

Guidance consultation

Guidance for firms on the fair treatment of
vulnerable customers

July 2019

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1 Summary

About this guidance consultation

- 1.1** Protecting vulnerable consumers is a key priority for the FCA. There are many different drivers of vulnerability, and our Financial Lives Survey showed that 50% of UK adults display one or more characteristics of being potentially vulnerable. Vulnerable consumers may be more likely to experience harm. In many cases, this risk of harm may not develop into actual harm. But if it does, the impact on vulnerable consumers is likely to be greater than for other consumers.
- 1.2** Since announcing that we intended to produce guidance for firms we regulate on the treatment of vulnerable consumers, we have engaged extensively with stakeholders on the issue of vulnerable consumers in financial services. Our supervisory work has also shed light on how some firms treat vulnerable customers. Most firms want to do the right thing, and have made significant progress in how they treat vulnerable consumers. There is still room for improvement and for a greater degree of consistency across financial services sectors. In some cases, we are aware that some firms are clearly failing to consider the needs of vulnerable consumers, leading to harm.
- 1.3** Firms have sought greater clarity from us on what they need to do to ensure the fair treatment of vulnerable consumers, and our intention in proposing this guidance is to make clear what, in our view, firms should do to ensure that vulnerable consumers are treated fairly, and consistently across financial services sectors. We have taken action where we have seen that this is not happening, and we will continue to do so.
- 1.4** Ultimately, we want to see firms doing the right thing for vulnerable consumers, and embedding this in their culture. This consultation on draft Guidance (the draft Guidance) gives our view of what our Principles for Businesses (the Principles) require of firms to treat vulnerable consumers fairly.
- 1.5** The proposed guidance aims to ensure consistency of outcomes for vulnerable consumers, regardless of the sector in which a firm operates. This approach is not without challenges, especially when considering the differences between the firms and sectors we regulate. We want to be confident that the guidance addresses the issues we want it to, and drives the improvements we want to see across the industry. We have therefore decided to adopt a two-staged approach to consulting. During this first stage, we will build on the work we have already done to understand in more detail how firms will be affected by this guidance and, where possible, quantify the costs and benefits that this guidance will create.
- 1.6** The two stages of consulting on the draft Guidance will be as follows.

First stage: We are publishing this guidance consultation and are seeking feedback by **4 October 2019** on 3 particular areas:

1. whether the draft Guidance covers the right issues and would provide firms with the right degree of clarity on what they should do to improve outcomes for vulnerable consumers;
2. how this Guidance could affect firms' costs and the extent of benefits to vulnerable consumers from changes triggered by the Guidance; and
3. whether the Guidance, as part of the FCA's regulatory framework, is sufficient to ensure firms take appropriate action to treat vulnerable consumers fairly, or whether stakeholders consider that we need additional policy interventions, such as additional rules, to ensure this happens [see **Chapter 3, Paragraph 3.18** below].

Second stage: In the light of this feedback, we plan to consult on revised draft Guidance, publishing a cost-benefit analysis alongside it. If we consider further interventions are necessary, we would also consult on these in the second stage.

1.7 This document, the first stage consultation, sets out:

- In **Chapter 2**, our definition of vulnerable consumers, the scale of the issue, and the potential impact on consumers of being vulnerable. We explain why vulnerability is a key concern for the FCA, and summarise the engagement work we have carried out while developing our policy thinking. We also discuss how the proposed guidance fits in with the relevant external environment in which firms operate.
- In **Chapter 3**, the aims of the guidance, what it includes and how we expect firms to use it. We also explain how we will hold firms to account if they breach the Principles and how we will monitor the effectiveness of the guidance. We also explore how the guidance fits with other requirements on firms including within our regulatory framework, and wider legislation outside of our perimeter.
- In **Annex 1**, the draft Guidance on which we are seeking views.
- In **Annex 2**, the questions we are asking.

Equality and diversity considerations

1.8 We have considered the equality and diversity issues that may arise from this guidance. We do not believe that this guidance will adversely affect any of the groups with protected characteristics.

1.9 We do believe this guidance may positively affect some groups with protected characteristics. For example, disability is a protected characteristic, and having a physical or mental health condition is a driver of potential vulnerability. So, as the guidance is aimed at improving how firms treat vulnerable consumers, those with a disability may benefit from improved treatment in the financial services sector. Age is also a protected characteristic. Those aged between 18-24 and over 65 are disproportionately likely to be potentially vulnerable, so may also benefit from this guidance.

1.10 We will continue to consider the equality and diversity implications of this guidance during the consultation, and will revisit them when publishing the second stage consultation, and the final guidance. In the meantime, we welcome any feedback to this guidance consultation on such matters.

Who should be interested in this guidance consultation

1.11 This consultation will be of interest to:

- all FCA regulated firms (including electronic money issuers and payment service providers) and their appointed representatives.
- industry groups and trade bodies.
- consumers.
- consumer organisations and organisations that promote the interests of vulnerable people.
- consumer advisers.

How to respond

1.12 We are asking for comments on this first stage consultation by **4 October 2019**.

1.13 You can email your response to ApproachtoConsumers@fca.org.uk

1.14 Alternatively, you can respond by post to:

Consumer Strategy Team
Consumer and Retail Policy
Strategy & Competition Division
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

1.15 Responses to consultations are available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure. We may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

2 Vulnerable Consumers

- 2.1** In our Approach to Consumers we define a vulnerable consumer as 'someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care' (as presented in our Occasional Paper 8 on Consumer Vulnerability).
- 2.2** This definition is intentionally broad and we use the term vulnerable consumer throughout this document and the draft Guidance to refer to natural persons who either are, or may be, in vulnerable circumstances. We recognise that in some cases where we are referring to particular characteristics, some consumers may not want the label of vulnerable applied to them.
- 2.3** Some consumers will be *actually* vulnerable because of their personal circumstances. Actual vulnerability can be permanent but is often transient because consumers' circumstances constantly change. This can cause consumers who had not previously been vulnerable to become so at some stage of their life. A consumer who loses their partner, for example, may become vulnerable at that stage of life. Equally, a consumer may no longer be vulnerable because of a change in their circumstances, for example, a previously unemployed person who now has sufficient income to cover their outgoings.
- 2.4** Other consumers may be *potentially* vulnerable. Although not currently vulnerable, they may be more susceptible than others, due to certain characteristics, for example, someone with a history of stress-related illnesses. People with such characteristics may be more at risk of suffering harm due to poor market practices or poor treatment by a financial services provider. A consumer with lower levels of financial capability may be more likely to buy a product that is not suitable to their needs and leaving them worse off.
- 2.5** Potential vulnerability can also be transient or short-term. But some consumers may be in a permanent, or long-term, state of potential vulnerability. Whilst this may not lead to actual vulnerability for everyone, it is important to be aware of the concept and understand its causes and drivers.

Drivers of vulnerability

- 2.6** In our Approach to Consumers we set out these factors that act as drivers to actual or potential vulnerability:
- *health* – health conditions or illnesses that affect the ability to carry out day to day tasks
 - *life events* – major life events such as bereavement or relationship breakdown
 - *resilience* – low ability to withstand financial or emotional shocks
 - *capability* – low knowledge of financial matters or low confidence in managing money

2.7 These categories are not definitive or exhaustive. But they do help us understand the situations, both permanent and transient, that can indicate potential vulnerability in financial services.

Table 1: The four key drivers of vulnerability (the examples included in the table are not an exhaustive list)

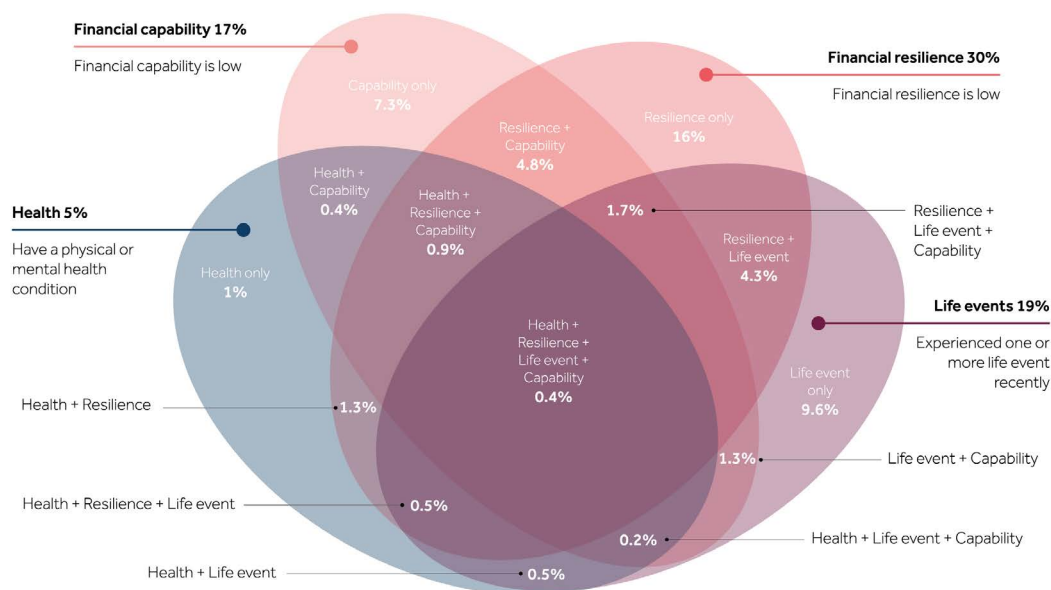
Health	Life events	Resilience	Capability
Physical disability	Caring responsibilities	Low or erratic income	Low knowledge or confidence in managing financial matters
Severe or long-term illness	Bereavement	Over indebtedness	Poor literacy or numeracy skills
Hearing or visual impairments	Income shock	Low savings	Low English language skills
Poor mental health	Relationship breakdown	Low emotional resilience	Poor or non-existent digital skills
Low mental capacity or cognitive disabilities	Having non-standard requirements such as ex-offenders, care leavers, refugees	Lack of support structure	Learning impairments

The scale of the issue

2.8 Half of UK adults (25.6 million people) display one or more characteristics of being potentially vulnerable (Financial Lives Survey 2017). This means they may be more susceptible to becoming vulnerable than others.

