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

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UK Finance is the collective voice for the banking and finance industry.

Representing more than 250 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation. We represent the full range of the industry from the largest lenders to the smallest, high street and challenger banks, building societies as well as non-banks and the regulated third-party administrators who service inactive lenders. Our members include those who are fully intermediated, fully online and those which provide services directly to customers.

The responses to the consultation questions provide a consolidated view of the members that UK Finance represents across product streams, including cards, consumer credit, payments, savings, mortgages, commercial finance, and cross-sector issues including data protection and economic crime.

General Comments

The banking and finance industry is committed to looking after every customer, especially those in vulnerable circumstances. The industry understands the importance of treating customers with appropriate levels of care, as set out in *Occasional Paper 8,* the *Approach to Consumers* and, more recently, the *Contingent Reimbursement Model Code for Authorised Push Payment Scams (the CRM Code).* The industry's ambition is to ensure that all customers, especially vulnerable customers, experience fair outcomes. The industry welcomes the Guidance on the fair treatment of vulnerable customers as it provides additional clarity on the FCA's expectations and a practical framework which will help to drive up standards and increase consistency across the industry.

Whilst externally many sectors recognise the UK Financial Services Sector as setting the benchmark of good practice when supporting customers in vulnerable circumstances, within the UK and internationally, we recognise that there is always more that can be done. The industry is committed to sharing best practice, driving forward improvements in customer outcomes and demonstrating that they are delivering the 'step change' that the FCA requires.

As a case study to demonstrate how the industry is working collectively to support customers who might in other circumstances have considered themselves vulnerable, UK Finance has been working closely with its members to support customers (i.e. travellers), former staff and suppliers affected by the Thomas Cook Insolvency. UK Finance has provided members with guidance on helping affected customers in vulnerable circumstances that is anchored to the FCA's draft Guidance (including application of the 'shoulds'). Facilitated by UK Finance, the industry has alerted financial difficulty teams, who will take proactive steps to support customers and employees of Thomas Cook; will issue clear communications to customers so that they understand who they should approach to make a claim for a refund and associated out of pocket expenses; and readied claims teams, who are prepared to receive these claims and process them in a timely and sensitive manner.

Developing a common understanding of the Guidance is an important next step and UK Finance will work with the FCA, members, and other key stakeholders (including regulators and consumer advisory groups) to develop a more detailed understanding of what 'good looks like'. UK Finance will aim to provide a summary of actions that all firms can take to embed fair treatment of vulnerable customers in all parts of their business. We do not see this as a competitive issue and members have committed to sharing best practice and building on the Vulnerability Task Force Principles to identify ways to increase standards and consistency across the sector. Thought leadership, effective collaboration, open dialogue and a common understanding will minimise the potential for future reputational risk, support firms as they consider how best to prioritise and implement meaningful changes which align with firms' individual business models, and most importantly deliver a consistently high service to the most vulnerable members of our society in a sensitive, empathetic and flexible manner.

The availability of robust data will also be critical to the success of this Guidance. To improve the data available, customers need to be willing to disclose their vulnerability (refer to comments below on data protection). The industry recognises that consumers are reticent about consenting to their vulnerabilities being recorded or may have concerns about how safe and secure their data will be. There is, therefore, a broader role for all key stakeholders to fulfil in promoting the enhanced approach to vulnerability set out in this Guidance to engender greater consumer trust. This is so that individuals feel safe approaching their financial services provider and sharing their personal circumstances.

UK Finance would welcome dialogue with the FCA and other bodies to consider what further steps could be taken to create opportunities to start the conversation and encourage a change in consumer behaviour. UK Finance will also consider how the industry can raise consumer awareness about the support that is already available, for example:

- services which make it easier to interact with us when it matters most (Death Notification Service)
- services which facilitate greater financial inclusion (Sign Video, BigWord, Mobile Banks, Accessible Banking Apps)
- specialist support for individuals who are victims of fraud or financial abuse, those who are living with cancer or those experiencing financial difficulties.

In the spirit of developing a common understanding and implementing both the aims of and detail provided in the proposed Guidance, our response to the consultation questions seeks clarification of the FCA's expectations where needed and provides examples where more detail would be welcomed.

