to pick up on warning signs or triggers and signpost/refer on appropriately (see Appendix 4). It is acknowledged by firms that staff cannot be expected to be experts on all types of illness. Rather they need to spot clues that enable them to refer on to more specialist assistance.*

**Avoiding rigidly scripted responses:** *Staff need the flexibility to allow a conversation to develop if they sense that a customer may be experiencing difficulty.*

<sup>51</sup> Office for National Statistics quoted in MALG (2009) Good Practice Awareness Guidelines

<sup>52</sup> E.g. CONC 7.2.3 and 8.2.7

**Removing the fear, enabling difficult conversations:** Many staff may feel awkward or scared of having conversations around issues such as mental or other forms of illness, stressful situations and dealing with customers who may be distressed. Therefore they may not feel able to encourage customers to disclose vulnerabilities. Removing as much of this fear as possible, via increased understanding, clear guidance on how to respond, role play, listening to sample calls are all ways that this can be achieved.

**Recruiting for and encouraging listening skills,** emotional intelligence and empathy.

**Creating specialist teams** that take responsibility for vulnerable customers once they have been referred by frontline staff seems to be a common and successful way of centering expertise in one place. Staff in specialist teams are commonly trained to a higher level in dealing with vulnerable customers and have more autonomy and flexibility in offering help and solutions.

**Building trust and encouraging disclosure:** Firms are clear that the more they know about the customer's situation, the more they can do to help. Clear procedures, well-trained staff with excellent communication skills, good implementation of data protection requirements and proving to customers that disclosing leads to positive action all help with good practice in this area.

**Building success in handling calls from customers in vulnerable circumstances into performance assessment:** Celebrating success by ensuring good practice is identified, highlighted and praised. Some firms use software that picks up on keywords which may indicate vulnerability so this can be used to assess staff performance and feed into training.

**Targets and incentives** can be aligned to good performance in line with a firm's strategy on dealing with vulnerable consumers. Incentives around the correct identification and referral on of potentially vulnerable people by frontline call handlers, and incentives that take account of the long-term sustainability of relationships, can be key parts of this.

**Relationships with the advice sector:** Developing good relationships with the advice sector and building expertise on where help is available. Ensuring staff have access to this knowledge so that they have the best chance of referring customers on to the right source of help.

**Intelligent signposting: As it is not the job of financial services staff to be expert in handling all forms of vulnerability, it is critical that the right sort of expert help is identified and the customer referred in the most practical way.** Very often the financial problem the customer is calling about is the catalyst that has created a crisis or a stressful situation – it is the underlying vulnerability or condition that needs to be addressed. Good practice we came across included firms identifying which third sector organisations offer particularly relevant help for various issues and signposting to relevant individuals or departments rather than to a general website or phone number; 'warm-handing' (referring on to another organisation directly so that the customer doesn't have to make a second call); offering call-backs from third sector organisations at a time that suits the consumer; building relationships with those third sector organisations to maximise the usefulness of these interactions.

**Having staff with the ability to use judgement and a flexible approach** to the customer's circumstances so that options like freezing charges, winding back charges, and sympathetic treatment particularly if a customer is in hospital or prison, offering payment holidays of differing lengths etc., can all work to create a good outcome for the customer. Other examples include alternative ways to pay a bill or make a transaction, help registering a power of attorney, stopping constant letters being sent out addressed to a deceased person, alternative formats

for information to be created/used, not relying solely on an automated process for determining credit worthiness, not being sold a product when disclosing a vulnerability.

**Recording needs:** Having systems that enable and encourage staff to record the customers' needs and any request for additional support.

**Being able to flag accounts** so that customers who may be in vulnerable circumstances are identified quickly when they contact the firm, and do not have to repeat what may be difficult details over and over again is key. This means these customers get diverted to the right team and in some firms it means that they are removed from automatic phone calls chasing debt, and from marketing lists. Flags, like other information, must be recorded and maintained in line with data protection principles (see Chapter 5).

**Greater range of accessible options** such as talking ATMs, hearing loops within branches, providing information in audio, Easy Read, large print, braille or audio formats, cheque book templates, and ensuring these are all working, well-publicised and understood by staff. Interpretation services are also important. Offer alternatives to dealing over the phone or online.

**Specific steps to ensure that those who may have difficulty in understanding** can be offered longer appointment times, meetings in quiet areas, allowing accompaniment and time for reflection, staff to take steps to clarify and check understanding.

**Flexibility around proof of identity** requirements and ensuring all counter staff are aware of this.

#### Tips for firms on developing good practice

This list is **not designed to be comprehensive or prescriptive**; rather it is a collection of the themes that arise from examination of good practice guidelines from a range of sources and conversations with experts in the field, information provided by consumer organisations and information gained from the FCA's qualitative research.

- Conducting an **audit or gap analysis** to identify how the firm is currently performing across a range of functions related to vulnerability and where potential barriers may lie. This should involve objective assessment of current performance. What is the present journey for a range of customers with a variety of vulnerabilities?
- Ensure all **interfaces are as inclusive as possible** and that customers always have a choice of communication options. Information should always be available in a range of formats. Ensure product literature and contractual terms are as simple as possible – for example Easy Read format may suit some customers.
- **Promote consistency.** Many big firms may have a range of approaches that have evolved separately in different divisions, and may have a number of isolated pockets of good practice. An overall strategy may be needed to ensure that there is a consistent vision, understanding and approach.
- **Consider the impact of decisions.** Integrating a consideration of the impact of business change decisions on vulnerable groups, and factoring this consideration in to internal governance processes. For example, how would a bank consider the needs of all of its customers when closing a branch or stopping paper statements?