2.9 Some groups are more likely to be vulnerable than others, such as those under 24 or over 65, unemployed people, and those with no formal qualifications. And consumers will often display more than one characteristic of vulnerability. **Figure 1** gives an overview of the proportion of UK adults that display each of the drivers of vulnerability and the extent of overlap between them.

Figure 1 Proportion of UK adults that display each of the drivers of vulnerability (from Financial Lives 2017. Base: UK adults (12,865))



The impact of vulnerability

2.10 Our previous research has highlighted some of the consequences of vulnerability:

- heightened stress levels due to difficult, or different, personal circumstances
- increasing time pressures due to additional responsibilities
- increasing pre-occupation ('brain is elsewhere') limiting ability to manage
- processing power and ability decreases due to competing pressures, for example due to the side effects, or emotional toll, of receiving medical treatment
- lack of perspective, especially when experiencing something for the first time, not fully understanding the broader implications; unable to make comparisons, or see the 'bigger picture'
- changing attitudes towards taking risks; people often become more 'reckless' and/or careless at moments of stress

2.11 These consequences may affect the way vulnerable consumers engage with financial services providers. In particular, vulnerable consumers may be significantly less able to represent their own interests. They may have non-standard needs, and may be more prone to certain behavioural biases that negatively impact their decision making. For example, vulnerable consumers may be more likely to suffer from behavioural patterns such as a 'scarcity mindset', which can reduce mental bandwidth and lead consumers to focus on certain factors at the expense of others (see Mullainathan & Shafir, 2013, Scarcity: Why having too little means so much, Macmillan). This may mean vulnerable consumers, especially those who may not be financially resilient, are more likely to make mistakes in their decisions about buying and using financial services.

2.12 The impact of non-standard needs and behavioural biases could be exacerbated by firms' behaviour. The complex nature of financial services may also negatively impact vulnerable consumers. Products and services are often complicated, and can involve entering into extended commitments. Subsequently, the financial impact of decisions

can be life changing and poor decisions can have long-term effects. Financial services are also increasingly being recognised as essential and especially when they are a gateway to other services.

2.13 The overall impact of these consequences on consumer welfare may well be detrimental, and vulnerable consumers may be more likely to experience harm. In many cases, this risk of harm may not develop into actual harm. If the risk does crystallise, however, the impact on vulnerable consumers is likely to be greater than for other consumers.

2.14 Through our work in this area, and research including our Financial Lives Survey, we have identified potential harms that vulnerable consumers may be more likely to experience:

- a. Financial exclusion** – vulnerable consumers are more likely to be unbanked (4% of vulnerable consumers) and less likely than average to hold any form of savings, insurance or protection, pension, or investments. Research carried out by the Extra Costs Commission has also shown that 3 million people with disabilities have been turned down for insurance or charged extra, and only 1 in 3 people with severe mental health problems have home insurance or a savings account (Citizens Advice 2019, the Mental Health Premium).
- b. Difficulty in accessing services** – Lack of access to a decent broadband service is more common in rural areas: 12% of rural premises cannot get access to such a connection, compared to 1% of urban premises. Older people may struggle to use digital communication channels due to a lack of skills or access. Having a physical disability may also make it difficult for consumers to access a branch in person.
- c. Partial exclusion** – vulnerable consumers may be unable to access the best deal. This is because they may be unable to search effectively, appraise the options available, or may be more likely to be refused or declined the best deal either because they represent a greater risk or because they are discriminated against. For example, 1 in 4 consumers with cancer feel that the financial services industry unfairly discriminates against them.
- d. Disengagement with the market** – vulnerable consumers are more likely to hold a product for a greater period of time without switching. For example, 23% of people with mental health problems avoid switching because they find it overwhelming. As a result, vulnerable consumers may be more likely to pay a higher price than other consumers. For example, people aged 65 and over are more likely to pay a higher price than other consumers for services such as home insurance and savings accounts.
- e. Scams** – vulnerable consumers may be more likely to fall victim to scams. They may be specifically targeted through unsolicited approaches, or more likely to be persuaded to disclose personal financial details. Vulnerable consumers may be less likely, or unable, to regularly check their bank account or statements and therefore less likely to spot unusual transactions. For example, research has shown that older consumers who may be lonely are more likely to be at risk of being scammed.
- f. Over-indebtedness** – vulnerable consumers are more likely to fall behind on key household bills or credit commitments. Being over-indebted may also be linked with experiencing mental health problems or addictions. Half of adults in problem debt

also have a mental health problem. In addition, people with problem debt are twice as likely to develop major depression as those who are not in financial difficulty.

- g. Exposure to mis-selling** – vulnerable consumers may be more likely to fall victim to pressure selling, or be provided with the wrong information about potential products or services by staff who do not understand their circumstances. People with mental health problems, for example, are more likely to have mistakenly bought a product on credit and 3 in 4 of those felt pressured into doing so.
- h. Inability to manage a product or service** – vulnerable consumers may be less likely to understand how to manage their use of a product or service on an ongoing basis. They may be less likely to be aware of their rights, including their ability to get redress when things go wrong. People whose mental health has led to problems with social cognition are often reluctant to bring problems to their providers' attention. This is often out of fear that they will be misunderstood or say the wrong thing, and from the emotional strain of trying to interact with other people.
- i. Purchasing inappropriate products or services** – vulnerable consumers may be more likely to have mistakenly bought a product or service that was not appropriate for them because they misunderstood the features or the terms and conditions. For example, 48% of those with mental health problems surveyed by the Money Advice Trust reported being unable to weigh-up the advantages/disadvantages of a loan product.

Protecting vulnerable consumers

- 2.15** We expect the firms we regulate to treat customers, including vulnerable customers, fairly. Our previous work has shown that not all firms treat vulnerable consumers fairly, and those consumers face a significant risk of harm. Vulnerability is, therefore, a key priority for the FCA.
- 2.16** We have set out our general approach to meeting our operational objectives in Our Mission. We made it clear that securing an appropriate degree of protection for consumers (one of our 3 operational objectives set out in Section 1C(1) Financial Services and Markets Act 2000 (FSMA)) lies at the heart of what we do and affirm we would be more likely to intervene where we identify actual, or potential, harm for vulnerable consumers.
- 2.17** In meeting that objective, we must have regard to the general principle that consumers should take responsibility for their choices and decisions (see Section 1C(2)(d) FSMA). However, there can be factors that may limit the ability of vulnerable consumers to take on this responsibility.
- 2.18** We must also have regard to the general principle that those providing regulated financial services should be expected to provide consumers with a level of care that is appropriate, having regard, amongst other things, to the capabilities of the consumers in question (Section 1C(2)(e) FSMA). The level of care that is appropriate for vulnerable consumers may therefore be different from what is required for other consumers. As we stated in our Approach to Consumers, we expect firms to exercise particular care where consumers may be vulnerable.

- 2.19** In the feedback to Our Future Approach to Consumers consultation, many stakeholders told us that firms were uncertain about how to understand the needs of vulnerable consumers and treat them fairly. They felt that we needed to be clearer about what firms should be doing. Some respondents indicated that clearer guidance under the Principles for Businesses (the Principles) was needed.
- 2.20** Stakeholders added that the guidance would enable the FCA to supervise against it, and would be relevant in an enforcement context.
- 2.21** We therefore committed to consult on guidance on what firms should do to improve outcomes for vulnerable consumers. We also made it clear that we would use this guidance to monitor how firms treat vulnerable consumers and to hold them to account if they breached the Principles.

Research and engagement

- 2.22** To further inform the development of our policy in this area we conducted a programme of engagement and research (see **Figure 2** for a summary of high-level findings). We:
- reviewed relevant external research
 - conducted further analysis of the FCA's existing research and other work relevant to vulnerable consumers
 - organised a conference on vulnerable consumers with 150 representatives of firms;
 - held a roundtable event with consumer groups and bilateral meetings with consumer organisations
 - conducted bilateral meetings with firms and trade bodies across financial services sectors
 - commissioned further research with firms to evaluate the extent to which firms understand our expectations, and to better understand current practices and recent progress that has been made
 - engaged with other regulators and government departments including Ofgem, PRA, HM Treasury and the UKRN vulnerability sub-group.

Figure 2: Summary of high-level findings from our engagement with firms and consumer organisations (engagement took place in Q4 2018).

Firms

Firms highlighted to us a number of challenges they face when considering how to treat vulnerable customers fairly:

- The transient nature of some vulnerability makes it particularly difficult to understand which customers are vulnerable, or potentially vulnerable.
- Customers are often unwilling, unable, or do not understand why or how to disclose vulnerability. This is especially the case in situations where customers have little direct contact, for example online only customer journeys.
- Labelling customers as vulnerable or asking questions deemed to be personal or irrelevant risks upsetting or offending.
- Concerns about the General Data Protection Regulations (GDPR) and data protection. In particular, what information can be recorded and shared, and how this can be done in a compliant way.

