



GC19/3: Guidance for firms on the fair treatment of vulnerable customers

The Institute and Faculty of Actuaries (IFoA) is a royal chartered, not-for-profit, professional body. We represent and regulate over 32,000 actuaries worldwide, and oversee their education at all stages of qualification and development throughout their careers.

1. The Institute and Faculty of Actuaries (IFoA) welcomes the opportunity to respond to the FCA's Guidance Consultation (GC) paper on the fair treatment of vulnerable customers. We have responded to the consultation primarily in the context of insurance products.
2. It is important to note that, as for any IFoA consultation response, we have considered the issues relevant to the FCA's proposals from the perspective of the public interest.
3. As we mention below, the IFoA supports the FCA's proposed Guidance on the fair treatment of vulnerable customers, and we recognise the need for financial services firms to embed the Guidance within their respective corporate cultures. We believe there is a role for industry bodies to help promote the Guidance. Given the IFoA's expertise in insurance and our public interest perspective, we would be happy to play a role in the promotion of the Guidance – noting the suggestions we raise under the questions which follow.

Q1. Do you have any comments on the aims of the draft Guidance?

4. The IFoA supports the aims of the FCA's proposed Guidance on the fair treatment of vulnerable customers, and in particular, for the outcomes experienced by vulnerable customers to be at least as good as those of other customers. We agree that consistency in treatment of vulnerable customers across firms and sectors is also important. We also agree it is useful to point out that the vast majority of us will face potential or actual vulnerability at least once in our lives.
5. We support the alignment of the Guidance with the outcomes of Treating Customers Fairly (TCF), and their extension to individuals facing circumstances of vulnerability. Furthermore, the positioning of the Guidance in the context of the Principles for Businesses is helpful.
6. It is important that the nature of the Guidance is principles-based (as is proposed), and we agree with the need for flexibility. The IFoA strongly supports the desire to embed the Guidance into firms' cultures across all levels, and driven from the top.
7. It is important that the FCA continues to take action where firms do not treat vulnerable customers fairly, or in a consistent manner. This approach will help to enforce any cultural change required, including intervention to identify actual, or potential, harm for vulnerable consumers.

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8. Whilst we agree with the general principle that consumers should take responsibility for their choices and decisions, we also recognise that vulnerability can interfere with an individual's ability to take this responsibility, either on a temporary basis, or permanently. One challenging conundrum is whether a firm should intervene to stop a customer from taking action if it believes it is likely to be disadvantageous to the customer ; for example, disinvesting from a Lifetime ISA product early and incurring a significant penalty. Conversely, the customer in this circumstance could have an urgent need for the ISA proceeds, so such circumstances are rarely straightforward. We think it would be useful for the Guidance to address this form of 'conundrum'.
9. We note that by their nature, insurance products are often designed specifically to provide significant support to vulnerable customers. There are many examples such as: life insurance in the case of bereavement; health coverage in the case of sickness; financial resilience against shocks like theft of assets, a house fire, or motor vehicle accident. In addition, the wider financial services industry can, through financial advice, help people build their own financial resilience (e.g. through saving or managing debt), hence mitigating vulnerability. Therefore, the insurance and financial advice sectors can offer **significant benefits to vulnerable customers**.
10. It is also worth noting that the long-term nature of many insurance products often means there is a long-term relationship between the insurer and a corresponding policyholder. Over the course of such an extended relationship, a policyholder may experience vulnerability at one or more stages in their interactions with their insurer.
11. We note the observation in paragraph 2.19 of the main text of the GC that many stakeholders were uncertain over the FCA's 'Approach to Consumers' consultation, and were keen to have clearer guidance from the FCA. As we mention above, the IFoA supports principles-based Guidance, rather than a prescriptive checklist. In our view, firms should take a direct responsibility for their approach to TCF. This may mean firms have to adapt their culture so that employees are more readily able to recognise what is good practice, rather than following a checklist.
12. The Guidance relates to the fair treatment of vulnerable customers. Given that some people may be reticent at being labelled as vulnerable, some further thought should perhaps be given to how the Guidance is positioned with a firm's customers. There are also differing degrees and forms of vulnerability, including individuals who have low levels of financial literacy or individuals with cognitive decline. However, this need not detract from the aims of the Guidance to seek consistency of customer treatment.