Banking and finance industry approach to vulnerable customers

Over the last five years, the industry has invested significant resources in delivering better outcomes for vulnerable and disabled customers, with many firms achieving external recognition from organisations such as the Business Disability Forum.

As part of this continuous improvement approach, UK Finance worked with Joanna Elson OBE, CEO of the Money Advice Trust, leading charities and regulators to develop the Vulnerability Task Force Principles. The FCA Guidance builds on this work and it is pleasing to see that many of the Task Force Principles have been integrated into the 27 requirements (the ‘shoulds’) specified in the consultation document.

Many organisations have developed guidance relating to specific conditions e.g. Macmillan’s Counting on Your Support and the Mental Health Accessibility Standards published by the Money and Mental Health Policy Institute. These have been very helpful in supporting the industry to develop and evolve its thinking. Going forward, we would encourage consumer advocacy organisations to inform and influence the continued evolution of the FCA Guidance rather than creating additional standalone guidance.

Having already instigated an audit of the Vulnerability Task Force Principles, UK Finance will, where appropriate, make changes to the Principles to ensure alignment with the FCA’s draft Guidance.

Data Protection and engagement with the Information Commissioner’s Office (ICO)
The availability of robust data will be critical to ensuring that individuals’ needs are met irrespective of the channel they use or part of the firm that they engage with. It is important to ensure that firms have a clear way to satisfy all of their regulatory obligations, including the FCA’s expectations for the fair treatment of vulnerable customers, and their obligations under the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). In particular:

- firms need to have confidence that they have a ‘basis for processing’ that applies to the processing of personal data necessary to meet the standards set out in FCA Guidance
- firms need to have confidence that they can process ‘special category personal data’ (particularly health data) when this is necessary to meet the standards set out in FCA Guidance.

Clarity is also needed as to the extent to which firms can rely on ‘legitimate interests’ and the exemptions in Schedule 1 of the DPA, and when firms must instead seek the (explicit) consent of the customer when recording and processing personal data to support vulnerable customers. Fulsome implementation of the Guidance will rely on clarity on this matter.

The FCA also needs to be conscious of the fact that under GDPR personal data collected for one purpose cannot *necessarily* be ‘repurposed’ and used in new ways after collection.

UK Finance is continuing to discuss how firms should record Vulnerability under GDPR with the ICO. We encourage the FCA to also work with UK Finance and the ICO on this matter ahead of the second stage of the consultation. Ultimately, the ICO and FCA will need a common understanding of what is permissible so that firms do not find themselves in a position where they risk sanction from one regulator due to a “good-faith” effort to meet the expectations of the other regulator. UK Finance would be happy to facilitate a discussion between the regulators and members if that would be helpful.

Proportionality of the FCA’s supervisory expectations
The FCA is clear that the Guidance is intended to improve outcomes for customers and will be used by supervisors to assess whether firms are treating vulnerable customers fairly.

We support the ambition of the Guidance and welcome the FCA's recognition that implementation will not be static, but rather firms will be on a journey of continuous improvement. We encourage the supervisory process to be underpinned by a regular two-way dialogue which surfaces emerging themes (based on supervisory findings and insight from consumer groups), allowing firms to benchmark progress and identify priority actions for improving consumer outcomes. Adopting such a collaborative approach should minimise the need for enforcement action and encourages a consistent approach across industry.

Recognising there will be a need to act within the spirit of the Guidance and that individual cases will require a level of supervisory judgement, we encourage the FCA to emphasise within the draft Guidance itself that supervisors will apply the FCA's flexible and proportionate approach in its activities. We ask for further detail on how firms are to evidence and document implementation.

Along with the Guidance, there is an expectation on firms to navigate, prioritise and evaluate a plethora of existing best practice codes/frameworks/benchmarks relating to vulnerable customers. To illustrate, we provide a non-exhaustive list of such codes/frameworks in relation to mental health and financial services (noting that examples could also be provided for cognitive decline, ageing, cancer support, bereavement, disability etc.):

- Citizens Advice cross-sector minimum standards of support for people with mental health problems
- Money and Mental Health Policy Institute Mental Health Accessible standards
- Money Advice Liaison Group (MALG) Good Practice Awareness Guidelines for helping consumers with mental health conditions and debt
- Lending Standards Board Standards of Lending Practice.