Firms also highlighted what they would find helpful from the FCA:

- Clear guidance on what they should do to understand the needs of vulnerable customers.
- Support for a flexible approach to the treatment of vulnerable consumers, rather than driving a tick box compliance mentality.
- Guidance that considers the differences between types of firms, including the size and the sectors in which they operate.

Consumer organisations

Consumer organisations highlighted several issues regarding the treatment of vulnerable consumers, including:

- When additional support is available, there is often little, or no, signposting. Therefore, vulnerable consumers are not always aware of the support available to them, and they are not accessing the support they need.
- 'Consumer education' is often seen as part of the solution, however this is not necessarily so for vulnerable consumers. This places the onus on vulnerable consumers themselves, whereas it should be on firms.
- Firms often put a large burden of 'proof' on vulnerable consumers, which can cause them to disengage.
- Firms are not providing enough opportunities to vulnerable consumers to disclose what their needs are.
- Firms are not incorporating principles, such as inclusive design, into their product development process.
- Firms are often citing 'competing regulatory objectives' as a barrier to adopting policies and practices aimed at the fair treatment of vulnerable consumers.
- Vulnerable consumers have particular problems interacting with firms effectively. This can extend to going through a firm's complaints process, and as a result vulnerable consumers may be unwilling to pursue complaints.

Consumer organisations also highlighted ways this could be improved, for example:

- The importance of frontline staff, specifically that firms should ensure they are properly trained, empowered to make decisions, and equipped with the necessary processes to treat vulnerable consumers fairly.
- Firms and charities should work together better on the issue of vulnerable consumers, and that this should be promoted.

2.23 There are several external initiatives aimed at improving industry practices in treating vulnerable consumers fairly, for example:

- The [Money and Mental Health Policy Institute](#) has launched the Mental Health Accessible standards, to make essential services easier to use for those with mental health problems.
- The Vulnerability Taskforce was established following the publication of our Occasional Paper 8. The Taskforce consisted of key industry stakeholders, charities and consumer groups, chaired by Joanna Elson, CEO of the Money Advice Trust. The output was a detailed report, 'Improving outcomes for customers in vulnerable circumstances' containing nine Principles and a series of recommendations which the industry voluntarily agreed to take forward. The Lending Standards Board [recently published](#) a review of those recommendations.
- The Money and Pensions Service continues to deliver its National Strategy for Financial Capability (see www.fincap.org.uk), launched in 2015 and overseen by the Financial Capability Board.

2.24 We have seen good progress made by firms throughout our research and engagement. Many firms have been improving the ways in which they understand and address issues of vulnerability. Some told us they would like to improve practices but are unclear how to (see **Figure 2**, which summarises some of the challenges). We have found that firms have mainly addressed vulnerability by making adjustments for individual customers, but only as the need to make them has become apparent. This can be a successful approach, and firms will always need the ability to be flexible in their support for customers when vulnerabilities come to light. We have seen less evidence of firms meeting the needs of vulnerable customers through their product and service design.

2.25 We also found that some firms are failing to think about vulnerability or to provide a fair service to consumers who are actually, or potentially, vulnerable. Consumer organisations told us that some firms do not treat issues of vulnerability with high enough priority and some firms do not ensure the fair treatment of vulnerable consumers is fully embedded into their business. As a result, there is inconsistency in the way vulnerable consumers are treated.

2.26 This tallies with what we have found in our regulatory work, which highlights some problems and varied practice across financial services markets. Figure 3 sets out just some examples of what we have seen. The treatment of vulnerable consumers was not the key factor in many of the examples cited here. But these examples involved people who were vulnerable or potentially vulnerable, and the harm identified would have potentially had a disproportionate impact on them.

Figure 3: Failures by firms to treat vulnerable customers fairly that have triggered action

- The practices of some credit brokers who were charging upfront fees were exposing consumers to harm, especially those with low credit scores who are potentially vulnerable. We introduced new rules that banned credit brokers from charging fees to customers.
- A debt management firm was refused authorisation when we found evidence that the firm was offering poor quality debt advice. Consumers who were potentially vulnerable were being advised to enter debt solutions that were unsuitable for their circumstances.
- The review of early arrears management in unsecured lending found that, although firms were making significant improvements in the way they dealt with vulnerable customers, firms' intentions and policies were not matched by execution in practice. Firms were expected to review their practices in light of the feedback provided, and to make relevant changes. In some instances where unfair practices were found, supervisory dialogue and risk mitigation action was started with firms.
- We fined a retail firm for mis-selling an insurance product to mobile phone customers. We found that the firm had not trained its sales consultants to adequately assess customers' needs.

The external environment

2.27 Vulnerability is a critical topic in wider public policy debates. The 2017 National Audit Office (NAO) report on vulnerable consumers in regulated industries, the House of

Commons Committee of Public Accounts report on Consumer Protection, the House of Lords Select Committee on Financial Exclusion and the Department for Business, Energy and Industrial Strategy (BEIS) Consumer Green Paper all identify areas where regulators could do more to address consumer vulnerability in their sectors. BEIS are currently working towards publishing a Consumer White Paper.

- 2.28** The BEIS Consumer Green Paper also announced the creation of the Consumer Forum, which brings together government departments, regulators and the Competition and Markets Authority. The initial priority areas for the forum include loyalty penalties and vulnerable consumers. BEIS has announced the Government's vulnerable consumer challenge, related to the Smart Data Review. This will encourage innovators, charities and regulators to ensure their most vulnerable and least digitally engaged customers are able to find the best deals. BEIS are currently working towards publishing a Consumer White Paper.
- 2.29** In addition to this the 2018 budget announced increased capacity for the UK Regulators Network (UKRN) to carry out a "cross-sector project aimed at improving outcomes for vulnerable consumers". The UKRN's Annual Plan 2019/20 set out that consumers in vulnerable circumstances would be one of the two key pillars of their work programme.
- 2.30** Other regulators have also been active in this area. The Competition and Markets Authority (CMA) recently undertook work to understand vulnerability across markets. The first phase of this programme ended in February 2019 and it will continue to be a priority focus for the CMA. The energy regulator Ofgem updated their vulnerability strategy in 2019 and the water regulator Ofwat has built vulnerability into its current price review methodology.
- 2.31** The Treasury Select Committee (TSC) announced an inquiry into financial access for vulnerable consumers on 9 November 2018. The TSC reported in May 2019 highlighting several important issues relevant to vulnerable consumers, including the role of the FCA and the Equality Act 2010 (see **paragraphs 3.22-3.27**), the Duty of Care discussion paper (see **paragraph 3.30** for next steps), Power of Attorney and third-party representation (see Annex 1, **paragraph 82**), bank branches, and the basic bank account.
- 2.32** The TSC welcomed the FCA's commitment to publish guidance on treating vulnerable consumers fairly. They appreciate the wide definition of vulnerable consumers recognising the varied drivers of vulnerability and that it may often be transient. The report also emphasised it was important that the FCA make it clear to firms what they should do to treat vulnerable customers fairly.

3 Proposing guidance to achieve better outcomes

3.1 Despite the progress we have seen by some firms, we want to see more action to make overall improvements in the way in which vulnerable customers are treated. **We want to see doing the right thing for vulnerable consumers deeply embedded in the culture of firms, and as a result:**

- firms to be more focused on ensuring that the outcomes experienced by vulnerable consumers are at least as good as those of other consumers; and
- greater consistency across firms and sectors so that vulnerable consumers are treated fairly in whatever financial service or product they buy.

3.2 The Principles require firms to treat all customers fairly, including those who are, or are potentially, vulnerable. So, we are proposing the draft Guidance,¹ which can be found at **Annex 1**. This sets out our view of what the Principles require of firms involved in the supply of products or services to retail customers who are, or are potentially, vulnerable.

3.3 The draft Guidance aims to make it clear to firms what they should do to embed doing the right thing for vulnerable consumers into their culture, so that it permeates across the organisation from the Board through to frontline staff. We propose providing this Guidance under the overarching Principles, rather than by setting out prescriptive requirements on firms. This is so firms can take responsibility to decide how to achieve the right outcomes for vulnerable consumers. This approach allows flexibility in the constantly changing environment for consumers and firms.

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

The draft Guidance

3.4 The draft Guidance sets out our view, under the Principles, on what firms should do to ensure they treat vulnerable consumers fairly. In the first section (**Annex 1, Section 1**) we set out the application of the Guidance, its status, and the Principles that are particularly relevant. We also set out the drivers of being vulnerable and the distinction between actual and potential vulnerability.

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

¹ We are proposing to issue this Guidance under section 139A of the Financial Services and Markets Act 2000 (FSMA).

Q3: Do you have any comments on the application in the Guidance of 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.)

3.5 We have structured the subsequent sections of the draft Guidance to provide clarity about what firms should be doing to treat vulnerable consumers fairly at different stages of their interactions with consumers.

- firms should understand the needs of vulnerable consumers in their target market and customer base (**Annex 1, Section 2**).
- firms should also ensure that their staff have the skills and capability to address the needs of vulnerable consumers they have identified (**Annex 1, Section 3**).
- We then set out that firms should translate their understanding of the needs of their vulnerable consumers into practical action (**Annex 1, Section 4**) in terms of how they:
 - i. design their products and services to take into account the needs of vulnerable consumers.
 - ii. ensure the level of customer service they provide meets the needs of vulnerable consumers.
 - iii. communicate with vulnerable customers.
- in the final section (**Annex 1, Section 5**) we set out that firms should make sure they build in a process to monitor outcomes experienced by vulnerable consumers. They should learn from this to continuously improve and update how they treat vulnerable consumers.
- **Appendix 1**, to the draft Guidance highlights some of the areas of the General Data Protection Regulation (GDPR), and Data Protection Act 2018 (the DPA 2018) that may be relevant for firms to consider when interpreting the Guidance. We have taken account of comments from the Information Commissioner's Office in drafting this appendix, but it should not be considered as a formal representation of the ICO's position and we will continue to discuss the guidance as it develops. The ICO retains its independence as the regulator responsible for data protection and firms remain accountable for their own compliance with the relevant legislation.