Q2. Do you have any comments on the application of the Guidance or its status as non-Handbook guidance?

13. The IFoA support a flexible approach, recognising that the circumstances of different customers will be different i.e. there is room for judgement/ adapting the service in the moment; this relies on the training and expertise of the employees involved.
14. As we mention above, whilst we agree that a prescriptive checklist is not desirable, the important nature of non-mandatory guidance must be highlighted to firms to ensure that they recognise the significance of the issues being addressed.
15. Our view is that the mandatory obligations under Principle 6 are a crucial component of this Guidance and therefore should be stressed as heavily as possible. Furthermore, the points made in paragraphs 18 and 19 of Annex 1 are also important, and we believe these should be prominent:

- doing the right thing for vulnerable customers should be embedded within a firm's culture; and
- adapting a firm's culture is the responsibility of its employees as a whole, but leadership should come from the top.

Q3: Do you have any comments on the distinction between actual and potential vulnerability (Annex 1, Section 1)? (Please note we are not seeking views on the meaning of vulnerable consumer because we have consulted on that previously.)

16. The definition of vulnerability includes actual and potential vulnerability, although it may be more difficult to assess *potential* vulnerability. However, our view is that ultimately firms must make reasonable adjustments for all customers, whether potentially or actually vulnerable.
17. We also note that actual and potential vulnerability may emerge after a financial product is taken out; for example the subsequent diagnosis of a health issue, or vulnerability an individual was not consciously aware of at the time. This means that a product may have been appropriate (or was thought to be) when first taken out, but becomes less suitable once a particular vulnerability emerges.
18. We note a further question relating to scope. If a customer were (potentially) vulnerable, does that then apply across all products/services, and if so how would this be measured? For example, should a review consider a range of products or even providers? Alternatively, should it depend on what each product/service is? It would be helpful to set out principles considering these questions of scope.
19. A customer's vulnerability may be relevant to a range of products. In some cases, these products may lie with one provider. However, there would be a discrepancy with the alternative scenario where the relevant products were held with a range of separate firms. Our interpretation of the Proposals is that under this scenario, the provider identifying the vulnerability would not be obliged to contact the other product providers.
20. One *possible* solution here is through the launch of the Vulnerability Registration Service. There may be merit in including reference to this service in the Guidance, if the FCA judges this to be appropriate.
21. In addition there is a risk that 'Direct to Consumer' customers who are, or who are potentially, vulnerable may be particularly at risk of making poor decisions if they do not seek regulated financial advice. Some consideration of how to mitigate risks arising in this context would also be helpful.

Q4: Do you have any comments on our view of what firms should do to understand the needs of vulnerable consumers (Annex 1, Section 2)?

22. We agree that firms should understand the needs of vulnerable consumers in their target market and customer base. We would go one step further and suggest that they should have a broader understanding of the needs of vulnerable customers and have a proactive approach to ensuring they are treated fairly.
23. Understanding the impact of vulnerability includes the nature and scale of its drivers (health, life events, resilience and capability), the impact of the vulnerability (i.e. potential risks of harm), and the potential effect on customer outcomes and experience. It can affect the options needed for tailored services or support and sales processes, among other areas.