We ask the FCA to indicate in the draft Guidance which best practice codes would be most applicable in relation to the 'shoulds' to help firms prioritise their efforts. We ask the FCA to consider the ongoing efforts by firms to adhere to these broader standards and, as previously mentioned, encourage external stakeholders to inform and influence the development of this Guidance going forward.

UK Finance is keen to support and facilitate ongoing dialogue between the regulator (policy and supervisory teams) and firms, both prior to the Guidance being finalised (to ensure a common understanding of what good looks like and any actions that should be prioritised), and secondly as firms embed the Guidance.

Operationalising the Guidance may take longer than usual, as all firms will have a different starting point. At the same time, the voluntary CRM Code has only recently come into force and firms are in the process of implementing this. We ask the FCA to reflect this when setting out a timetable for both the second stage of the consultation and the implementation/transition period. It would also be helpful to understand whether supervisors will consider the historic treatment of vulnerable customers against raised, evolving standards, which could be a challenging situation for firms to manage.

Regulatory Coordination

The amount of change that the industry is currently undertaking is unprecedented. Much of this is rightly driven by firms' desire to meet and exceed customer expectations, but legislative and regulatory requirements now account for an even greater proportion of staff time, and their combined impact on finite firm resources—not least senior management attention—is exacerbated by an absence of coordination between public authorities over substance, timing and prioritisation.

Whilst this Guidance was called for and is welcomed by the industry there is also a need for better coordination within the vulnerable customer space, as currently firms are required to comply with different definitions of vulnerability (e.g. CMA, FCA, BEIS, the CRM Code). Continued constructive dialogue on the priorities across regulators, government bodies and the third sector and sequencing of new requirements (e.g. Duty of Care and Breathing Space) would help the industry to plan ahead and focus resources on the initiatives that will have the greatest impact and drive up standards at a firm and sector level.

A key ask from the industry is alignment between the FCA and Financial Ombudsman Service (FOS) on the aims of the Guidance. In particular, the expectations given that firms will adopt different approaches to implementing the requirements and that their approach will continue to evolve over time. In our experience, recent FOS judgements regarding victims of scams have resulted in less rather than more consistency in the industry's approach to treatment of vulnerable customers. Regulatory alignment from the outset will help minimise the risk that FOS makes a judgement on cases down the line that do not align with FCA expectations or reflect the spirit of this Guidance.

To summarise, UK Finance and its members welcome the Guidance. We look forward to working closely with the FCA as the Guidance develops. We offer support to achieve clarity, where needed, a common understanding of what good looks like, and practical actions the industry can take to deliver consistent standards across the sector and better consumer outcomes.

Consultation questions

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

We reiterate that the banking and finance industry is committed to looking after every customer, especially those in vulnerable circumstances. In this light, the aims of the draft Guidance not only make business sense but also speak to the ethos and values that firms aspire to. The industry takes on board the FCA's proposed objective to see firms demonstrate that treatment of vulnerable customers is deeply embedded in their culture. To support firms to achieve this objective, the FCA could provide greater clarity and further detail in the Guidance on how a firm can demonstrate that treatment of vulnerable customers is deeply embedded in their culture.

Culture is key to the operations and behaviours of individuals within any workplace. As illustrated in the answers to the questions below, firms are already considering what they need to do (more of) to implement the Guidance and protect consumers. We suggest that the FCA considers including in the draft Guidance itself the aims as set out in the consultation paper and an articulation of the cultural change it expects firms to strive for. As a whole, the actions that a firm takes to implement the Guidance should add up to mean that the firm does treat vulnerable customers fairly. Articulating this in the draft Guidance will help set the tone that firms should consider vulnerability holistically, an ambition that the industry fully supports.

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

Proposed Regulatory Approach
Firms have a clear understanding of the importance of the Principles for Businesses, and given the importance of the issue, it is appropriate that the Guidance links to these fundamental obligations for firms.

The industry also supports the status as non-Handbook Guidance given the breadth, depth and complexity involved with the treatment of vulnerable customers. As drafted, the FCA acknowledges the differences in firm size and business models and provides the necessary flexibility so that firms can achieve the desired outcomes without being forced to adopt methods that may not be appropriate for them. There may well be other factors that the FCA could consider, aside from firm size and business models, when assessing appropriateness of action, such as:

- maturity of the business (either mature and long-standing or very new)
- digital firms with less physical interaction with their customers.