- **Train frontline staff** to have sensitive conversations without fear or embarrassment.
- Improve awareness amongst all staff of various areas of vulnerability and triggers for recognition. **Staff don't need to be experts in various conditions, but need to be confident, and have knowledge about the specialist help available either in-house or via third parties.**
- Ensure call handling staff are **not prevented by scripts** from developing a conversation, or under pressure to finish a call.
- Train frontline staff to know when to **refer people on to more specialist help**, and ensure that referral is as smooth as possible. Clear processes are in place so that people are not passed around.
- Develop **excellent links with advice agencies and charities**, knowing where targeted help is available, referring customers in a way that makes it easy for them (e.g. putting the customer straight through to the advice agency so they don't have to make a follow-up call, or offering call-backs).
- Develop an approach that **welcomes and encourages disclosure**, ensure this is communicated clearly to customers and that there is transparency about what it is a firm will do with personal information. Relevant staff encouraged to record relevant information about the customer's needs, with the knowledge and consent of the consumer. Clear firm guidance on the Data Protection Act is needed so that it is not perceived as a barrier.
- Where applicable and agreed with the customer, information should be recorded and available in a way that ensures subsequent **call handlers or branch staff have the full picture** so customers don't need to keep repeating sensitive information.
- Ensure relevant staff are empowered where possible and appropriate to use appropriate judgement and make **flexible decisions** and that customers consistently get passed on to these staff when needed.
- Where appropriate, **forbearance with flexible timeframes** to better meet consumers' needs.
- Ability to spot abnormal patterns or danger signals and act before people are actually in difficulties. **Encourage proactive intervention.**
- Ability to **move people to different products** where necessary so that they do not become locked in to unsuitable products.
- **Positive recognition** for staff who deal with potentially vulnerable consumers well, and handle difficult situations.
- Provide **support for staff** who are regularly dealing with consumers in difficult circumstances.

# Chapter 8

## The FCA approach

### Summary

The FCA is pursuing an active agenda around vulnerability based on:

- Improved intelligence gathering.
- Strong relationships with consumer and advice organisations.
- A practical focus on consumer outcomes.
- A programme of embedding vulnerability across regulatory functions.

### Formation of the FCA

When the FCA was created in 2013, prudential and conduct functions were split, with the FCA having responsibility for conduct. This gave the regulator a new focus on the consumer.<sup>53</sup>

It is important to understand what's going to be at the heart of the FCA, and that is getting a fair deal for consumers. **(Martin Wheatley, 2012).**

To deliver on these priorities, the following were identified as key:

- better understanding of consumer needs, behaviours and experiences
- a deeper understanding of the causes as well as symptoms of poor outcomes
- a more differentiated analysis of risks
- a more thematic approach (FSA, 2011)

### Creation of the FCA's Consumer and Market Intelligence function

A Consumer and Market Intelligence (CMI) function was created within the FCA when it launched in April 2013. The role of CMI is to help the FCA to achieve its stated aim to put the consumer at the heart of the FCA's business.

<sup>53</sup> The FCA has three objectives: securing an appropriate degree of protection for consumers, protecting and enhancing the integrity of the UK financial system and promoting effective competition in the interests of consumers.

CMI's role is to listen to consumers (through research, tracking surveys and through its work with a wide range of consumer organisations) and to bring the consumer perspective into the FCA to help colleagues understand consumers' experiences, behaviours, challenges and needs.

The FCA looks across the various sectors and product types within financial markets, taking an overview, and using the consumer, rather than the product or the firm as a starting point. This creates a holistic, cross-cutting approach that tries to closely reflect the way consumers interact with services. It allows the FCA to spot emerging issues and themes that occur across financial products and services. Gathering intelligence and building relationships are key strands to this approach.

### Building relationships

A core element of the FCA's intelligence gathering is its approach to working in partnership with consumer and special interest groups. The Partnerships Team helps to build/maximise capacity for engagement of its consumer organisation partners. It has developed a model of consultation that is accessible to smaller organisations which would not usually have the resource to submit full written responses to consultations, for example, or travel to London for multiple roundtable events.<sup>54</sup>

In addition, there is a programme of secondments to organisations such as Citizens Advice, Money Advice Trust, Age UK and Money Advice Scotland to help build mutual understanding, and improve the capacity of the advice sector to provide crucial intelligence to the regulator.<sup>55</sup>

The FCA's relationship with voluntary organisations and consumer groups has been instrumental in developing the vulnerability workstream. The FCA established a dedicated Consumer Vulnerability Network to share experiences from the groups they represent, act as a sounding board, challenge FCA ideas, and input into research plans through ongoing dialogue and roundtable events. The network has also provided access to people to interview for the FCA's large scale qualitative research study (see Appendix 2).

### The FCA's journey in addressing vulnerability

The FCA became aware of a number of issues that, when grouped together, could be identified as impacting particularly on consumers in vulnerable circumstances. Gathering intelligence from a range of sources including a network of third sector and consumer organisations, we carried out a mapping exercise to identify a wide range of potential vulnerability factors. This was combined with an analysis of aspects of product and marketing design, throughout the lifecycle of products, which might cause or exacerbate vulnerability. This formed the starting point for the vulnerability work stream. A definition of vulnerability was developed together with a programme of work to embed an understanding of vulnerability within the regulator, and to indicate to firms the FCA's interest in this area.

### Focus on outcomes

The vulnerability work stream aims for an outcome where "all financial services firms create and *put into practice* appropriate strategies to address the needs of consumers in vulnerable

<sup>54</sup> For more information on the FCA's and other UK regulators' work to engage with consumers and consumer organisations see Coppack, Jackson and Tallack, 2014 See [www.ukrn.org.uk/wp-content/uploads/2014/07/Involving-consumers-in-the-development-of-policy.pdf](http://www.ukrn.org.uk/wp-content/uploads/2014/07/Involving-consumers-in-the-development-of-policy.pdf) accessed 29.10.14.

<sup>55</sup> Consumer insight: Our policies – and how we perform our particular functions – are based on our knowledge of market issues, including competition, consumer experiences, behaviour and market failures. We gain our insight by:

- maintaining links with several consumer organisations and other external bodies that provide relevant information, and sharing insights into how consumers, firms and products are working in the markets
- conducting thorough research into consumer and firm behaviours, understanding, attitudes and situations. We commission work from external experts and use a wide range of techniques, including behavioural insights. Understanding consumers and markets helps us consider, evaluate and design the ways we can act to ensure that consumers are properly protected. This can mean we identify risks to consumers early and intervene more quickly. From *The FCA's approach to advancing its objectives* July 2013 p14.

circumstances"; this would help lead to markets working better for consumers so they can get a fair deal and products and services that meet their needs *over their lifetime*. This deliberate emphasis on practice arises from the belief that it is not enough for firms to develop a policy in this area. It is vitally important that this feeds through into appropriate action, as this is an area where evidence points to a mis-match between high-level policies (where in existence) and consumer experience at the frontline. Rather than fine-tuning definitions of vulnerability, the FCA is focusing on outcomes – what 'good' looks like to consumers (see page 13).