24. As mentioned in the GC, it is important to take into account that some individuals may not want support, or for others to be aware of their circumstances, including being labeled as vulnerable. Given this, some individuals may not tell a provider about their circumstances, making it difficult to offer support. In this situation it would be helpful for firms to develop an approach where they believe the customer to be vulnerable, but where the customer does not want to acknowledge it.
25. Paragraphs 31 and 32 of Annex 1 are useful in highlighting that vulnerability can be perpetuated (including the role of firms), and the complex / overlapping nature of many vulnerabilities.
26. In our view, Case Study 2 suggests that temporary vulnerability may be a more important distinction than potential vulnerability, and the implications for firms possibly need more attention than the Case Study alone. In principle it would be helpful for firms to know when temporary vulnerability applied; albeit in practice this could be difficult to monitor as a customer could transition in and out of the definition of a vulnerable customer. As mentioned above, the Vulnerability Registration Service could potentially help in this regard.
27. Paragraph 34 refers to identifying potential risks arising from vulnerabilities. Again, this is important, and may be more so than differentiating potential vulnerabilities.
28. Section 2 also refers to firms' communication channels. This highlights the need for firms to make their contact telephone numbers readily available where applicable. However, not all distribution models provide the option of contact by telephone. This could thus impact the extent to which fair treatment could be applied in practice to all customers, such as those accessing their provider on an online basis only.
29. Case Study 3 is very pertinent. It is vital that firms flag indications of dementia and ensure that such customers are not allowed to enter into binding contracts until both parties are absolutely certain that such contracts are appropriate.

Q5: Do you have any comments on our view of what firms should do to ensure staff have the necessary skills and capabilities when engaging with vulnerable consumers (Annex 1, Section 3)?

30. The skills and capabilities to engage with vulnerable customers includes the knowledge, confidence and necessary freedom to use judgement in a specific situation. We believe that it is important that staff at all levels in an organisation are able to empathise with customers. It is not just call-centre staff who need to have a good understanding of, and empathy with, customers; this is also important for staff far-removed from the corporate front-line, including actuaries.
31. Formal training can help staff understand and identify indicators of actual and potential vulnerability, and resulting customer needs. There is also a role for training that equips staff with the techniques to seek additional information and engage sensitively, including asking questions and offering additional support where relevant.
32. It may also be useful for the Guidance to acknowledge that vulnerable customers are often able to call upon the State for assistance: perhaps with benefits or costs being met, or other non-financial State support. It is important that those advising vulnerable customers have a clear understanding of the interaction between consumer decisions and the effect of these on access to assistance. In our experience, some financial advisors and financial service providers often have little knowledge of these interdependencies, and can then inadvertently steer customers in the wrong direction.

33. Highlighting the importance of practical and emotional support to staff themselves is also useful. Some of the circumstances staff could then find themselves in may be taxing on their own personal resilience.
34. We presume that references to staff relate to contractual employees. However, partners or other participants in the supply chain such as independent advisers, comparison websites and third-party administrators are also relevant. In particular, the proposed Guidance states that it is 'relevant to all firms involved in the supply of products or services to retail customers even if they do not have a direct client relationship with the customers'. This implies that each firm is responsible for their component in a supply chain, but to what extent are firms also responsible for the parties they use in their supply chain?
35. Although there is merit in a firm seeking to ensure that it only engages with other firms which share its views and sensibilities (and in this context, meaning that they have a shared sense of what is appropriate fair treatment of vulnerable customers). However, this may set a bar which is hard to achieve in practice in extended supply chains. Conversely, if another firm is also subject to the FCA's regulations, it may suffice to rely on their conduct meeting the FCA's regulatory requirements.
36. Although we agree that staff should engage with customers throughout the customer journey, care should be taken that this engagement is at appropriate touchpoints. If a firm is perceived by customers as being overly-intrusive, it may increase the risk the customer disengages, particularly if they are reticent about discussing their vulnerability.
37. We welcome the suggestion that larger firms could appoint a 'Vulnerability Champion'. As mentioned above, some customers may be reticent to be labelled as 'vulnerable'. Reference to a 'Safeguarding Champion' is an alternative title, albeit one which is perhaps less specific.
38. The success of appointing a Vulnerability Champion (or equivalent title) would depend on securing an enthusiastic member of staff with appropriate expertise, and then making appropriate use of such a resource across relevant customer-facing teams. If a wide range of firms were to appoint such a position, there may be merit in the FCA running awareness sessions so that the relevant individuals could understand their role, to facilitate sharing of best practice and to create a support network amongst the Champions.

Q6: Do you have any comments on our view of what firms should do to translate their understanding of the needs of vulnerable consumers into practical action on product and service design, good customer service and communications (Annex 1, Section 4)?