3.6 Where relevant the draft Guidance includes examples of good practice identified from our extensive engagement with stakeholders. This highlights that there are different ways firms could deliver what, in our view, they should do. These examples are not intended to provide an exhaustive list of what firms should do, but of ways in which firms may wish to comply with the Principles. Firms will need to consider for themselves whether the good practice examples are relevant when interpreting the Guidance.

3.7 We have included case studies that present good practice and poor practice, also developed from our engagement work. The aim of the case studies is to provide firms with further insight and clarity. In using these, firms will need to consider the relevant context in which they operate and think about how the examples apply to them.

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

How we expect firms to use the Guidance

- 3.8** We want to see firms use and apply the Guidance as an aid to how they comply with the Principles in their treatment of vulnerable consumers. The Guidance does not prescribe the processes that firms need to use as we do not think that would lead to the outcomes we want to see for vulnerable consumers. Firms should take this responsibility themselves. Firms will need to take a sensible approach in determining what the Guidance means for them and we recognise that it will be different for different firms.
- 3.9** Some firms will have larger and more diverse target markets and may need to do more and go further than a smaller firm that caters for a smaller group of consumers to comply with the Principles. Equally, the size of a firm will not be the only factor. The type of business model the firm operates and sector(s) in which they operate will also be relevant. Some business models, and some sectors, may carry more risk for vulnerable consumers than others. Therefore, firms that operate in markets that are significantly riskier or are more targeted to vulnerable consumers may need to do more and go further than other firms.
- Q8:** Do you have any comments on how firms are expected to use and apply the Guidance?
- 3.10** We recognise that some firms will have policies and processes established to ensure the fair treatment of vulnerable consumers. These firms may find the Guidance useful in helping them consider whether their existing practices are sufficient to enable them to comply with their obligations under the Principles.
- 3.11** Firms may also use the Guidance to identify gaps in their current approach to how they treat vulnerable consumers. They may want to develop new activities and processes using the Guidance to inform how that is done.

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?

3.12 The extent to which the Guidance will lead firms to make changes to comply with their obligations under the Principles will impact the costs that they will incur as a result. Those costs will depend on a number of factors, but in particular the extent to which firms will need to introduce changes to their products, systems and customer services.

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

3.13 In the feedback to this initial first-stage consultation we are interested to hear more about the activities, policies and processes firms currently have in place. This is to further inform our cost-benefit analysis. We want to know, in particular, if there has been any analysis of whether these activities and processes have improved outcomes for vulnerable consumers.

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?

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?

Holding firms to account

3.14 The Guidance will be a tool for supervisors to use in their discussions with firms about how they are ensuring they treat vulnerable consumers fairly. We will take a proportionate approach to the application of the Guidance. Supervisors will expect firms to consider the relevance of the Guidance for their firm and, where necessary, to take action by improving existing, or implementing new, practices and processes.

3.15 The Guidance may also be relevant in an enforcement context, for example to help assess whether it could reasonably have been understood or predicted at the time that the conduct in question fell below the standards required by the Principles. We take action against firms where there is evidence of actual or potential harm for vulnerable consumers. We can, and do, take action for breach of the Principles. The Guidance may therefore be a relevant factor in potential enforcement action where firms are failing to comply with their obligations under the Principles.

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?

3.16 We plan to monitor how firms use the finalised guidance and the effect on outcomes for vulnerable consumers. We want to see firms explicitly embed the fair treatment of vulnerable consumers into their culture. We want to see standards improve across the sectors we regulate and we want vulnerable consumers to have greater consistency in the outcomes they experience.

3.17 We will seek to assess whether the Guidance helps firms to better understand their obligations for the treatment of vulnerable consumers, and how firms change the way they treat vulnerable consumers.

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

3.18 We may consider whether we need additional policy interventions to enhance compliance with firms' obligations to treat vulnerable customers fairly. At this stage, we do not consider this to be necessary. However, we are seeking views on the merits of introducing potential additional interventions, which might include:

- *Setting out in one document all the relevant existing requirements in our Handbook that impose obligations on firms in respect of how they treat vulnerable consumers.*

There are several sector specific rules that set out requirements on firms on how to treat vulnerable consumers.² Bringing these together would show more clearly where firms are subject to specific requirements in respect of how they treat vulnerable consumers. Repackaging these existing obligations would not, by itself, change the obligations nor would it contribute to the consistency across sectors that we are seeking to achieve.

- *Proposing Handbook guidance under high-level rules on how we think firms could comply with our rules.*

There are several existing obligations in the Handbook that, whilst they relate generally to how firms treat customers fairly, they include the fair treatment of vulnerable customers.³ We could develop Handbook guidance under these high-level obligations to help improve firms' understanding of what they mean for vulnerable customers. However, this approach would not introduce new obligations.

- *Proposing new sector-specific rules in the Handbook that prescribe what firms need to do to address identified risks in certain sectors.*

If there are sector-specific issues or risks that are not covered by existing obligations, we could propose new rules to address specific areas of harm. This approach by itself, however, would not contribute to the improvements across the board that we are seeking, nor would it necessarily support firms' obligations to take responsibility for assessing the specific context in which they operate to determine how to comply with their obligations under the Principles. It would also be less likely to contribute to the fundamental change in culture that we want firms to embed.

² One example of a sector specific rule is a requirement on debt management firms to establish and implement clear and effective policies and procedures to identify particularly vulnerable customers and to deal with such customers appropriately (CONC 8.2.7R).

³ One example of a high-level rule is the competent employees rule that requires firms to employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them (SYSC 5.1.1R).

- *Proposing new high-level rules that relate specifically to vulnerable consumers.*

For example, we could consider cross-sector rules, that would impose additional obligations on firms that target senior management responsibilities or wider firm systems and controls. Proposing such high-level rules could add greater weight to the Guidance, and drive firms to engage with the issue of vulnerability and how to approach this effectively. However, given that the Guidance is already underpinned by the Principles, additional rules may be superfluous.

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

Q16: Should we consider any further additional policy options?

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

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.

The Guidance and other requirements

- 3.19** The Guidance will not create additional obligations on firms nor will it require firms to act in any way that is incompatible with specific legal or regulatory requirements, whether such obligations are derived from domestic or EU law. As section 139A guidance under the Principles, it will therefore not be legally binding and firms need not follow it in order to comply with rules or other requirements. Firms may comply with their obligations in other ways. There is also no presumption that departing from the Guidance indicates a breach of a rule and so the Guidance will not be, nor seek to be, a complete exposition of a firm's responsibilities to its vulnerable customers. It does not replace or substitute applicable Principles, rules, guidance or law, such as sector specific rules or guidance or law, for example, relating to unfair contract terms and unfair commercial practices.
- 3.20** Therefore, we remind firms that we have existing rules in our Handbook that will not be affected by this Guidance, that set out requirements on firms that are either directly or indirectly relevant to how they treat vulnerable consumers. As noted previously, some of these are high-level requirements that, whilst not expressly referring to vulnerable customers, relate to the fair treatment of all firms' customers, including those who are vulnerable. There are also rules that apply to firms in specific sectors carrying out specific regulated activities, which refer specifically to vulnerable consumers. Firms will therefore need to use the Guidance in a way that is compatible with any relevant requirements.

- 3.21** There are also relevant requirements on firms from legislation⁴ outside the FCA's regulatory framework with which firms continue to need to comply, that will not be covered by this Guidance.
- 3.22** One key piece of legislation is the Equality Act 2010, which, amongst other things, prohibits a firm from discriminating, harassing or victimising its actual or potential customers due to a 'protected characteristic'.⁵ The FCA does not have a direct role to enforce the Equality Act 2010,⁶ this is the role of the Equality and Human Rights Commission (EHRC) which has oversight of compliance with the requirements under this Act.
- 3.23** There may be circumstances where a firm is both in breach of our Principles and the Equality Act 2010, given that some protected characteristics may overlap with the drivers of vulnerability we have set out in **Chapter 2** (see **Table 1**). One example is disability, which is a 'protected characteristic' and could also drive potential vulnerability as it may, for example, lead to difficulty in accessing financial services. The Equality Act 2010 places a duty on firms to make reasonable adjustments to procedures, policies or practices where not doing so would put people with a disability at a substantial disadvantage. In this, there are overlaps with our view on what firms should do to ensure they treat vulnerable customers fairly. For example, the obligation under the Equality Act 2010 for firms to make reasonable adjustments for people with a disability overlaps with our guidance that firms should provide flexible customer services for people with a disability.
- 3.24** Under our consumer protection objective, we will consider whether consumers, including those with protected characteristics, have been provided with an appropriate level of protection. We approach the issue primarily from the point of view of consumer protection, rather than with the aim of promoting equality and avoiding discrimination. We would not, for example, normally expect to use our rule-making, supervisory or enforcement powers to set standards in respect of, or to address, equalities issues, except where the conduct of a firm called into question whether consumers had been treated fairly under our rules.
- 3.25** Whether individuals had been discriminated against under the Equality Act 2010 as a result of their protected characteristic, would therefore, be a matter for the individual and the EHRC.
- 3.26** However, where we are concerned that firms may be in breach of the Equality Act 2010, we will not only consider whether the firm is in breach of our rules or Principles, we will also work with the EHRC to inform our assessment and to support any work they may do.
- 3.27** In addition, we will continue to engage with the EHRC on policy-related and thematic issues,⁷ for example as part of our representation on the EHRC's Regulators, Inspectorates and Ombudsman Forum (RIO) (the role of the FCA and the Equality Act 2010 was recently discussed at TSC – **see paragraph 2.31**).