### Consumer Spotlight

The FCA has recently completed its Consumer Spotlight research, which is a segmentation model of retail consumers, informed by a specially commissioned survey of over 4,000 people across the UK. It examines how people in the UK deal with money and financial services, with a unique focus on the capabilities of different groups. We use this model to develop and deliver evidenced-based consumer campaigns. For example, our consumer targeted campaign to tackle investment scams, launched in October 2014. Consumer Spotlight complements the consumer vulnerability work stream; both pieces of work illustrate the diversity of UK consumers, and enable both the FCA and industry to develop a more sophisticated understanding of consumer needs.

### Practical steps to embed work

The vulnerability team is working with internal colleagues in a range of departments in order to embed the practical side of its work across the regulator's functions. The FCA's supervisors are the key point of contact between the regulator and firms so work has been going on to develop training around awareness of vulnerability; and to provide a toolkit which arms supervisors with the questions they need to use in their interactions with firms. The vulnerability team has also been fostering relationships across the wider organisation; for example, by helping Consumer Credit Authorisations case officers develop their understanding of how firms can comply with the vulnerability requirements of CONC 8.2.7, and discussing with Enforcement colleagues the vulnerability provisions within the calculation of penalties.

An understanding of the needs of different consumer groups is being embedded amongst FCA staff and is central to the FCA's diversity and inclusion, and corporate responsibility strategies. It is key that FCA staff understand the role of unconscious bias in decision-making and treatment of consumers is key, as well as understanding the barriers that different communities face in accessing financial services, and engaging with hard to reach groups. The FCA's community engagement programme focuses upon programmes that support the FCA to understand the communities it serves by connecting what it learns with its core function as a regulator.

The FCA understands that it has a role to play in its own relationship with consumers and its contact centre is currently implementing the British Standard BS18477:2010, *Inclusive service provision. Requirements for identifying and responding to consumer vulnerability*. This standard specifies the critical procedures to ensure inclusive services are available and accessible to all consumers equally, regardless of their personal circumstances.

### Next steps

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The aims of this paper are to broaden understanding and stimulate interest and debate around vulnerability; and to provide practical help and resources to firms in developing and implementing a vulnerability strategy.

The FCA sees the appropriate treatment of all customers, including those in vulnerable circumstances, as central to core conduct. We recognise that some firms are in the initial stages of grappling with the issues outlined within this paper. As such, this paper represents an intention to work with industry to improve awareness of vulnerability issues. The Practitioners' Pack supports firms to better understand the range of resources already at their disposal to guide the delivery of inclusive services.

The FCA welcomes the opportunity for further debate around the issues raised in this paper. It will continue to engage with firms and consumer groups through events such as roundtables, in addition to supervision activity. We will take particular interest in possible examples where firms seek to develop best practice as well as dealing with regulatory issues when needed. It is our hope that this paper will help to build momentum that will support firms to develop and implement practical strategies around vulnerability which will lead to better, more flexible results for consumers.

# Appendix 1

## FCA research – methodology

The research method for this project was qualitative and consisted of several different strands.

The research comprised:

- 58 consumer depth interviews (two to three hours) recruited via free-find techniques.
- 150 short telephone interviews with consumers (15 to 20 minutes).
- 19 expert interviews conducted with individuals from various organisations that represent the interests and needs of particular vulnerability groups.
- 12 frontline staff interviews with staff in support or advice-giving roles working for these same organisations.
- 6 group discussions with consumers attending support groups.
- Analysis of nearly 100 case studies from the Citizens Advice Bureaux case studies database.

A small number of specific 'risk factors' were selected as sampling focal points to ensure breadth in the research. These did not constitute an exhaustive list of vulnerabilities, but were chosen because they are recognised as 'proxies' associated with a range of circumstances contributing to financial detriment that may well apply to consumers in a broad range of vulnerable circumstances:

- Long-term/significant illness.
- Carers.
- Older people (over 65).
- Low basic skills. Individuals who struggle with literacy and / or numeracy, with or without the presence of a formally diagnosed learning difficulty.
- Job loss/unemployment.
- Bereavement.

To ensure that a broad range of experiences was captured, the research achieved a good geographic spread, with interviews taking place in England, Scotland, Wales and Northern Ireland.

The sample also achieved a balance between male and female respondents, and covered a wide range of ages, income levels, ethnic / religious background, family / marital status, housing tenure and work status (although in some groups, more people were likely to be unemployed).

All respondents were required to have some responsibility for money and its management within the household, and all had to have had contact with a bank / financial provider within the past six months. Respondents were recruited to have a broad spread of perceived abilities when it came to managing money, including some who found it very difficult, through to others who found it relatively easy. In addition, all respondents had to perceive their vulnerability as having (had) a significant impact on their everyday life.

The researchers recruited for a broad spread of experiences with a range of the following financial products: deposit / current accounts, savings accounts, a range of consumer credit products / services (credit cards, overdrafts, payday loans, personal loans, catalogues, store cards), investments, general insurance (home, car, travel, contents etc.), life assurance, mortgages and pensions. We also ensured there was a broad spread of financial firms / organisations, including a range of the main banks, lenders and financial product providers. The sample achieved a balance between positive, neutral and negative experiences with the financial services providers.

Full details of the research can be found in the publication *Vulnerability exposed: The consumer experience of vulnerability in financial services* (Rowe, Holland, Hann, & Brown, 2015).



## Appendix 2

# The FCA's partnerships approach

We have worked in collaboration with consumer groups, trade bodies, firm representatives and other regulators, to help scope and inform our approach to this paper.

***Third sector organisations included:***

Office of the Public Guardian

Action on Hearing Loss

Age UK

Alzheimer's Society

Christians Against Poverty

Citizens Advice

Consumer Futures (within Citizens Advice)

Dosh

Financial Services Consumer Panel

Macmillan Cancer Support

Money Advice Scotland

Money Advice Trust

Money Savings Expert

RNIB

Royal College of Psychiatrists

Scope

StepChange

Transact (Toynbee Hall)

UNLOCK (The National Association of Reformed Offenders)

Which?