39. It is helpful that the Guidance recognises products and services can have positive impacts for vulnerable customers.
40. Customer needs should be considered over both the development cycle (including the choice versus complexity trade-off when designing), and at the product review stage. Individualised service can help make a standard product and/or system flexible enough to meet specific vulnerable customer needs at the time (including perhaps specialist services). In other words, it is the combination of product, communication and service that is important. However, customer needs vary by product and intended market.
41. The IFoA supports the view that vulnerabilities should be considered at different points in the product's life e.g. customer researching the product, purchase, ongoing management, claim, as well as the customer's service needs at different stages. The average length of the relationship and the

purpose of the product will also be relevant; two contrasting examples are a trip-specific travel insurance policy, versus a regular premium whole-of-life policy.

42. Ideally there should be consistency across multiple channels that customers might use to engage with firms e.g. direct/online, frontline staff and independent advisers. Some channels may not be appropriate for certain product types though, depending on their complexity or need for ongoing management.
43. We agree that firms should build processes to monitor outcomes experienced by vulnerable consumers. A culture of feedback and learning is also important, including adapting over time. The Guidance suggests processes and systems to help staff record information on vulnerable customers' needs should be developed. From a practical viewpoint this could be challenging where customers have multiple products that are administered on different systems; the holistic customer view implied here may also be difficult to develop where there are justifiable reasons for 'Chinese Walls' between departments within a given firm. Again, the Vulnerability Registration Service may potentially play a role here.
44. We note that technology-focused communications (such as App notifications and emails) are not appropriate for some customers. Ideally communication should be based on customer preference (while balancing the need for checks to prevent fraud). More generally, there is a risk that customers will ignore excessive communications and dismiss them as 'marketing' or 'spam' even when they are not.
45. Paragraph 98 (Table 2) gives examples of 'simplified' versions of communications such as infographics. Some caution may be required here, where there is a risk of vital information being omitted and of vulnerable customers not understanding the infographics.
46. Paragraph 61 on the potential for harm could be read to suggest that products should be designed to the lowest common denominator of customer understanding, which we do not think is reasonable in all cases. There is clearly a market for sophisticated products aimed at customers who can understand them. Conversely, the example given on 'Pay Day loan' products is helpful here, as relevant customers in this market are almost by definition likely to be universally vulnerable. We believe the responsibility for firms lies with their responsibility to ensure that specific products are accessed by the relevant, 'appropriate' customers.
47. On a related point, paragraph 67 could be taken to imply that firms should design products that meet the needs of all customers or potential customers. Again this approach may not serve customers with more sophisticated needs. It is important that firms manage their sales processes and awareness of differing intended customer characteristic changes.

Q7: Do you have any other comments on the draft Guidance?

48. The IFoA believes that alignment and consistency where possible across industries is important: the fair treatment of vulnerable customers extends beyond the financial services industry. However, we note that the FCA acknowledges this through the aim to ensure consistency of outcomes, regardless of the sector in which a firm operates.
49. We think there is merit in drawing a distinction between active and passive decisions by vulnerable customers, such as actively switching funds (into an investment that subsequently performs poorly) versus passively remaining invested. A further example is actively purchasing a new policy versus automatic renewal. It is conceivable that vulnerability could lead to a customer not taking action when they should. It would therefore be useful to include some examples of good practice in this area.

50. The Guidance sets out an expectation that firms should exercise particular care where consumers may be vulnerable. However, should it reasonably be the responsibility of the provider to determine that a customer is potentially vulnerable even if a customer does not want to be seen, or consider themselves, as vulnerable? To what extent should the ultimate decision about the 'level of care' they want sit with the customer themselves?
51. For completeness, it would also be useful to develop Guidance to address the situation where a non-vulnerable customer self-identifies as being vulnerable.
52. Case Study 25 refers to a firm's self-monitoring scheme. We support this concept, but note that such schemes are effective where firms take them seriously, rather than seeing them as 'tick-box' exercises. In particular, we think firms need to respond proactively in the light of such monitoring.
53. The Guidance includes the suggestion that staff should be allowed to provide feedback anonymously when they think processes for vulnerable customers could be improved. We are certainly not averse to this, but would prefer the scenario in which a firm nurtured a culture where their staff felt they could be open in providing their feedback.