4 General consumer law may also be relevant including the Consumer Rights Act 2015, Consumer Protection from Unfair Trading Regulations 2008, and Unfair Terms in Consumer Contracts Regulations 1999.

5 Age, disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief and marriage/civil partnership status.

6 Under the Equality Act 2010, the FCA has responsibilities under the Public Sector Equality Duty to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic, and those who do not, while carrying out our activities.

7 We do not, however, have a specific statutory gateway to enable us to share confidential information with the EHRC.

Next steps

- 3.28** We seek feedback on this consultation by **4 October 2019**. During this consultation period, we will collect more data and information on the potential benefits of the Guidance. We will also seek information on the additional costs firms may incur to inform our cost-benefit analysis that we will publish in the next stage of our consultation.
- 3.29** In the light of feedback received from this consultation, we will consult on revised draft guidance, including publishing a cost-benefit analysis. We will also consult on any additional policy interventions if we have decided to take other options forward to improve the treatment of vulnerable consumers and firms' compliance with their obligations (see **paragraph 3.18**).
- 3.30** We also have several other projects and initiatives underway that are relevant to vulnerable consumers. We will continue to progress these as we develop the Guidance:
- **Duty of Care** – in April 2019 we published our [Feedback Statement on our Duty of Care discussion paper](#). We will publish a further paper in the Autumn of this year seeking views on options to address the issues raised, as part of our work on the future of regulation more generally.
 - **Signposting to travel insurance for consumers with medical conditions** – following our [Feedback Statement in 2018 on our Call for Input on Access to Insurance \(2017\)](#), we have published a [consultation on draft rules](#).
 - **Fair pricing in financial services** – Following publication of our [discussion paper on fair pricing in financial services](#), we published our [Feedback Statement](#) in July 2019.
 - **Financial Lives** – the second wave of this large consumer tracking research will run in 2019. Amongst other things, it will provide data on the drivers of vulnerability.
 - **The Consumer Forum (convened by BEIS)** – we will continue to attend meetings and contribute to wider initiatives with the other members of the Forum.
 - **The UKRN vulnerability sub-committee** – we will continue to be an active member of the sub-committee and, in particular, support projects that complement and build on the work being done by regulators to improve outcomes for consumers in vulnerable circumstances.

Annex 1

Proposed guidance on firms' treatment of vulnerable customers

1. Introduction

Scope

1. This draft Guidance (the Guidance) gives our view on what the Principles for Businesses (the Principles) require of firms involved in the supply of products or services to retail customers who are actually, or potentially, vulnerable. We use the term retail customer, which, in this Guidance has the same meaning as *retail client* as defined in the FCA Handbook Glossary.
2. For the purposes of the Guidance, a vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment. They are therefore at greater risk of experiencing harm. Given this risk, all firms we regulate should exercise particular care where consumers may be vulnerable and to pay attention to the drivers of potential vulnerability. These can include:
 - Health – health conditions or illnesses that affect the ability to carry out day-to-day tasks.
 - Resilience – low ability to withstand financial or emotional shocks.
 - Life Events – major life events such as bereavement or relationship breakdown.
 - Capability – low knowledge of financial matters.
3. Our definition is intentionally broad and we use the term vulnerable consumer and vulnerable customer throughout the Guidance to refer to natural persons who either are, or may be, in vulnerable circumstances. We recognise that in some cases where we are referring to particular characteristics, some consumers may not want the label 'vulnerable' applied to them.
4. Some consumers will be *actually* vulnerable because of their personal circumstances. Actual vulnerability can be permanent but is often transient because consumers' circumstances constantly change. This can cause consumers, who had not previously been vulnerable, to become so at some stage of their life.
5. Other consumers may be *potentially* vulnerable. Although not currently vulnerable, they may be more susceptible than others, due to certain characteristics. People with such characteristics may be more at risk of suffering harm due to poor market practices or poor treatment by a financial services provider.
6. Potential vulnerability can also be transient or short-term. But some consumers may be in a permanent, or long-term, state of potential vulnerability. Whilst this may not lead to actual vulnerability for everyone, it is important to be aware of the concept and understand its causes and drivers.

7. In the Guidance, references to “vulnerable consumers” and “vulnerable customers” mean retail customers who are actually, or potentially, vulnerable, unless in the context it is clear that we are referring to either actual or potential vulnerability.

Status of the Guidance

8. In Our Approach to Consumers we set out our general approach to regulating to protect consumers and the regulatory and legal framework in which we operate. Our regulation is outcomes-focused and is based on a combination of the Principles (PRIN 2, FCA Handbook), other high-level rules, and detailed rules and guidance set out in other sections of the FCA’s Handbook.
9. The Guidance will apply to firms in different ways because of the significant diversity across and within sectors. Relevant differences may include: target markets, firm size, and level of contact with customers. The Guidance 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. We will apply the Guidance in a proportionate way and firms should take a sensible approach to how they interpret what they should do.
10. The Guidance itself is not, and does not seek to be, a complete exposition of a firm’s responsibilities to vulnerable customers. It does not replace or substitute applicable Principles, rules, guidance or law, such as those relating to unfair contract terms and unfair commercial practices. This Guidance does not create any additional legal or regulatory obligations or sector-specific rules on firms. Nor does it require firms to act in any way that is incompatible with existing specific EU or domestic legal or regulatory requirements.
11. This Guidance is issued under section 139A of the Financial Services and Markets Act 2000 (FSMA) as guidance on the Principles. As such, it is not binding on those to whom the Act and rules apply. Firms do not need to follow it in order to achieve compliance with the Principles, there may be other ways for firms to comply. However, the Guidance may be relevant to an enforcement case: a decision-maker may take it into account in considering the matter. For example, the FCA may seek to use guidance and supporting materials in an enforcement context to help assess whether it could reasonably have been understood or predicted at the time that the conduct in question fell below the standards the Principles require.
12. In this Guidance we use ‘must’ where an action is required by a Principle or a rule. We use ‘should’ where we think a firm ought to consider a course of action (not specified in a Principle) to comply with a Principle, but this does not necessarily mean that they should follow a detailed or prescribed course of action. We use ‘may’ where an action is only one of several ways of complying with a Principle.

The Principles

13. The Principles are a general statement of the fundamental obligations of firms under the regulatory system. The most relevant Principles underpinning the need for firms to take particular care in the treatment of vulnerable customers are set out below in **Figure 1**.

Figure 1: The Principles for Businesses underpinning the fair treatment of vulnerable customers

Principle 2: Skill, care and diligence	A firm must conduct its business with due skill, care and diligence.
Principle 3: Management and control	A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
Principle 6: Customers' interests	A firm must pay due regard to the interests of its customers and treat them fairly.
Principle 7: Communications with clients	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.
Principle 9: Customers: relationships of trust	A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement.

14. Key to underpinning the need for firms to take particular care in the treatment of vulnerable customers is Principle 6. Paying due regard to the interests of customers depends, in part, on the characteristics of the customers concerned (PRIN 1.2.1 G). In terms of vulnerable customers, therefore, to pay due regard to their interests and treat them fairly, firms should understand what makes such customers vulnerable, understand their needs, and ensure the products and services they provide support the fair treatment of vulnerable customers.
15. Similarly, meeting our requirements under Principles 2, 7 and 9 will also depend on the characteristics of customers concerned; and in terms of vulnerable customers, it may depend on their characteristics of being vulnerable. In particular, firms should understand these characteristics and act on this understanding in terms of communications, and any advice they provide to vulnerable customers.
16. Beyond specific interactions with customers, firms should integrate an understanding of the needs of vulnerable customers in how they manage their business. To meet the requirements under Principles 3, this means ensuring the business has the necessary knowledge and skills to treat vulnerable customers fairly, and has adequate control systems in place to ensure the firm is mitigating the risk of harm to vulnerable customers.
17. The FCA has set out six outcomes that firms should strive to achieve to ensure the fair treatment of customers (see **Figure 2**). Given the risk that vulnerable customers may not experience these outcomes because of their circumstances, firms should therefore take particular care when it comes to treating vulnerable customers fairly.

Figure 2: The FCA's consumer outcomes that firms should strive to achieve for all customers

Outcome 1: Consumers can be confident they are dealing with firms where the fair treatment of customers is central to the corporate culture.

Outcome 2: Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly.

Outcome 3: Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.

Outcome 4: Where consumers receive advice, the advice is suitable and takes account of their circumstances.

Outcome 5: Consumers are provided with products that perform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect.