Scope of the Guidance – SME Business Customers

Further clarity on the FCA's expectations on scope would be very useful. The consultation document states that the Guidance applies to Retail Clients as defined in the FCA Handbook Glossary.

The FCA should set out in the next phase of the consultation the eligibility and applicability of the Guidance to business customers, where there is a possible interaction with the 'customer' as a Retail Client.

With regards to applicability, there are a few scenarios where a firm will have a relationship with business customers that may veer into the definition of a *retail client*:

- where the customer has a personal banking facility with the firm and is a director or major shareholder of a business and is identified as vulnerable
- where the customer has both a personal banking and business account with the same firm and is identified through the personal relationship as vulnerable.

We are interested to understand the FCA's thinking on the related treatment of the business customer, as whilst businesses may not be vulnerable, individuals involved in the running of a business can be. To achieve consistent outcomes, the FCA may wish to consider what actions a firm may take so that when these types of customers are identified as vulnerable, this flows through to the business banking relationship. An understanding of the FCA's evolving thinking on how the Guidance is to be applied would be useful. This includes how information should be shared a) across personal and business divisions within firms and b) where it may be in the best interests of the customer for any co-directors or members of management on the business account to be notified.

Implementation

The impact of this Guidance on firms is significant. More detail is provided in the answers to questions 10, 11 and 12 below. While many firms will already be applying some or large parts of what the FCA sets out in the Guidance, all firms are on a journey and every firm will be starting from a different point. In order to achieve consistency, firms will require a sufficient implementation period to ensure compliance with the Guidance. It is also important that any implementation period dovetails with that of any changes as a result of the possible implementation of a Duty of Care or similar, and any proposed options for change.

We also suggest that the FCA consults on when it intends to commence monitoring and supervision activities in the second stage of the consultation. In the spirit of fostering best practice, the FCA should consider a period of information sharing and dialogue with the industry during implementation, so that the Guidance is applied in a standard and consistent manner for consumers. UK Finance is keen to support the FCA and firms in the implementation of the Guidance and welcomes the opportunity to facilitate best practice sharing.

Firms would also benefit from understanding how the FCA will monitor application of the Guidance across industries, so that consistent outcomes for consumers are being achieved across the board. More detail could be provided in the second stage of the consultation.

Finally, it would also be useful for the FCA to indicate how frequently it intends to review or revise the Guidance in response to social, economic and regulatory change.

Q3: Do you have any comments on the application in the Guidance of the distinction between actual and potential vulnerability?

We are grateful that the FCA has retained the definition of vulnerability as presented in *Occasional Paper 8* and the *Approach to Consumers*. Given the FCA's work to date to build a narrative on the importance of vulnerability, retaining this definition ensures continuity and capitalises on an already well understood and socialised concept.

The definition of vulnerability itself is necessarily broad to account for the vast range of conditions and circumstances that can cause a customer to be vulnerable. Firms acknowledge that vulnerability is dynamic and there are different consequences of vulnerability due to the individual's circumstances. Defining vulnerability further in the Guidance by using the descriptors 'actual' and 'potential' vulnerability has caused confusion and may work in conflict with the FCA's aims. To demonstrate, UK Finance canvassed members on their understanding of 'potential' vulnerability. For the firms who attempted to articulate what is potential vulnerability, interpretation varied.

As drafted in the Guidance, there is a high risk of misinterpretation of what the expectations are of firms as they attempt to operationalise 'potential' vulnerability. The Guidance could be read to mean that there are expectations on front-line staff to spot and document 'potential' vulnerability at an individual level. This would require a degree of subjectivity that by its nature could be prone to error. The end result may be poorer customer outcomes over time.

From conversations that we have had with the FCA, we understand that the intention is for firms to apply a risk management lens or framework to enable identification of 'potential' vulnerability (high risk and/or high impact) within product design, processes, customer journeys, and communications. Identifying and meeting any additional needs which the customers may have as a result of these potential risks will enable the firm to deliver better outcomes for all vulnerable customers. Monitoring and evaluation should then be used to ensure that new and existing risks continue to be identified and mitigated. Adopting appropriate and robust risk management within a firm should flow through to treatment of customers when vulnerability occurs in the 'moment of truth', including subsequent remediation. We ask that the FCA clarifies their intentions regarding 'potential' vulnerability in the next stage of the consultation.

