

Consumer Vulnerability: Regulatory Requirements and how to comply

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Ovum view

Summary

The treatment of vulnerable consumers by the financial services sector has been receiving specific regulatory attention by the Financial Conduct Authority (FCA) in recent years. Institutions are now faced with a number of principles and best practice recommendations around identifying, and appropriately treating, any customer whom is potentially vulnerable. While regulatory guidelines are still at the work stream stage, as this area falls under broader Treating Customers Fairly obligations, financial institutions need to start addressing proposals now.

What is regulatory approach to consumer vulnerability?

The regulatory view on consumer vulnerability is broad, focused on anyone susceptible to detriment

The FCA considers a vulnerable consumer to be someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care. The FCA has deliberately taken a broad view here, being less focused on creating a tightly defined definition for compliance functions, but more on ensuring that firms have strategies in place for dealing with any person, that due to a variety of reasons, may not be able to represent their own interests in the way a 'typical' consumer might.

A principal point here is that consideration of vulnerability by regulators extends well beyond typically identifiable vulnerable groups (for example those with dementia or very old), but could apply to anyone where the situation, circumstances, or events may put them in a vulnerable state. This could include bereavement, sudden diagnosis of serious illness, or job loss. As such, vulnerability may occur on a temporary or fluctuating basis, and may be driven by a number of risk factors beyond more obvious health/ age-related issues (such as low income/ financial hardship, lack of English or numeracy skills, or caring responsibilities).

Important here is the recognition by regulators that industry practices can contribute to, or even cause, vulnerability, particularly if they put some consumers at a disadvantage in interacting with or accessing the services they need. This may include methods such as premium rate numbers, complex bill statements, or internet-only communications, specific ID requirements, or indeed marketing material disguised as information on a customer existing products. The interplay of a firm's behavior with a person's situation may exasperate a consumer's vulnerability, leading them to act in ways that increases the risk of detriment.

In essence the FCA's focus on consumer vulnerability is on ensuring good outcomes, rather than fine-tuning definitions of what is or what might be 'vulnerability'. The onus is on institutions to understand vulnerability risks and treat customers appropriately to avoid detrimental outcomes.

FCA is looking for the industry to determine and drive best practice

The FCA has developed an explicit focus on the consumer vulnerability in recent years following its renewed focus on consumer protection as a primary objective in its 2013 charter. This started initially with the formation of the Consumer Vulnerability Network and led to the formation of its ongoing vulnerability work stream. The key output to date is its February 2015 occasional paper on the topic,

which outlined the FCA's approach, provided illustrations of current industry failings and best practices, and as well as outlining key areas for firms to explore. This led to the establishment of the Vulnerability Taskforce, which brought together relevant industry, charity and consumer groups, which subsequently produced more detailed principles and best practices recommendations in February 2016.

While these are not prescriptive in terms of detailed requirements or specific implementation timelines, ensuring good outcomes for consumers is already well established within overarching Treating Customers Fairly (TCF) objectives that financial firms have to comply with. The regulatory expectation is that firms will actively seek to adopt such best practice. Firms need to start updating policies, but more importantly ensure effective implementation on the front line, sooner rather than later to avoid difficult conversations with the regulator.

Firms have responsibility for identifying and treating vulnerable customers appropriately

The Vulnerability Taskforce in its February 2016 report details seven key principles for financial services firms in regards to 'improving outcomes for customers in vulnerable circumstances'. These fall into three main areas:

1. the quality of identification of vulnerable customers and initial response by frontline staff and/or systems;
2. the treatment of vulnerable customers through the provision of appropriate products, access to support, specialist help, and protection (e.g. scamming/fraud), as well as in more specific situations that may arise, such as with Power of Attorney or Court of Protection;
3. the need for evaluation and monitoring procedures to drive 'positive outcomes' for customers.

Firms need to have sensitive, flexible, and consistent front-line responses

In the first area, the key recommendation is that firms need to give front-line staff training to recognise customers in potentially vulnerable situations, with appropriate empowerment to then allow them to 'do the right thing'. Staff need to be able to pick up on warning signs in information being relayed to them, ask the right questions, and be empathetic and flexible in their approach and actions to drive the best outcome for the customer.

A core principle here is that firms should seek to provide one-stop notice, so that customers only need to tell firms about a particular circumstance or characteristic once (such as reporting a death). Firms need to be able to record details of a situation and any adjustments required, get explicit consent on this from the customers, and then use this, subject to data protection and appropriate disclosure guidelines, to ensure other staff can pick up relevant information in dealing with future customer interaction. It is recommended here that processes and recording of interactions should 'be robust' to protect staff if they are being asked to be flexible in approach.