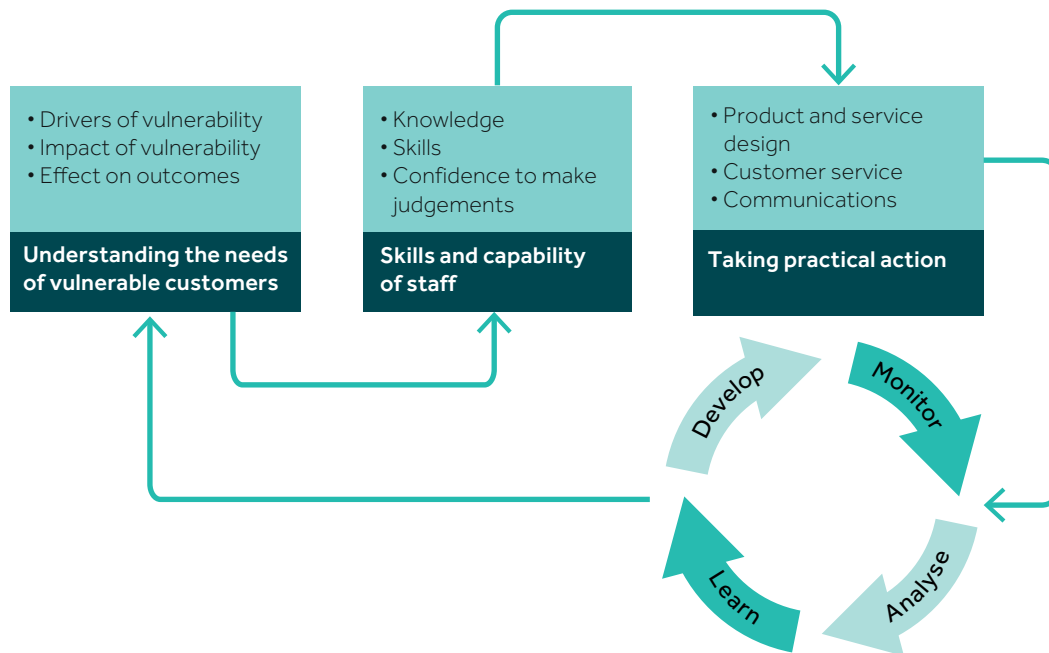
Outcome 6: Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

- 18.** We want to see doing the right thing for vulnerable consumers embedded in the culture of firms. As a result, firms should be more focused on ensuring that the outcomes experienced by vulnerable consumers are at least as good as those of other consumers.
- 19.** Core to achieving this aim is adapting firm culture in a way that focuses the people, products, services and processes towards the fair treatment of vulnerable consumers. It is the responsibility of everyone in financial services to focus on culture, and we expect leaders in firms to manage the drivers of behaviour in their firms to create and maintain cultures which reduce the potential for harm, particularly with respect to vulnerable consumers. This means that when interpreting what this Guidance means for a firm, it should ensure this applies across the whole organisation, starting at the leadership of the organisation and permeating across the firm so that doing the right thing is the responsibility of all staff.

Guidance for firms

- 20.** This Guidance does not provide a checklist of required actions, rather it provides options for ways in which firms can comply with the Principles. Precisely what the Guidance means for individual firms will depend on the specific context of the firm, including amongst other factors, firm size, the markets it operates in and the characteristics of its customers. Firms should use their judgement about how they should treat their vulnerable customers fairly. We have seen this done best where commitment comes from the top of firms and where firms have a culture of feedback and learning from the frontline. This can lead to more consistent, positive experiences for vulnerable customers.
- 21.** Firms should develop an understanding of the needs of vulnerable customers and translate this into practical action in a proportionate way and ensure staff have the necessary skills and capability to meet the needs of vulnerable consumers. Furthermore, this understanding should be embedded in product, service and process design and communications. Firms should be continuously monitoring and learning to ensure they are striving towards meeting the needs of vulnerable customers. This is outlined in **Figure 3**.

Figure 3 Meeting the needs of vulnerable consumers



22. Each box in **Figure 3** relates to a section of this Guidance:

- Understanding the needs of vulnerable consumers (**Section 2**)
- Skills and capability of staff (**Section 3**)
- Taking practical action (**Section 4**)
 - Product and service design
 - Good customer service
 - Communications
- Monitoring and evaluation (**Section 5**)

23. In considering the various sections in this Guidance, firms may wish to consider **Appendix 1** on data protection requirements. We have taken account of comments from the Information Commissioner’s Office (ICO) in drafting this appendix, but it should not be considered as a formal representation of the ICO’s position and we will continue to discuss the Guidance as it develops. The ICO retains its independence as the regulator responsible for data protection and firms remain accountable for their own compliance with the relevant legislation.

2. Understanding the needs of vulnerable consumers

- 24.** In this section, we set out how firms should understand the nature and extent of vulnerabilities present in their target market and customer base, and the potential needs that therefore arise.
- 25.** The following Principles are particularly relevant to this section (see **Figure 1** in this Guidance on what these Principles are):
- Principle 6, as firms need to understand the needs of vulnerable customers to pay due regard to their interests and treat them fairly.
 - Principle 7, as firms need to understand the needs of vulnerable customers to pay due regard to their information needs.
 - Principle 9, as firms need to understand the needs of vulnerable customers, to take reasonable care to ensure the suitability of their advice and discretionary decisions for vulnerable customers who are entitled to rely upon their judgement.
 - Principle 3, as firms need to understand the needs of vulnerable customers to take reasonable care to organise and control their affairs responsibly and effectively, with adequate risk management systems.
- 26.** In addition to this Guidance, firms should consider existing requirements that relate to understanding customers and their needs. This includes, when providing financial advice to retail clients, that firms must understand and assess the needs of consumers, including vulnerable consumers, in accordance with the suitability requirements in COBS 9 and COBS 9A. Also, the Product Intervention and Product Governance sourcebook of the FCA's handbook and our regulatory guide, the Responsibilities of Providers and Distributors for the Fair Treatment of Customers are relevant to identifying target markets and the design of products, services and distribution channels that meet the target audience's needs in certain contexts.

Potential for harm

- 27.** The needs of vulnerable customers are likely to vary and often require additional measures to ensure good outcomes. If firms do not understand the potential needs of the vulnerable customers in their target market or customer base, it may result in gaps in the provision of suitable services and products. This can lead to poor outcomes for vulnerable customers, for example:
- If firms are not aware of the range of vulnerabilities in their target market or customer base, they may not offer the option for tailored services or support, for example not allowing staff the flexibility to deviate from normal processes. Without this, firms may be unable to meet the needs of some of their vulnerable customers.
 - If firms do not consider how their sales processes may affect vulnerable consumers in their target market or customer base. For example, if the firm uses certain methods to get customer leads, it may particularly expose vulnerable customers to a risk of harm, as they may have less financial resilience and be less able to advocate for themselves if things go wrong.

Guidance for firms

- 28.** Firms should take a proactive approach to understand the nature and extent of vulnerability in their target market and customer base (see **Figure 4**). They should

use this understanding effectively in the practical action they take to comply with the Principles in their treatment of vulnerable customers.

29. This section of the Guidance refers to the processing of customer information. Where relevant, firms can refer to **Appendix 1** for information on data protection requirements.

Figure 4: Firms should understand the needs arising from different vulnerabilities

- a. Firms should understand the nature and scale of drivers of vulnerability present in their target market and customer base.
- b. Firms should understand the impact of vulnerabilities on the needs of consumers in their target market and customer base.
- c. Firms should consider how vulnerabilities could affect the customer experience and customer outcomes.

- a. *Firms should understand the nature and scale of drivers of vulnerability present in their target market and customer base.*

30. Firms should be aware of the many situations and circumstances that may lead to a consumer in their target market or customer base becoming vulnerable. The FCA has identified 4 drivers of potential vulnerability (see **Table 1**), which have been built into the Approach to Consumers and our Financial Lives Surveys. We recognise that firms may have their own approach to identifying drivers of potential vulnerability.

Table 1: The four key drivers of vulnerability

Health	Life events	Resilience	Capability
Physical disability	Caring responsibilities	Low or erratic income	Low knowledge or confidence in managing financial matters
Severe or long-term illness	Bereavement	Over indebtedness	Poor literacy or numeracy skills
Hearing or visual impairments	Income shock	Low savings	Low English language skills
Poor mental health	Relationship breakdown	Low emotional resilience	Poor or non-existent digital skills
Low mental capacity or cognitive impairment	Having non-standard requirements such as ex-offenders, care leavers, refugees	Lack of support structure	Learning impairments

31. Firms should understand that vulnerability can arise in a range of ways. They should also understand how it can be perpetuated, including by the actions, or inaction, of the firm itself.
32. Furthermore, this understanding should take account of the fact that the drivers of vulnerability are likely to be complex, overlapping and transient. For example, a life event such as a separation or divorce may lead to further vulnerability such as mental ill-health.

Case study 1: Good practice – Understanding the vulnerabilities likely to be present in the target market and customer base.

A firm analysed its own transaction data to create a customer segmentation model by financial health. The firm analysed the data to identify consumer patterns of behaviour, and signs of stress on their account, such as a low average balance combined with heavy overdraft usage.

The firm used this model to identify those in its customer base who were potentially vulnerable. The firm was able to use this to target extra help and support to potentially vulnerable customers. For example, the firm sent SMS messages with information on tools, that its customers could access.

This example demonstrates how the firm was proactive in effectively using data already available to understand the vulnerable customers in its customer base and used this to better target support.

33. Firms should understand whether specific vulnerabilities are more prevalent in their target markets, or if their customers have a higher propensity for certain drivers of vulnerability. For example, for firms that advise on investments and pensions, common drivers of vulnerability may be health and life events. If a firm is selling high-cost credit, it may find that a lack of financial resilience is a significant driver of vulnerability for its customer base.

Case study 2: Good practice – Understanding transient vulnerability in the target market and customer base.

One firm in the energy sector has adapted its vulnerability strategy to tackle risks associated with transient vulnerability. This includes people leaving hospital treatment, young adults living independently (16 – 18), and people experiencing life events such as divorce and bereavement.