Below are some practical examples of where the FCA's expectations in terms of identifying and taking appropriate action is unclear:

- where a firm is wholly online and would only interact with a customer digitally, as there are limitations to the forms of vulnerability that a firm can anticipate or identify through this channel
- where a customer has received forbearance and the responsible next step is repossession, but the customer is displaying signs of further vulnerability (e.g. risk of suicide)

- customers with low financial capability, a type of vulnerability that may be long-standing, but may be not be reasonably remediated through firm action.

The drivers of vulnerability provided in the Guidance are useful and provide greater depth of understanding of the vulnerabilities that could manifest through interactions with the banking and finance sector. We ask the FCA to consider using the BSI PAS 17271:2017 *Protecting customers from financial harm as a result of fraud or financial abuse Code of Practice* articulation of the factors and potential indicators which place individuals in vulnerable circumstances to add more depth to the Guidance. We also ask the FCA to share any further analysis on the impact of the drivers of vulnerability, including insight that can be provided on which ones have a greater propensity to manifest by life stage or customer cohort (based on existing approaches, analysis and raw data such as the Financial Lives Survey, Intergenerational Differences project and the Money and Pension Services' segmentation). These insights will assist in implementing a consistent framework across and within firms and will help the industry to focus on issues and processes that will have the greatest impact.

The drivers of vulnerability and consideration of a customer's individual vulnerable circumstances are an existing obligation within certain regulatory requirements, for example in the assessment of lending products. The FCA sourcebooks (CONC 5.2A.22 G and MCOB 13.3.1C R) already make provision for lenders to consider whether they understand or reasonably expect that a customer is vulnerable, and to take those factors into consideration when assessing the borrowing request.

A customer could potentially be financially vulnerable due to a combination of resilience factors (such as low or erratic income, high indebtedness or low savings). Where a credit decision is supported by sound creditworthiness and affordability assessments in accordance with existing regulatory requirements, the provision of a credit product could be a good outcome that meets the customers' needs to smooth their cashflow requirements where income fluctuates.

Identified or potential vulnerability should not on its own exclude a customer from access to financial services, including credit. However, where the specific circumstances are known or suspected, those factors should be a complementary consideration in deciding whether the credit product is suitable for the consumer, over and above the appropriate creditworthiness and affordability assessment.

We ask that the FCA consider the potential for conflicts or confusion of expectations across separate regulatory publications (e.g. guidance and sourcebooks) and that due consideration is given to ensure consistency of approach and messaging.

We suggest that the FCA adds more detail to the Guidance to clarify how firms should record information to justify their actions in the context of complaint handling and Data Subject Access Requests.

Q4: Do you have any comments on our view of what firms should do to understand the needs of vulnerable consumers?

The industry considers that the FCA's expectations regarding firms' understanding of the needs of vulnerable customers within their customer base are clear and reasonable. Most firms already do the 'shoulds' to some extent as part of *Treating Customers Fairly*. Firms are already considering how to operationalise the 'shoulds' fully and completely, including what changes need to be made to current activities.

Some examples of how firms are already taking steps to understand their customer base:

- segmentation of customer cohorts to understand what tailored services are required
- implementation of early warning triggers to identify potential signs of financial stress
- understanding how vulnerability may manifest for products targeted at particular groups of customers (e.g. later life lending).

Members seek reassurance from the FCA that in supervision activities, firms will be judged on the outcomes achieved for customers rather than the method used to achieve this. Members are concerned that implementation and supervision of this section of the Guidance relies on firms utilising sophisticated analytics and Management Information (MI) rather than existing systems. We ask that the FCA allays these concerns within the next iteration of the Guidance.

The case studies in the Guidance demonstrate the FCA's expectations on the type of actions that firms may take. The type of 'good practice' identified relies on a firm having consistent, scalable MI within their operations, including MI across multiple products that may use different systems. The scale of IT changes that would be required to collect the type of data or undertake the form of analytics that the Guidance implies is 'good practice' is simply not feasible for many firms. We acknowledge that the FCA emphasises that firms are to take actions that are relevant for their customer base/target market. We suggest that the FCA revisits the case studies presented and includes good practice examples that reflect firm capacity and capability.