Young Scot

***Industry representatives***

Association of British Insurers

British Bankers' Association

Building Societies Association

Council of Mortgage Lenders

Finance and Leasing Association

Individual financial services firms

Lending Standards Board

Payments Council

UK Cards

***Other***

Financial Ombudsman Service

National Trading Standards

## Appendix 3

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## Appendix 4 Practitioners' Pack

This document is designed to assist practitioners to begin to address the needs of consumers in vulnerable circumstances. It consolidates tips and resources gained throughout the course of the FCA's research. As such, there is some necessary duplication of content from previous Chapters. This pack draws upon resources drafted by third parties; it does not represent FCA guidance or rules. This document is geared towards firm employees tasked with the development of a vulnerable customer policy/strategy.

### Consumer Vulnerability: Practical tips

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### 1. Where to start?

Based on feedback from firms that exhibit good practice, we have developed the process map below. This is intended to support practitioners and share good practice; it is a helpful resource, not an FCA view.



## 2. Key areas to explore

- To ensure a consistent approach that is embedded across all operations, it is important to have a high-level policy on consumer vulnerability in place. This may be owned and championed at a senior level, and it is helpful if relevant staff are aware of its existence.
- Firms could begin by auditing current practice, conducting a gap analysis, and developing overarching strategies that ensure consistency across all parts of the business.
- In any vulnerability strategy evaluation of performance plays a significant role.
- Research demonstrates that it is important for staff on the front line to have sufficient training to facilitate a proper conversation and that they know where internal expertise lies, and know how and when to refer on.
- Flexibility in the application of terms and conditions of products and services plays a significant role in ensuring the needs of consumers in vulnerable circumstances are met. So does an efficient process for referring consumers on to specialist teams who have authority to make flexible decisions.
- Disclosure of needs plays an essential role for consumers. Actively encouraging disclosure, by staff able to have proper conversations, has been shown to be helpful here. Having policies in place for handling disclosure and recording information properly are also important. This should reduce nervousness on the part of staff which can create a barrier to good consumer outcomes.
- Clear, simple information and explanation throughout the product life cycle is important.
- Policies around data protection in particular, but also safeguarding and affordability, need to be implemented based on a correct understanding. If staff are well trained they are less likely to apply such policies in an over-zealous manner which can create problems for customers.

## 3. Consumer needs: What can good look like?

Based on the FCA's research, we believe consumers in vulnerable circumstances need to trust that they will experience the following outcomes when they approach financial services providers. Many of these would also be beneficial to **all** consumers:

- *Having **clear and easy to understand financial products** that do not contain surprises that may only become apparent when crisis strikes.*
- *A **choice of ways of communicating** to be available whenever you need to make contact and for **these to be designed in an inclusive way** so that they are clear, easy to understand and meet your needs. This could relate to the **method** of communication (e.g. face-to-face, phone, post, email, text, web chat, audio, braille, video relay, Type Talk or text relay, interpreting services) or the **service delivery** (e.g. agreement to talk at a particular time of day depending on carers and medication).*

- Feeling that **firms will treat you as an individual** and you won't face the 'computer says no' response just because your circumstances do not fit the standard mould, and will not rely on outdated assumptions or automated processes.
- Knowing, should you experience a sudden change in circumstances requiring a flexible approach, that you will be offered a **tailored response** from your financial services provider.
- Being able to **talk to someone who will take the time to listen**, who is flexible enough to let the conversation take a natural course, and who is sufficiently trained to spot signs of vulnerability and refer on to specialists where necessary.
- Being **referred on to someone who has the authority and discretion** to take a tailored approach to your situation and offer flexible solutions. This may be someone who can bring their expertise to bear to help you plan your finances with a good awareness of specialist sources of help and advice if necessary, and who will refer you if appropriate in a way that makes that referral easy.
- Being offered **flexible outcomes**. Temporary forbearance may be appropriate but this is just one example of a potential need. Others include alternative ways to pay a bill or make a transaction, help registering a power of attorney, stopping constant letters being sent addressed to a deceased person, alternative formats for information to be created/used, not relying solely on an automated process for determining credit worthiness.
- Feeling confident that **your firm encourages disclosure**, that they will work with you in your best interests, will work collaboratively to find solutions, and will use any information you disclose for positive outcomes to meet your needs.
- Knowing that if you do disclose **information about your needs, that information will be recorded properly** so that you do not have to repeat it every time you make contact across all departments of a particular firm.
- Knowing **firms will proactively contact you** if they suspect you may be having financial difficulties.
- Having **firms who spot suspicious activity** which may signal abuse or fraud and take appropriate action.
- If you are trying to speak to a firm in a caring capacity, finding that **the firm listens and makes a note of your concerns** even though they may not be able to divulge any information to you.
- If you are recently bereaved, or have power of attorney or a third party mandate, **receiving consistent advice and treatment**.

#### 4. Innovative practice within industry: case studies

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Although vulnerability is a complex area and there are no quick fixes, there are firms that are already implementing positive policies. During our research we talked to a number of firms that put fair treatment of vulnerable customers high on their agenda.

### Approach embedded throughout organisation

A relatively new bank told us it was able to establish a debt management programme that built in the need to treat customers fairly from the outset. It believes a flexible approach is supported at board level and relevant managers feel they have the autonomy to implement this in practice. The approach is embedded throughout all aspects of the organisation “like a stick of rock” (Firm personal communication with FCA 3.9.2014). It reports that it educates staff to see customers as people rather than statistics. Staff are encouraged to understand the reasons behind debt, and take on board the longer term implications of not resolving the situation for the customer (such as an impaired credit record). Staff are trained to look out for tell-tale signs of stress, including late payments, changes to dates of payments and manual payments, as well as what customers say in phone calls. It identifies consistency of approach across all customer-facing teams; staff training; a specialist support team, and a Vulnerable Customer Committee that assesses individual cases as part of the keys to success. Another key point is an incentive scheme that was radically altered to reflect quality in managing vulnerable customers and finding successful solutions.

### Training and feedback

A firm in the credit sector told us that its approach to vulnerability includes extensive training, a specialist customer support team, and signposting to support agencies at every opportunity. Incentives for staff to identify and deal effectively with vulnerable customers by building this into their performance assessment is also key. Performance assessment includes managers listening to a sample of calls, and assessing how potentially vulnerable people are handled. According to the firm, if these customers are not passed onto the customer support team appropriately, and if calls are not dealt with in a friendly, empathetic manner, this will impact on staff rewards. The firm uses speech analytics software to help with auditing staff performance. This analyses all calls and picks up on specific key words, which may be triggers or clues to vulnerability, such as mention of illness, treatment, diagnosis, depression etc. Managers can then assess how these calls have been handled, and give feedback where improvements are needed.