The firm has implemented a script for staff to help them identify and review vulnerability at key points such as switching to the provider, moving house, or taking out a different product. Where a vulnerability is thought to be temporary, agents agree a review date with the customer, and place reminder flags on the account.

This firm has a specific strategy for tackling risks of harm associated with transient vulnerability. It has implemented this to help identify potentially vulnerable customers with specific needs, and considered how to meet them, whilst also arranging for the temporary vulnerability to be reviewed.

- b. *Firms should understand the impact of vulnerabilities on the needs of consumers in their target market and customer base.*

34. Firms should identify potential risks of harm arising from vulnerabilities in their target market and customer base. This will help them develop an understanding of their vulnerable customers' needs, including their information and communication needs. Firms will be better able to consider how to meet these needs and treat vulnerable customers fairly throughout the customer journey. For example, if firms know that some customers do not have access to the internet this may lead to harm resulting from an inability to access digital services.

- 35.** Firms should develop this understanding in a range of ways, from a high-level approach of analysing potential needs, to making sure it is easy for individual customers to tell the firm about their needs. For example, as detailed in Section 4, firms can ensure their communication channels and customer service processes encourage customers to share information about their vulnerability and associated needs.
- 36.** Firms should also consider that vulnerable customers may be more likely to be susceptible to behavioural biases (this is explored in FCA's [Occasional Paper 1](#)). Firms should consider how behavioural biases may present themselves so that they understand where there may be a risk of exploiting these biases when engaging with those customers.
- c. Firms should consider how vulnerabilities could affect the customer experience and customer outcomes.*
- 37.** Firms should ensure their understanding of their vulnerable customers is sufficient to be able to use it to implement practices and processes that meet their needs (see **Section 4**, in particular).
- 38.** Firms should consider how to use different channels to understand the needs of customers. For example, staff can be trained to recognise the needs of vulnerable customers during face-to-face interaction, or speaking on the phone. Similarly, firms that interact with customers primarily through digital channels could look for signs of potential vulnerability and offer extra support. For example, some robo-advice tools flag support available from a human adviser if customers display certain behaviours, such as hovering for a long time before inputting information, pressing help buttons, or entering inconsistent information.

Case study 3: Good practice – Considering how potential vulnerabilities could affect the vulnerable customer experience.

A firm was focusing on developing an understanding of particular vulnerabilities that impact cognitive functioning, such as dementia or mental health problems. As part of this, the firm invited a specialist charity to help to assess their processes and communications from the perspective of someone with Alzheimer's.

The charity helped identify where needs were being met, and any gaps the firm needed to address.

This example demonstrates how the firm used expertise from a third-party specialist organisation to help it meet the needs of a certain vulnerable group in its target market.

Below we set out possible ways firms can develop their understanding of the needs of vulnerable consumers:

- a.** *Using external materials to understand the indicators of vulnerability and the impact being vulnerable can have on a person's ability to engage in financial services markets. As well as previous FCA publications, many other organisations, including charities and trade bodies, have created materials on vulnerable consumers that could be useful for firms.*
- b.** *Creating an internal vulnerability policy that includes information on the vulnerabilities present, or likely to be present, in the firm's target market. Formalising this information in a policy can help to raise awareness throughout the firm.*
- c.** *Analysing existing data to identify the vulnerabilities that may be present in their customer base. This could be simple analysis of data held on the characteristics or circumstances of customers, or combining this with customer transaction activity for more advanced analysis.*
- d.** *Carrying out market research, such as surveys or focus groups, to inform a good understanding of the risks of harm for vulnerable consumers, or to understand whether vulnerable consumers find it easy to share this information with the firm.*
- e.** *Using feedback and insights from frontline staff to inform the development and improvements of services and product and service design.*
- f.** *Using complaints data to establish areas where needs may have not been understood.*
- g.** *Assessing whether consumer outcomes differ between sales or distribution channels to identify whether certain channels raise different or greater issues. This helps firms assess how to ensure consistently good outcomes for consumers.*

3. Skills and capability of staff

- 39.** It is important for firms to recognise the role that all staff play in meeting the needs of vulnerable consumers, and in this section, we set out how firms should ensure their staff have the right skills and capability.
- 40.** Staff are able to influence outcomes for vulnerable consumers in many ways, whether through direct interaction, designing products, or setting up systems. Frontline staff, in particular, are a vital touch point for identifying, recording and responding to vulnerability. Evidence from our research suggests that risk of harm can arise because frontline staff are not aware of policies that may exist at Head Office level. Firms may have high-level policies in a number of areas, but there is a clear risk to vulnerable consumers if frontline staff do not implement these effectively. We refer to this as the policy/practice gap.
- 41.** The following Principles are particularly relevant to this section (see **Figure 1** in this Guidance on what these Principles are):
- Principle 6, as staff should be able to recognise and respond to vulnerable customers' needs appropriately, to pay due regard to their interests and treat them fairly.
 - Principle 7, as staff should be able to understand and pay due regard to the information needs of vulnerable customers, to communicate in a way that is clear, fair and not misleading.
 - Principle 2, as staff need to be able to exercise extra skill, care and diligence appropriately when dealing with vulnerable customers.
 - Principle 3, as staff need to be skilled and capable, in order for the firm to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
- 42.** Firms must also consider our other requirements relevant to staff skills and capability. Our training and competence (TC) regime requires that the financial services workforce is appropriately qualified and well regulated; this includes the high-level competent employees rule in SYSC 5.1.1. Under the Senior Managers and Certification Regime (SM&CR), firms must certify that individuals have the necessary competence to carry out the role (see section 63F of FSMA).

Potential for harm

- 43.** Vulnerable customers are more likely to experience harm when staff do not have the skills and capability to: understand indicators of vulnerability; recognise a customer's vulnerability; consider and address their needs; or adapt the service to be provided in the interests of the customer. This can lead to poor outcomes for vulnerable consumers, for example:
- If staff do not have the skills and capability to recognise that a customer is vulnerable. This means they will be unlikely to understand how the customer's needs may differ, and therefore will be less likely to be able to provide the necessary support. For example, it may be more appropriate for a staff member to read out information from a leaflet to help the customer learn more about a product or service, rather than directing the customer to online channels. In this example, if a staff member did not do this, a vulnerable customer may not obtain vital information, which risks them making poor choices.

44. If staff do not have the skills and capability to probe customer circumstances or determine what solutions may be appropriate for a customer. The staff will not know what action to take to adapt to the customer's needs, and this can result in a worsening outcome for the vulnerable customer. For example, the customer may incur interest and charges that could have been avoided if the staff member had recognised the customer's vulnerability at an earlier stage.

Guidance for firms

45. Firms should make sure that all staff, in particular those who operate at the frontline, have the appropriate skills and capability to treat vulnerable customers fairly (see **Figure 5**), in order to comply with the Principles.

Figure 5: Firms should ensure that staff have the appropriate skills and capability

Understanding the needs of individual vulnerable customers

- a. Staff should be able to understand a range of indicators of actual and potential vulnerability, and the needs that can arise from these vulnerabilities.
- b. Frontline staff should have the skills to engage with customers to seek relevant information to understand their vulnerability.
- c. Staff should recognise when the information the firm holds or obtains from customers indicates that the customer is vulnerable and warrants additional support.
- d. Staff should be able to record relevant information on vulnerability in an appropriate way that is accessible by other staff who may need it.

Responding appropriately to the needs of vulnerable customers

- e. Staff who interact with vulnerable customers should be sensitive to their needs, and consider how to adapt to meet these.
- f. Staff should understand what additional support is available to help vulnerable customers, and when it is appropriate to offer this support.
- g. Firms should offer practical and emotional support to staff dealing with vulnerable customers.

Understanding the needs of individual vulnerable consumers

- a. *Staff should be able to understand a range of indicators of actual and potential vulnerability, and the needs that can arise from these vulnerabilities.*

46. Firms should ensure that staff understand a range of potential indicators of vulnerability, so that they know what to look for when they engage with customers.
47. Firms should ensure that staff understand the potential needs arising from certain vulnerabilities and what this may mean in practice in initial, and during ongoing, interaction with vulnerable customers.
48. For example, staff should recognise that having mental health issues can increase the likelihood of falling into debt, and that debt can worsen a customer's mental health (see Mind's research). If a customer does become indebted, staff should consider the potential reasons for this so that they have a better understanding of the support the customer may need.

Case study 4: Good practice – Understanding indicators of vulnerability and the associated needs.

A firm launched a training tool to educate financial advisers on interacting with older customers who may be vulnerable. The tool is freely available to use and takes about an hour to complete. It gives an understanding of what constitutes vulnerability in older people, how to identify this and where to make changes in working practices to ensure extra care and support is provided where necessary.

This example demonstrates how the firm has been proactive in providing training opportunities for advisers in the sector. The training tool is an example of a useful resource that firms may use to improve the skills and capability of staff, at a low cost.

- b. Frontline staff should have the skills to engage with customers to seek relevant information to understand their vulnerability.*
 - c. Staff should recognise when the information the firm holds or obtains from customers indicates that the customer is vulnerable and warrants additional support.*
- 49.** Staff should understand what type of information they should seek from customers to gain a better understanding of their vulnerability. There is a range of information that could be relevant to inform staff about a customer's needs, such as finding out more about a current health condition, or recent life events.
- 50.** Firms should ensure that frontline staff have the skills and capability to take reasonable steps to actively seek this information. What are reasonable steps for seeking this information depends on the type of interaction, the customer and the type of service provided. For example, if a customer has briefly mentioned some information that could indicate a potential vulnerability, then staff should be proactive in following up on this, for example by asking questions about how it might affect their needs.
- 51.** **Section 4** also provides more detail on how firms can help to make it easier for customers to share information about their needs, for example through good customer service and by allowing access through a range of communication channels.
- 52.** Staff should also be aware that risks associated with vulnerability can arise at any point in the customer journey. Therefore, firms may want to consider whether there are key touchpoints in the customer journey where staff can check-in with the customer, to keep updated with any changes in the customer's situation, or any new situations that have arisen.
- 53.** Firms should ensure that staff have the skills and capability to recognise if a customer is vulnerable, based on the information obtained. For example, if a customer mentions they have caring responsibilities, staff should be able to identify that this may be an indicator of potential vulnerability. They should then seek to provide support to the customer based on the understanding of their vulnerabilities.