Q8: Do you have any comments on how firms are expected to use and apply the Guidance?

54. We agree with the FCA's desire that firms use the Guidance as an aid to how they comply with the principles in their treatment of vulnerable consumers, recognising that applications of the Guidance will differ by a range of factors, including firm size, business model, markets and customer segments.

Q9: Do you have any views on the extent to which the Guidance will enable firms to comply with their obligations under the Principles and achieve better outcomes for vulnerable consumers?

55. As touched on in responses above, the case studies of good and poor practice (including experiences of customers themselves), and the examples of actions firms can take, are helpful ways to visualise different situations, and consider the Guidance in a firm's specific context. We support publishing more examples of this nature as the FCA's research continues.

Q10: To inform our cost-benefit analysis, do you have any comments on what costs firms may incur as a result of this Guidance?

56. The IFoA is not best-placed to provide a quantitative answer to this question; individual firms may be able to answer from their perspective.
57. However, we note that the costs firms incur will depend on the extent to which adjustments need to be made for new and existing products; this would depend on scope and implementation timescales. Application to long-standing customers will also impact costs. The cost of implementation would also vary by the types of action needed: customer service process changes may more straightforward than system or contractual changes.

Q11: Do you have any examples of activities or processes that are in place, or could be established, to ensure the fair treatment of vulnerable consumers?

58. A retired individual using a drawdown product for their retirement income may initially be able to manage the product well (including investment choices and drawdown rate). As they age however, their ability to perform this ongoing management may decline. As noted in paragraph 2.14h (main text of the GC), this would be an example of vulnerability. In a drawdown context, the individual should be

asked at some initial and then subsequent point(s) to nominate another 'manager' or financial adviser, and to think about the ongoing suitability of the product mindful of their financial needs as well as their cognitive function.

Q12: Do you have any analysis you could share with us of the positive outcomes for vulnerable customers resulting from the implementation of activities or processes in place aimed at achieving better outcomes for vulnerable consumers?

59. As mentioned in our answer to Q1 above, given the nature of the product and service, vulnerable customers are often positively affected by insurance.

Q13: Do you have any comments on the role of the Guidance in holding firms to account about how they comply with their obligations under the Principles in treating vulnerable consumers fairly?

60. The Guidance provides a strong steer to firms, and it makes sense that the FCA will take action against firms where there is evidence of actual or potential harm for vulnerable consumers.

Q14: Do you have any comments on our intention to monitor the effectiveness of the Guidance?

61. It is good practice to monitor the effectiveness of the Guidance, and adapt the FCA's approach accordingly.

62. We note the statement that the FCA wants vulnerable consumers to have greater consistency in the outcomes they experience. It would be useful to clarify if this consistency relates to that between vulnerable customers, consistency with other customers, or consistency across sectors (including outside financial services).

Q15: Do you have any comments on the potential additional policy options?

63. Setting out in one document all the relevant existing requirements in respect of vulnerable customers (or linking to the different requirements from one place) would help to remind firms of all related obligations. It would also identify potential inconsistencies and help to encourage alignment across sectors. In effect it would be an overview of requirements from the customer-perspective.

64. We support the FCA's view not to introduce new sector-specific rules.

Q16: Should we consider any further additional policy options?

65. We encourage consistency across sectors and industries, which may require updates to align and/or simplify existing requirements.

Q17: Do you agree that proposing to issue guidance is the most effective means of achieving our aim at this stage?

66. We agree that principles-based guidance will help to drive the cultural outcomes desired.

Q18: What are your views on whether proposing new rules or guidance at this stage would add to the effectiveness of our intervention? Where possible, please provide supporting evidence for your answer.

67. As we mention in response to Q15 above, the IFoA supports the FCA's view not to introduce new sector-specific rules.

Should you want to discuss any of the points raised please contact Steven Graham, Technical Policy Manager at Steven.Graham@actuaries.org.uk or on 020 7632 2146 in the first instance. We would be delighted to discuss our perspective on this important topic in more detail.

Yours sincerely,



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