### Excellent links with charities

Close collaboration with the advice and charity sector has been instrumental in developing its approach to vulnerability according to one firm. It uses the Money Advice Trust and Royal College of Psychiatrists tools such as TEXAS and COMPASS to assist with implementation and finds these very effective (see Appendix 4). It has different levels of training for mainstream collectors and the specialist unit, and has worked extensively with charities such as StepChange, Macmillan Cancer Support, the Samaritans and Christians Against Poverty to develop this area. The firm reports that staff in the specialist unit do not have scripts or time limits to work to. They are encouraged to try to get to the bottom of a person’s situation. This can involve some difficult calls and emotions, and it recognises that, in addition to knowing how to deal with this and signpost effectively to organisations that can help, staff themselves may need help dealing with the aftermath of such calls. It points out that signposting is most effective if a firm puts time and effort into building relationships with the advice sector, knowing what parts of which charities can offer specialist help, and ensuring customers are passed to the most relevant person. It believes that handling vulnerable customers in the right way leads to better team job satisfaction.

### Creditors are not rescuers


Another firm told us that one element of its approach to vulnerability is to recognise that ‘creditors are not rescuers’. It is not its staff’s job to rescue customers in difficulty; however it is their job to know where they can get help and signpost people appropriately. In its view, obtaining help and support to deal with a difficult situation so that people can get back in control of their financial situation is vital to its vision. The firm told us they value emotional intelligence highly, both for frontline staff and their specialist team. Frontline staff use the TEXAS model and pass on to the specialist team

where necessary. It told us staff are encouraged to listen and look out for a wide range of clues, some of which can be subtle, including signs of agitation such as pitch, tone of voice and breathing, as well as indicators such as “I’ve not taken my tablets”. Staff are empowered to move away from scripts where they have a gut feeling that something isn’t right. Training for staff in the specialist team involves role play around emotionally difficult situations so that staff feel confident in handling these sorts of calls. Once a customer is identified as vulnerable, they are removed from automatic dialling systems. Their file is flagged so that any future contact will be handled by the specialist team. Records are kept that may include details such as best times to contact the customer, which may for example be built around timetables for dialysis or chemotherapy, or timings for medications or carer visits, which might make a significant difference to the customer. Involvement with the Samaritans, StepChange and Macmillan Cancer Support has been key in developing its approach. It sees a business culture that wants to do the right thing and the prioritisation of excellent communication skills as key features of this approach.

### Promoting accessibility in banking

We also came across examples of creative approaches in the banking sector. For example, one bank has been touring the UK with Accessibility Roadshows throughout 2014 visiting branches, head office locations and operation areas within the bank, as well as presenting at external events. The aim is to bring to life some of the accessible services the bank can provide to make customers’ lives easier. The roadshows include demonstrations of the bank’s accessible services, such as its Talking Cash Machines and high visibility debit cards for people with visual impairments, or the Sign Video services for British Sign Language users. The roadshows also highlight how its partnerships with charities such as RNIB and the Alzheimer’s Society are helping the bank understand the needs of its customers. The bank provides detailed training to its staff in advance of the roadshow arriving in a branch, meaning they are confident in answering customer queries about accessibility services and can proactively provide the right support on an ongoing basis. Since the start of the roadshows, the bank has seen the use of high visibility debit cards and Talking ATMs increase significantly.

Another example came from a satisfied customer of a bank that has recently taken steps to improve procedures in establishing, and monitoring the continued operation of power of attorneys:

 *“I set up a power of attorney account with the bank. This took a little time but the bank allows you to ring directly to the branch. They also have a dedicated legal team who handle the setting up of power of attorney. They wrote to me shortly after I had visited the branch. In their letter was a direct phone line number which I rung a couple of times and found the team both understanding and helpful.”*

**(Personal communication with the FCA 30.10.2014)**



## Insurance sector: case studies

### Support in obtaining death certificate

Following the death of a policyholder, a life insurance firm tried, over many months, to obtain the death certificate from the widower so they could pay out the benefits from his late wife's pension policy. Unfortunately, he was finding it very difficult to deal with this, and so the firm arranged to get a copy of the death certificate. Having received this, they were able to send him the forms to enable the payment to be made easily. The result was that the payment was issued without adding to the considerable stress that the customer was experiencing.

### Pension life cover and tax penalty

A widow urgently needed the proceeds of her late husband's pension life cover policy to avoid a tax penalty. Unfortunately, she completed the discharge forms incorrectly, which needed valuable time to correct. The firm arranged for a courier to deliver new forms, and return them correctly completed. The firm was then able to meet the customer's deadline and the tax penalty was avoided.

### Transferred benefits

A confused, elderly gentleman contacted the firm about his pension. The firm established that his policy had been transferred away many years earlier, and the adviser who had dealt with the policyholder's affairs was no longer available. The firm, therefore, contacted the receiving provider, only to find that the benefits had been transferred again to another provider. The firm contacted them, explained the background, and put them in touch with the elderly gentleman so he could receive his benefits.

### Customer communications –plain language review

Members of the executive committee of a life insurance firm feel personally accountable for the standard of communications with customers. Based on their first-hand experience of customer complaints and focus group feedback, the firm set up a letter writing group, comprising the best practitioners, to establish best practice. As a result, a letter writing workshop has been introduced that all customer service staff must attend.

Following policyholder feedback on the firm's retirement process, it undertook an end-to-end review. Some of the most important changes concerned the letters and forms issued to retiring policyholders. In particular, colour coding the various retirement options so that policyholders can navigate the retirement forms much more easily. The covering letters to policyholders were significantly reduced in length, and the options available put into the order that is most likely to interest them. For example, for retirement funds under £10,000, the cash option is the first one covered. Since introducing the new forms, letters and processes, retirement-related complaints have reduced by two-thirds.