Driving consistency of the front-line experience is core here, so that the quality of response is not 'pot-luck', dependent on the understanding, experience, and time-pressures of an individual staff member.

Firms need to provide appropriate access to help, support, and protection

That said, consideration of vulnerability needs to start before identification of vulnerable customers. In particular, product design should have attention paid to support requirements for vulnerable

customers to be help avoid or resolve problems upfront. Then, following identification, firms should facilitate access to practical, jargon-free information and help across communication channels within the firm, as well as to external sources, or indeed alternative financial providers, as relevant. Where appropriate, such as where customers require regular or on-going assistance, firms should look to provide specialist/ dedicated support and front-office staff should clear escalation paths to access real-time expert assistance as required.

Alongside this, firms need to be prepared and cater for the more complex servicing needs of vulnerable customers, particularly in facilitating the involvement of third-parties. In particular, firms need to drive for consistent and straight-forward treatment of those with Power of Attorney/ Court of Protection responsibilities (again seeking for one-stop notice), but this should also extend to requests for family, friends or carers to assist in appropriate situations (e.g. resolving account queries).

Balanced against this, firms also need to recognise the higher risk to vulnerable customers being scammed or financially abused and provide appropriate security/ fraud detection to reduce this. However, the FCA has placed emphasis on the requirement for this to be a balanced process, and that security concerns should not prevent legitimate access by third-party support.

Firms need evaluation and monitoring procedures that drive positive outcomes for vulnerable customers

In addition to putting in place specific policies and practices for dealing with vulnerable customers, firms need to create broader monitoring and feedback systems for ensuring 'positive outcomes' for customers. This may include analysis of both complaints and positive feedback, internal quality monitoring and checking of processes, and customer evaluation techniques (such as mystery shopping/ surveys), as well as consideration of broader industry best practice as this area evolves. Firms should seek to monitor and analyse customer interactions to ensure that policies are being adhered to, and drive improvements or remedial action, if enhancement opportunities or deficiencies are detected.

How can technology help firms achieve customer vulnerability responsibilities?

At the end of the day, the regulator is driving treatment of vulnerable customers as a firm culture issue, so that staff are trained and empowered by appropriate policies and processes to understand and then act in the best interest of such customers. While technology can be an inhibitor to that process, it can also be an enabler of effective outcomes.

Firstly, systems need to be designed from product level with potential requirements of vulnerable customers in mind, to avoid 'computer says no' scenarios where front-office staff are effectively powerless to provide appropriate flexibility because a situation doesn't fit the standard mould

Secondly, firms need to take an omni-channel approach to dealing with vulnerable customers, so that they can use and access channels that are most appropriate to their requirements, and all channels should be designed to reduce the impacts of vulnerability.

For example, direct channels, be it online/ mobile or contact centre, should cater for the needs of those who are visually impaired or hard of hearing, with communications designed in an inclusive way, such as the use of braille, instant messaging or live-chat, screen readers or speech to text capabilities.

Similarly, firms should seek to use technology to enhance communication where possible. Good examples include the use of videos or graphics, as well as written material to provide product information, and the effective use of mobile apps to provide easy-to-use financial management tools.

Thirdly, technology can be used to support staff education and “in-flight” know-how. Knowledge base portals or, even better, contextual knowledge capabilities integrated with operational systems, can provide easy access to practical guidance and policy, procedural or referral guidelines.

Internal use of unified communication and collaboration tools - such as Skype for Business or Cisco Jabber - can provide the employees with the ability to consult with a relevant expert, or even “patch” them into an interaction.

Finally, technology can be valuable for both enhancing and ensuring implementation of vulnerable consumer policies. For example, as mentioned regulators encourage recording of customer interaction to provide protection to staff in customer complaint/ compliance situations. However, improvements in real-time speech analytics mean that interactions can be automatically monitored to pick-up on key words that might indicate a customer in a potentially vulnerable situation and trigger real-time, on-screen prompts that alert the employee, and offer advice on the next best action to take for their protection.

This automated monitoring can also feed analytics that allow management processes to be put in place to ensure consistency of identification and appropriate quality of response. This can also be used to ensure adherence to correct recording of disclosed information, so that this can be distributed as appropriate in the drive towards one-stop notice.

Appendix

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Ovum Consulting

We hope that this analysis will help you make informed and imaginative business decisions. If you have further requirements, Ovum's consulting team may be able to help you. For more information about Ovum's consulting capabilities, please contact us directly at consulting@ovum.com.

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