We would also like to flag examples of where an analysis of the existing customer base may not result in meaningful conclusions about the nature and scale of vulnerability present and, therefore, a proportionate approach to implementation should apply:

- where the customer holds only a mortgage product with a firm so there is limited transactional data that could be used to identify potential vulnerability, apart from age or payment history
- where products are already designed inclusively, e.g. accessible debit card/simple formats, without discrimination of whether the customer is vulnerable or not
- online-only distribution and automated interactions (e.g. phone banking) where, although the firm may incorporate opportunities for the customer to disclose vulnerability within the interaction, firms rely on the willingness of customers to make these disclosures.

We suggest that the FCA considers including examples of good practice in customer communications to encourage customers to disclose relevant data. Additional examples could also illustrate how firms obtain customer consent to the recording of data, if this is the appropriate GDPR 'basis for processing'. Such examples, if included, should be provided in collaboration with the ICO.

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?

The FCA's expectations are targeted at the right level of seniority and firms apply many of the 'shoulds' for training already. This is an area where firms will be able to demonstrate progress relatively quickly in response to the Guidance.

As raised in our overall points, members require greater clarity on the FCA's supervisory expectations. The Guidance would benefit from an articulation of how the effectiveness of training will be measured/determined. Examples of good practice would be welcomed, particularly examples by size of firm, where front-line staff are in differing locations, and where frontline services are outsourced.

Examples of common training practices within firms:

- training available to all staff on the identification and potential treatment options for handling vulnerable customer situations
- escalation routes – many firms have escalation processes in place for staff to refer on cases that require evaluation through specialist teams or senior decision makers. Staff will be trained to escalate cases correctly, and these routes are appropriately resourced
    - It is possible that while the Guidance is operationalised firms see an increase in cases escalated or an increase in complaints data due to:
        - more customers identified as vulnerable (either customers more willing to be identified or staff making more identifications)
        - additional responsibilities to identify customers being placed on front-line staff.
    - This could lead to pressure points within firms that then impacts on their ability to carefully consider tailored approaches for customers or could mean that cases are not resolved in the usual timely manner.
    - This also leads to indirect, additional operational costs for firms. Indirect costs need to be reflected in the FCA's cost-benefit analysis (more detail on this point is provided in response to question 10).
- implementation of the CRM Code Practitioner Guide and other Codes
- continuous learning for front-line staff such as 'Clever Nelly' approaches
- dedicated vulnerability champions embedded within front-line support.

As drafted, the Guidance misses an opportunity to set out expectations and 'shoulds' regarding sales processes, specifically where intermediaries are responsible for the 'front-line' interaction with customers and for the advice process. Training expectations to identify vulnerability should equally apply to advisors. More could be done to ensure that intermediaries and advisors pass on useful customer information to the provider (e.g. that the customer requires large print) where appropriate to do so.

We ask that the FCA explicitly acknowledges that staff should not and cannot diagnose vulnerability, especially related to health (e.g. as it appears to imply in case study 5). Staff should be limited to recording observations rather than making conclusions about the customer, unless specifically disclosed. Similarly, staff should not be expected to fulfil duties that would otherwise be the responsibility of a social worker or qualified medical practitioner. We ask that the FCA also sets out that firms are able to seek evidence of vulnerability if appropriate to do so, particularly where there is risk of fraud.

The FCA should also acknowledge in the Guidance that there will be situations where it will not be appropriate to probe a customer in order to determine vulnerability. For example, a member of staff may trigger a customer to feel distressed by discussing their vulnerability or the location of the conversation may not be appropriate (e.g. in a busy banking hall; and where the customer declines to move to a private area for further conversation). Identifying and recording vulnerability may be limited but is not a reflection of how well staff are trained. For example, where the best outcome for the customer may be for the staff member to not pursue identification of the vulnerability where it is seen to be distressing. Rather, as described above, the staff member may simply record observations.

Disclosure of information:
It is unclear what the FCA's expectations are on disclosure of recorded vulnerability within a firm. Is it appropriate for vulnerability information to be visible to all colleagues using customer-facing systems or should visibility of information be relevant to the financial interaction?