Policyholder focus groups have consistently told the firm that the most important communication they receive is the annual statement, and that they are principally interested in the values. Consequently, the statements have been redesigned so that the policy value is the very first thing policyholders see when they open the envelope. This presentation has been tested on new focus groups and found to be much valued

## 5. Recognising consumer vulnerability

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### (a) Risk factors\* for consumers of financial services

- low literacy, numeracy and financial capability skills
- physical disability
- severe or long-term illness
- mental health problems
- 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)

\*Please note this list is not exhaustive

### (b) Triggers to support staff on the frontline

Some triggers may be to do with changes in payment behaviour such as:

- payments stopping suddenly
- late or missed payments
- regular unarranged overdrafts and charges
- unusual activity on an account

Other triggers may occur during a phone call and include phrases such as:

- I can't pay
- I'm having trouble paying
- I can't read my bill
- I can't understand the letter you sent me

- I can't hold on all day
- I hate these press buttons  
(from BS 18477: 2010.<sup>56</sup>)

Staff could also be on the lookout for:

- shortness of breath or signs of agitation
- asking for repetition (a sign that the customer is not retaining information)
- signs that the consumer has not understood or signs of confusion
- mention of medication

## 6. Handling vulnerability disclosure and navigating the Data Protection Act

Please see Chapter 5: Disclosure and data protection issues for a fuller analysis of the Data Protection Act.

### a) The Information Commissioners Office, the FOS and handling third party disclosures

#### Information Commissioner's Office

The regulatory body in this area, the Information Commissioner's Office (ICO), has communicated to the FCA that, in the right circumstances, and for the right reasons, data protection should not act as a barrier to the recording of information, when this recording would lead to a fair outcome for the customer. The ICO seeks to exercise its regulatory powers in a proportionate way, and it is likely that action would only be taken against a firm where the recording of the information in question had been unfair and/or led to an unfair outcome for an individual. The ICO made it clear that it would have to judge the merits of each individual case to assess whether it was fair for certain information to be recorded. However, provided the outcome achieved is right for the customer it is unlikely that a complaint would subsequently be made to the ICO. Quality conversations with customers are the key to success, and the right training, systems and processes need to be in place to facilitate this. Focusing on the adjustments that the customer needs rather than making assumptions about underlying conditions, and seeking an agreement with the customer when those adjustments might need to be reviewed, at the outset, are identified by the ICO as a sensible approach (ICO personal communication with FCA 6.11.14).

#### Financial Ombudsman Service

The Financial Ombudsman Service (the ombudsman service) is clear that data protection is not a barrier to recording relevant information: *Our opinion is that if you ask a proper question, record factual information (not your opinion) and explain to the customer why you're recording this information down (to meet their needs/provide best level of care) there's no issue with DPA. That's what we do.* The ombudsman service recommends:

<sup>56</sup> Permission to reproduce extracts from BS 18477:2010 is granted by BSI. British Standards can be obtained in PDF or hard copy formats from the BSI online shop: [www.bsigroup.com/Shop](http://www.bsigroup.com/Shop) or by contacting BSI Customer Services for hardcopies only: Tel: +44 (0)20 8996 9001, Email: [cservices@bsigroup.com](mailto:cservices@bsigroup.com). This permission does not cover any other editions.

- recording things in the customer's own words
- not making assumptions, and
- recording the needs or adaptations that the customer asks for rather than an assumed underlying condition as useful tips (Financial Ombudsman Service personal communication with FCA 22.10.14)

### **Involvement of a third party**

Firms expressed concern about how they should respond when a third party (such as a relative or carer) is involved with someone's finances (as is often the case with some vulnerable consumers). It is true that firms cannot disclose information about a customer's account to a third party without authorisation or an arrangement such as a power of attorney or third party mandate. However, if a customer needs assistance in making a call, and the nominated person has the security information they need to conduct a transaction, they should be enabled to carry out the call on the customer's behalf.<sup>57</sup> In addition, if a third party contacts a firm to let them know that a customer cannot manage their financial affairs for a while, because of, for example, a deteriorating health condition or a sudden crisis, there is nothing to stop a firm making a note of the circumstances so that appropriate action can be taken when they can be in contact with the customer. This does not involve disclosing any information to the caller. Sometimes this is all that is required to reassure concerned relatives that the firm understands the situation. Firms may also want to use the information provided by a third party to investigate further and seek a separate conversation with the customer when appropriate to do so. This may be important in preventing abuse as well as clarifying the customer's needs.

The Money Advice Trust and Royal College of Psychiatrists have developed a tool to assist staff in dealing with information disclosures from carers (see below).

### **(b) TEXAS, IDEA and CARERS drills**

The Royal College of Psychiatrists and Money Advice Trust have developed three protocols which are practical tools to assist staff in dealing with conversations around vulnerability.

#### **TEXAS drill**

The TEXAS protocol can help all frontline staff manage disclosures effectively which is a key part of creating an organisation where customers are confident to disclose. It can be used as a training tool for managing initial conversations.

Thank them (what they have told you could be useful for everyone involved)

"Thanks for telling me, as it will help us deal with your account better"

Explain how their information will be used

"Let me just explain how we'll use that information, so you know"

NB This includes why the information is being collected, how it will be used to help decision-making, and who the data will be shared with/disclosed to.

eXplicit consent

Now ask the individual for their permission to use their information in this way

<sup>57</sup> Source: Employers' Forum on Disability Your call p 13

Ask three key questions (these will help you understand the situation better)

1. Does your mental health problem make it difficult to repay your debt? If so, how?
2. Does your mental health problem affect your ability to deal or communicate with us? If so, how?
3. Does anyone need to help you manage your finances such as a carer or relative? If so, how?

Signpost to internal or external help (where this is appropriate)

At this point, staff and organisations might:

- need to internally refer the individual to a specialist team/staff member in their organisation
- creditors or their agents may want to consider external signposting to an organisation such as:
  - a debt advice agency for help with multiple debts
  - NHS 111 for more help (non-emergency) with a mental health problem, NHS Direct Wales on 0845 46 47
  - Health and Social Care in Northern Ireland [www.hscni.net/](http://www.hscni.net/)
  - The Samaritans (0845 790 9090) for suicidal or despairing people.

#### IDEA

The IDEA protocol can be used by specialist staff to help structure and manage more in depth conversations, ask the right questions, and identify relevant information.

**Impact** – staff should ask what the mental health problem either stops the customer doing in relation to their financial situation, or what it makes harder for them to do. This will help provide insight into both the severity of the condition, and its consequences.

**Duration** – staff should discuss how long the customer has been living with the reported mental health problem, as the duration of different conditions will vary. This can inform decisions about the amount of time someone needs to be given to retake control of their situation.

**Episodes** – some people will experience more than one episode of poor mental health in their lives. Creditors will need to take such fluctuating conditions into account in their decision-making.

**Assistance** – creditors should consider whether the customer has been able to get any care, help, support or treatment for their condition. This may help in relation to collecting medical evidence.

Throughout, creditors should keep in mind not only the *commercial outcomes* they wish to achieve, but also the steps that would bring about better *customer outcomes* for their health and financial wellbeing.

## CARERS

This drill was developed to assist with handling disclosures from carers to ensure that helpful information is not lost due to staff concerns about data protection.

- **Check for authority**
  - if the carer *can* supply evidence of their authority to act on the customer's behalf, a more detailed discussion can be arranged once this is received
  - if the carer *cannot* supply this evidence, or needs to share information about the customer now, the following steps should be taken:
- **Avoid discussing any account details, making sure to explain to the carer why this isn't possible**
- **Reassure the carer that their concerns can still, however, be recorded as observations (unverified) on the customer's account, and these can be looked into**
- **Explain to the carer that their observations will need to be shared with the customer, colleagues, and potentially any clients. Carers will need to give their consent for this.**
- **Record the carer's observations, listening carefully, and ensuring:**
  - you have checked why the customer is unable to speak directly with the creditor about these issues (is there, for example, a communication issue?)
  - you are clear how the customer's mental health problem affects their ability to repay
  - you have confirmed with the carer what information has been recorded, and how long these unverified observations will be held on file while they are being checked.
- **Summarise the available next steps, which might include:**
  - you (or a colleague) speaking with the customer concerned to establish if there is a problem, including checking the unverified observations made by the carer
  - the carer discussing with the customer a potential mandate to act on their behalf
  - the carer and customer working together to collect supporting medical evidence

## 7. Tips from firms: what has been reported to work well

***This list is not designed to be comprehensive or prescriptive; rather it is a collection of the tips that have arisen from discussions with a range of firms and conversations with experts in the field.***

***A company-wide commitment to tackling and 'doing the right thing' in this area:*** Changing company process and systems that may have been developed in a process-driven, scripted way is not easy. It takes time and resource so needs to be supported from the top down, whether that be by having a senior-level champion or commitment from the whole of management.

***A culture where staff are encouraged to understand and empathise with vulnerability:*** Many staff in call centres who provide the first point of contact with customers may not have much experience of people in vulnerable circumstances. Building knowledge of various vulnerabilities and the number of people involved, encouraging an appreciation of what life can be like for some people in difficult circumstances and encouraging a desire to help, is key to this culture. Some firms have chosen to do this by bringing in third sector organisations that specialise in certain vulnerabilities, or individuals who have experienced certain illnesses, to train or talk to staff.

***An emphasis on training:*** all staff who deal directly with customers to know enough about vulnerability to pick up on warning signs or triggers and signpost/refer on appropriately. It is acknowledged by firms that staff cannot be expected to be experts on all types of illness. Rather they need to spot clues that enable them to refer on to more specialist assistance.

***Avoiding rigidly scripted responses:*** Staff need the flexibility to allow a conversation to develop if they sense that a customer may be experiencing difficulty.

***Removing the fear, enabling difficult conversations:*** Many staff may feel awkward or scared of having conversations around issues such as mental or other forms of illness, stressful situations and dealing with customers who may be distressed. Therefore they may not feel able to encourage customers to disclose vulnerabilities. Removing as much of this fear as possible via increased understanding, clear guidance on how to respond, role play, listening to sample calls are all ways that this can be achieved.

***Recruiting for and encouraging listening skills,*** emotional intelligence and empathy.

***Creating specialist teams*** that take responsibility for vulnerable customers once they have been referred by frontline staff seems to be a common and successful way of centering expertise in one place. Staff in specialist teams are commonly trained to a higher level in dealing with vulnerable customers and have more autonomy and flexibility in offering help and solutions.

***Building trust and encouraging disclosure:*** Firms are clear that the more they know about the customer's situation, the more they can do to help. Clear procedures, well-trained staff with excellent communication skills, good implementation of data protection requirements and proving to customers that disclosing leads to positive action all help with good practice in this area.

***Building success in handling calls from customers in vulnerable circumstances into performance assessment:*** Celebrating success by ensuring good practice is identified, highlighted and praised. Some firms use software that picks up on keywords which may indicate vulnerability so this can be used to assess staff performance and feed into training.



**Targets and incentives** can be aligned to good performance in line with a firm's strategy on dealing with vulnerable consumers. Incentives around the correct identification and referral on of potentially vulnerable people by frontline call handlers, and incentives that take account of the long-term sustainability of relationships, can be key parts of this.

**Relationships with advice sector:** Developing good relationships with the advice sector and building expertise on where help is available. Ensuring staff have access to this knowledge so that they have the best chance of referring customers on to the right source of help.

**Intelligent signposting:** *As it is not the job of financial services staff to be expert in handling all forms of vulnerability, it is critical that the right sort of expert help is identified and the customer referred in the most practical way.* Very often the financial problem the customer is calling about is the catalyst that has created a crisis or a stressful situation – it is the underlying vulnerability or condition that needs to be addressed. Good practice we came across included firms identifying which third sector organisations offer particularly relevant help for various issues and signposting to relevant individuals or departments rather than to a general website or phone number; 'warm-handing' (referring on to another organisation directly so that the customer doesn't have to make a second call); offering call-backs from third sector organisations at a time that suits the consumer; building relationships with those third sector organisations to maximise the usefulness of these interactions.

**Having staff with the ability to use judgement and a flexible approach** to the customer's circumstances so that options like freezing charges, winding back charges, and sympathetic treatment particularly if a customer is in hospital or prison, offering payment holidays of differing lengths etc., can all work to create a good outcome for the customer. Other examples include alternative ways to pay a bill or make a transaction, help registering a power of attorney, stopping constant letters being sent out addressed to a deceased person, alternative formats for information to be created/used, not relying solely on an automated process for determining credit worthiness, not being sold a product when disclosing a vulnerability.

**Recording needs:** Having systems that enable and encourage staff to record the customers' needs and any request for additional support.