If the latter, how should firms determine this? For example, it may be appropriate for a mortgage arrears specialist to capture information related to domestic abuse as this informs approaches that helps the customer remain in possession of the property. However, should a local branch staff be able to see this information when the customer pays a bill over the counter?

We suggest that the FCA considers including examples in the Guidance of how firms could:

- implement referral schemes and best practice for signposting (e.g. as found in other parts of the Handbook)
- good practice of how firms have considered resilience training for their staff and how they 'refresh' training
- good practice not just front-line training, but training/expertise/understanding of vulnerability on product specialists, risk teams, communications and marketing, senior management and board members.

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?

Product design

The industry supports the FCA's intentions and understands the need to embed treatment of vulnerable customers within product and service design. Firms are cautious about misunderstanding the FCA's expectations as set out in the Guidance. Further information on expectations around changes to existing products vs. delivering new products and services would be helpful as firms endeavour to prioritise their activities as a result of the Guidance.

We suggest that the FCA clarifies in the Guidance that it will take a realistic and proportionate view on progress of implementation relative to the starting point of the firm. In order to drive consistency and ensure that firms are taking a holistic view of the Guidance, we suggest that the FCA considers setting out expectations on:

- bespoke offerings vs. inclusive design/designing products that work for all (opt- out vs. opt-in and opt-in vs. given to everyone) e.g. accessible debit card for all customers
- varying business models – where firms are wholly intermediated or third-party administrators
- services that are outsourced to a third party – i.e. how will this Guidance aligns with obligations under Senior Management Arrangement, Systems and Controls (SYSC)
- review of existing products and how the Guidance interacts with existing Handbook requirements (e.g. COBS, MCOB, CONC) relating to responsible lending/creditworthiness/affordability/suitability of products (e.g. MCOB 13 already sets out requirements relating to vulnerable customers)
- whether firms should give weight to either customer choice, independence or safeguarding in product design (e.g. gambling blocks, fraud, scams); firms should not be encouraged to take control away from customers, but rather empower customers to help themselves
- design of structured products (as per the FCA's Finalised Guidance: Retail Product Development and Governance – Structured Product Review) and fair treatment of vulnerable customers.

Communications

Customer communications are very important to firms. Principle 7 is the foundation of how many firms approach communicating with customers, from terms and conditions through to websites and promotional materials. The expectations in the Guidance are helpful and is likely to achieve the consistency that the FCA would like to see.

An area where the Guidance could offer more clarity is on proportionality and reasonableness of firms' communication activities. For example, it is unclear what the FCA means by 'key documents'.

It is likely that firms will prioritise investment in new infrastructure that supports provision of communications collateral according to their existing customer base. There is a risk that as infrastructure rolls out over time (e.g. where a firm rolls out communication collateral in braille, with plans to phase in additional formats over time), firms may appear to customers to be de-prioritising other formats. There may be a need for the FCA to specify what it regards as a minimum reasonable adjustment for firms and also external collateral such as Money and Pension Service and UK Finance customer facing communications collateral. Understandably, changes to formats or implementation of translation services are costly and time intensive to implement and need to be weighed against customer needs and firm communication strategies. The overall ambition of achieving good outcomes for vulnerable customers may work in conflict with the expectation that firms provide a proportionate response. A clearer articulation of how a firm can demonstrate that they have appropriately discharged the FCA's expectations would be very helpful. Firmer Guidance in regard to customer communications may be warranted.

The FCA also sets the expectation that communications be provided to vulnerable customers in a way that they will understand. We ask the FCA to consider the relationship between the Guidance and existing Handbook requirements on the presentation of terms and conditions and other key information (e.g. ESIS, KFI+, annual and monthly statements etc.). There may be existing regulatory limits to the extent that communications may be tailored to individual circumstance.

A case study on what communication approaches or strategies a firm could take when acting on behalf of white-labelled clients or whose clients are beneficial owners of books but not authorised would also be very helpful.

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

The industry welcomes the positive examples that the FCA has included in the case studies within the Guidance. This helps to promote efforts already made by firms, but also shapes the FCA's expectations within each section in the Guidance.