**Being able to flag accounts** so that customers who may be in vulnerable circumstances are identified quickly when they contact the firm, and do not have to repeat what may be difficult details over and over again is key. This means these customers get diverted to the right team and in some firms it means that they are removed from automatic phone calls chasing debt, and from marketing lists. Flags, like other information, must be recorded and maintained in line with data protection principles (see Chapter 5).

**Greater range of accessible options** such as talking ATMs, hearing loops within branches, providing information in audio, Easy Read, large print, braille or audio formats, cheque book templates, and ensuring these are all working, well-publicised and understood by staff. Interpretation services are also important. Offer alternatives to dealing over the phone or online.

**Specific steps to ensure that those who may have difficulty in understanding** can be offered longer appointment times, meetings in quiet areas, allowing accompaniment and time for reflection, staff to take steps to clarify and check understanding.

**Flexibility around proof of identity** requirements and ensuring all counter staff are aware of this.

## 8. Good practice guides

This list is by no means exhaustive but we provide it here to promote the belief that strategies for dealing with consumers in vulnerable circumstances should not be developed in isolation within specific sectors. Sharing of principles and good practice across all financial services is likely to lead to better outcomes.

The British Standard BS 18477:2010 *Inclusive service provision. Requirements for identifying and responding to consumer vulnerability* is aimed at all service providers and illustrates how organisations can identify vulnerable consumers and treat them fairly. It covers aspects such as high-level policies, flexibility at the frontline, staff training, fair marketing and sales, and providing a range of contact methods and accessible information formats. The standard contains a wealth of detailed information which, although not tailored to financial services, is highly relevant. Of particular interest is the section on training staff to pick up on signals or triggers and identifying need. The Financial Ombudsman Service has already implemented this approach across its work with consumers and the FCA has begun work to embed this within its own contact centre.

The Royal College of Psychiatrists and Money Advice Trust (2014) *Lending, debt collection and mental health: twelve steps for treating potentially vulnerable customers fairly - guidance for treating potentially vulnerable customers fairly in the credit industry, and tips on practical implementation*. See [www.vulnerability.training](http://www.vulnerability.training)

The Money Advice Liaison Group and Royal College of Psychiatrists (2013) *Appropriately processing data from individuals with mental health problems under the Data Protection Act (1998)* (Briefing Note 4). See [www.rcpsych.ac.uk/pdf/MALG%20Briefing%20Note%20\(4\)%20-%20DPA%20and%20mental%20health%20\(13\\_04\\_29\).pdf](http://www.rcpsych.ac.uk/pdf/MALG%20Briefing%20Note%20(4)%20-%20DPA%20and%20mental%20health%20(13_04_29).pdf)

Mind (2008) *In the red* and (2011) *Still in the red* – recommendations on debt and mental health. See [www.mind.org.uk/media/273469/in-the-red.pdf](http://www.mind.org.uk/media/273469/in-the-red.pdf) and [www.mind.org.uk/media/273468/still-in-the-red.pdf](http://www.mind.org.uk/media/273468/still-in-the-red.pdf)

The Alzheimer's Society (2013) *Dementia-friendly financial services: A charter for improving the customer experience of people living with dementia when dealing with financial services organisation*. See [file:///C:/Users/racton1/Downloads/Dementia-friendly\\_financial\\_services\\_charter%20\(3\).pdf](file:///C:/Users/racton1/Downloads/Dementia-friendly_financial_services_charter%20(3).pdf).

The Employers' Forum on Disability (2010) *Your call is important to us – Best practice charter: contact centre quality commitment*. See [pelorous.totallyplc.com/public/cms/261/564/62/192/Your%20Call%20is%20Important%20To%20Us%20\\_generic\\_2010.pdf?realName=HMw4c2.pdf](http://pelorous.totallyplc.com/public/cms/261/564/62/192/Your%20Call%20is%20Important%20To%20Us%20_generic_2010.pdf?realName=HMw4c2.pdf)

The Direct Marketing Association (2012) *Guidelines for call centres dealing with vulnerable consumers*. See [dma.org.uk/uploads/call-centres-vulnerable-consumers\\_final\\_53d7c237289c1.pdf](http://dma.org.uk/uploads/call-centres-vulnerable-consumers_final_53d7c237289c1.pdf)

Macmillan Cancer Support (2014) *Counting on your support – how the banking industry can improve the service it provides to customers living with cancer*. Includes nine recommendations for banks in supporting those living with cancer. See [www.macmillan.org.uk/Documents/GetInvolved/Campaigns/Costofcancer/Countingonyoursupport-MacmillanBankingReport.pdf](http://www.macmillan.org.uk/Documents/GetInvolved/Campaigns/Costofcancer/Countingonyoursupport-MacmillanBankingReport.pdf)

Royal National Institute of Blind People (2011), *Barriers to financial inclusion: Factors affecting the independent use of banking services for blind and partially sighted people* See *Barriers to financial inclusion research full report* (Word, 531 KB)

Dosh (2014) *Access to banking for people with a learning disability*. See [www.dosh.org/data/Access\\_to\\_banking\\_for\\_people\\_with\\_a\\_learning\\_disability\\_2014.pdf](http://www.dosh.org/data/Access_to_banking_for_people_with_a_learning_disability_2014.pdf)

The Lending Code includes requirements around mental health and financial difficulty. The Lending Standards Board has carried out a review of vulnerability amongst subscribers which contains comments on policies and procedures. It has also published reviews on dealing with customers in financial difficulties. Lending Standards Board (2014) *Themed review of vulnerable customers*. See [www.lendingstandardsboard.org.uk/docs/ThemedReviewofVulnerableCustomers.pdf](http://www.lendingstandardsboard.org.uk/docs/ThemedReviewofVulnerableCustomers.pdf)

The British Bankers' Association publish leaflets on disability law, proof of identity, dealing with bereavement, banking for those with reduced mental capacity, managing a bank account for someone else amongst others. These are aimed at consumers but may be useful in setting expectations. We understand that the BBA is also planning to publish a series of briefing notes for banks to offer best practice guidance in dealing with range of potentially vulnerable customers. Other trade bodies such as the Building Societies Association also provide leaflets.

There are many common themes which run through these recommendations, often around:

- confidence and skills of front-line staff
- consistent guidance in appropriate referral
- expertise in specialist teams
- flexible, tailored responses
- encouraging conversations and disclosure
- recording communication and service needs accurately and in line with data protection and Mental Capacity Act requirements
- clear processes for reporting suspected abuse or fraud.