With this in mind, there are some case studies that are unique (e.g. online analytics of customers' finger movements or cognitive behavioural therapy training for front-line staff) and it is not realistic to expect these to be implemented across a breadth of firms. We ask the FCA to consider inserting additional or alternative case studies which set out good practice that has wider applicability. As a more general point, the case studies could include an articulation of what the potential or actual vulnerability was in the situation described, how the firm met any vulnerability-related additional needs the customer had, and what the potential harm was that was mitigated as a result of the case study intervention. Indication of the size/type of firm the case studies relate to will help clarify and structure expectations.

Q8 and 9:

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

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 customers?

The Guidance will enable firms to comply with their obligations under the Principles and achieve better outcomes for their customers.

The Guidance includes specific examples of what constitutes good practice when addressing the needs of vulnerable customers. It would be helpful for the FCA to provide additional examples of when it considers firms' practice to result in poor outcomes either in the Guidance or on an ongoing basis.

The approach the FCA is adopting for the implementation of PSD2 could have detrimental impact on vulnerable customers (e.g. on requirement for monthly statements which may overwhelm customers on the volume they will receive, the channel used, and how Third Party/Power of Attorneys can act on behalf of customers). Similarly, Stronger Customer Authentication may unduly impact vulnerable customers as the implementation of the requirements could have an impact in particular on those with physical or mental health conditions. We ask that the FCA sets out how the expectations of this Guidance will sit alongside expectations set out for other regulatory frameworks which are mandatory. We also encourage further coordination within the FCA as there are conflicting objectives in this instance.

The Guidance suggests that firms would benefit from engaging with external organisations such as specialist charities to provide insight and training. Many firms have developed successful partnerships with the third sector, which complement insight/expertise gained from other sources including employee disability networks, direct customer research, specialist consultancies and other sources. It is important to make clear that utilising third-sector resource is not a specific requirement of the Guidance (as is currently implied), rather it is one option of many, as this may lead to unintended consequences such as capacity constraints.

Q10, 11 and 12:

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

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

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?

The types of costs that firms may incur as a result of the Guidance is wide-ranging. It is difficult to be specific, as each firm will have different changes and actions to take. Equally, firms may not have costs on hand, as to date, activities such as staff training would be considered as part of Business as Usual activities. Changes to these activities due to the Guidance could result in significant costs.

Overall, firms are likely to have to make changes to some or all of the following:

- implement changes to policies and procedures
- invest in data collection in order to conduct analysis of vulnerability within their customer base
- invest in skills to conduct analytics on their customer base
- increases in front-line and specialist staff resourcing
- training of all front-line and back-office staff
- changes to existing systems
- introducing new technology/systems

- change or add to governance structures within firms
- assess and change communications – formats, translations, tailored communications
- assessment of performance and potential change of suppliers
- sourcing appropriate expertise to advise on product design, customer service or communications
- implementing monitoring and undertaking evaluation of changes as a result of the Guidance.

Q13, 14, 15, 16:

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?

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

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

Should we consider any further additional policy options?

The industry considers this Guidance to be very important in holding firms to account about how they comply with their obligations under the Principles. The industry has and is taking treatment of vulnerable customers seriously and are eager to demonstrate that action will and is happening as a result of this Guidance. The responses to the questions above demonstrate how the FCA can provide further clarify to ensure consistency across firms and industries.

As a trade body, we are interested in working with the FCA and firms to assist with continual sharing of good practice in a collaborative way.

We support monitoring of the Guidance, it is necessary for both the FCA and firms to understand the effectiveness of the Guidance aims for improving outcomes for vulnerable customers. As mentioned above, the FCA could include further information on how the Guidance will be monitored and that monitoring will be proportionate to individual firms.

We suggest the FCA include timelines for future reviews or indicate their intentions on conducting thematic reviews following implementation. The industry supports the FCA undertaking these activities, as the results would help firms in continuous development and ongoing implementation.

We ask that the FCA considers how their evaluation activities or data requests will impact on firms alongside existing and “pipeline” requests of firms. We recommend that these requests are coordinated and sequenced centrally within the FCA.

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

Yes.

Q18: What are your views on whether proposing new rules or guidance at this stage would add to the effectiveness of our intervention?

We support additional Guidance or new rules only insofar as this would assist firms in relation to GDPR (refer to comments made within the general comments at the start).

If you have any questions relating to this response, please contact Sonia Fernandes, Manager, Mortgages at sonia.fernandes@ukfinance.org.uk