Case study 5: Good practice – Recognising when the customer is vulnerable and warrants additional support.

An elderly customer contacted a firm several times to query a payment on her account. Staff noticed from records that there were previous calls that she did not remember, and identified evidence that pointed to a deterioration in her ability to manage her financial affairs. The staff contacted an Elderly Care support service about the customer.

This example demonstrates how the staff recognised indicators of vulnerability and used records of previous interaction to inform their understanding of the situation. They were then able to take action to support the vulnerable customer.

Case study 6: Poor practice – Engaging with consumers and recognising when a customer needs extra support.

A consumer with cerebral palsy has experienced several aspects of poor practice. Despite having a greater knowledge about financial services than his wife, staff will often talk to her when they enter branches together, and make prejudgements about what he is able to do.

The consumer would like firms and staff to be more flexible in their approaches, as some people may prefer learning from videos, and find reading text challenging. He suggests that firms offer alternative ways of engaging with key information and processes, and use technology where it can help.

In these instances, firms and their staff have not understood the characteristics and needs of the consumer; for example, they assumed low mental capacity, and didn't take into account the difficulties of absorbing information in certain formats that some consumers have.

d. Staff should record relevant information on consumer vulnerability in an appropriate way that relevant staff can access.

- 54.** While complying with applicable data protection legislation (see **Appendix 1** on processing data), staff should record important information on identified vulnerabilities. The relevant staff should be able to access this important information and take it into account during future interactions with vulnerable customers.

Responding appropriately to the needs of vulnerable customers

e. Staff who interact with vulnerable customers should be sensitive to their needs, and consider how to adapt to meet these.

- 55.** Staff should be capable of exercising particular care to adapt to the customer's needs; they should have the knowledge of how to adapt to different customer's needs, and be able to exercise judgement on when it is necessary to do so. For example, if a customer is finding it difficult to understand the products and services available, staff should be able to adapt their approach, such as providing simplified information (See **Section 4(II)** on flexible customer services).

Case study 7: Good practice – Understanding and responding to the needs of vulnerable customers.

One firm has a training module which simulates real conditions, for example by wearing goggles that simulate a disability, increasing the ability of staff to empathise with these customers. Staff will have a better understanding of the customer's needs and how to support them.

The firm has taken steps to ensure staff are more empathetic to the circumstances of vulnerable consumers, and better allow their needs to be considered.

Case study 8: Good practice – Understanding and responding to the needs of vulnerable customers.

A firm used cognitive behavioural therapy training for all staff, as part of their mandatory vulnerable customer training. This form of training embeds the psychology of how people learn and remember key information. The training involved daily questions to check the staff's understanding of how to deliver services to vulnerable clients.

This example demonstrates how the firm is using training to improve the skills and capability of staff to treat vulnerable customers fairly.

Case study 9: Good practice – Considering how to adapt to meet the needs of vulnerable consumers.

A customer was on long-term sickness absence from work and could no longer afford their credit card payments. The customer wrote to their providers for help. One firm called back to let the customer know, in advance of their formal response, that it had frozen interest and charges for several months. The firm also accepted the proposed lower monthly payment. The account had been placed with their specialist support team so that the debt would not be sold on.

This example demonstrates how the staff recognised the customer was vulnerable, identified their needs and adapted their processes to help support the vulnerable consumer.

f. Staff should understand what additional support is available to help vulnerable customers, and when it is appropriate to offer this support.

g. Firms should offer practical and emotional support to staff dealing with vulnerable customers.

56. Staff should recognise when it is appropriate to seek additional support, for example escalating to senior management, or seeking additional help from specialist teams. Staff should also know when it is appropriate to refer a customer to third-party support, for example if the customer is in a difficult situation which is out of scope of the firm's remit.

57. Staff may come across challenging situations and firms should offer support where appropriate, ranging from practical assistance to emotional support. This will help staff to be able to engage with vulnerable customers more sensitively.

Below we set out possible ways firms can develop the skills and capability of their staff:

- a. Developing internal training programmes to give staff an understanding of the indicators of vulnerability and potential needs of vulnerable consumers.*
- b. Giving opportunities for staff to share knowledge and experiences with other colleagues to help improve the level of support and understanding of dealing with vulnerable consumers.*
- c. Engaging with external organisations such as specialist charities, who can help to develop or deliver specialist training on the indicators of vulnerability and the associated needs.*
- d. Developing training programmes for staff to help develop the skills to have sensitive and effective conversations with customers when asking for relevant information.*
- e. Larger firms could appoint dedicated vulnerability champions or teams who can help discuss complex cases and offer support to frontline staff. It could be helpful to have vulnerability champions with expertise in different types of vulnerability.*
- f. Developing specialist guides and knowledge bases on vulnerability that frontline staff can use in their day-to-day role.*
- g. Firms could have specially trained staff who are more likely to deal with customers in vulnerable situations, or where particular vulnerabilities are prevalent in the firm's customer base.*
- h. Making staff aware of any escalation process and providing training for them to understand when it should be used.*
- i. Ensuring staff are aware of support provided by third-party support providers, such as debt advice services or mental health support.*
- j. In certain cases, having referral processes in place with third-party support providers.*

4(i). Product and service design

- 58.** In this section, we set out how firms should integrate their understanding of the needs of vulnerable consumers when designing products and services.
- 59.** The following Principles are particularly relevant to this section (see **Figure 1** in this Guidance on what these Principles are):
- Principle 6, ensure products and services support the fair treatment of vulnerable customers.
 - Principle 7, provide clear, fair and not misleading information about products and services to vulnerable customers.
 - Principle 2, design products with due skill, care and diligence.
 - Principle 3, have effective systems and controls to ensure that products and services continue to meet the needs of vulnerable customers.
- 60.** In addition to this Guidance, firms should consider existing rules and guidance where they apply. This includes the requirements in PROD 3 and 4 and the RPPD guidance; these give detail on identification of target markets and designing products, services and distribution channels that meet the target audience's needs.

Potential for harm

- 61.** Where firms design products and services that don't consider the needs of vulnerable customers, there is a risk that vulnerable customers can suffer harm as their needs may not be met from the start. For example:
- If products or services are complex, vulnerable customers may find it more difficult to buy what is best suited to their needs. For example, several different products are available in motor finance. These include Personal Contract Purchase (PCP), traditional hire-purchase and Personal Contract Hire (PCH). Depending on which product is taken, the same car could have higher or lower monthly payments, different mileage allowances, a large final balloon payment to take ownership, or may not provide the option of taking ownership at the end of the contract. This range of products with different features can benefit customers by enabling financing that closely meets the customer's needs and expectations. However, it can also make it difficult for customers, especially those who are vulnerable, to understand which product is best for their circumstances.
 - Products and services can have inherent features that could be harmful. For example, we found harm in the high-cost short-term credit (or payday) market with high fees and charges for roll overs which targeted customers who were more likely to be in financial difficulty. Consumers can suffer harm when using products or services with high fees and charges. Vulnerable customers are more likely to suffer harm in these cases, as they may be less able to understand the features of the product when they purchase it and have less financial resilience to cope with unexpected high fees and charges.

Guidance for firms

- 62.** Firms should consider:
- a. the positive or negative impacts of a product or service on vulnerable customers

b. the needs of vulnerable customers at all stages of product and service design

63. These standards are not mutually exclusive, and, as firms go through product and service design, they should take into account the needs of vulnerable customers (see **Figure 6**).

Figure 6: What firms should do in terms of product and service design

Firms should consider the positive or negative impacts of a product or service on vulnerable customers, including:

- a. features of products or services that deliberately or inadvertently exploit customers in vulnerable circumstances.
- b. features of products and services designed specifically to deliver positive outcomes for vulnerable customers.
- c. whether the information needs of vulnerable customers are being met so that these customers understand the purpose and risks of the product.
- d. Firms should consider the needs of vulnerable customers at all stages of product and service design:**
 - i. Idea generation
 - ii. Development
 - iii. Testing
 - iv. Launch
 - v. Review

Firms should consider the positive or negative impacts of a product or service on vulnerable customers

a. *Features of products or services that deliberately or inadvertently exploit customers in vulnerable circumstances.*

64. Some products and services have features that may be more likely to cause harm to vulnerable customers. This could be due to several reasons, which may include underlying poor design.

65. For example, contracts for difference (CFDs) are complex, leveraged products offered to retail customers through online trading platforms. These products were often sold to customers who were not financially resilient and who purchased them without being able to understand the inherent complexities. These customers were then less able to absorb losses if they were incurred.

66. Harm to vulnerable customers might occur unintentionally and firms should actively consider any unintended affects to ensure potential exploitation is avoided. This is particularly the case where it is likely that products or services will be provided to vulnerable customers, such as where the product is targeted at vulnerable customers, or where the firm sells to a broad cross-section of people, including vulnerable customers.

b. *Features of products and services designed specifically to deliver positive outcomes for vulnerable customers.*

67. Firms should consider the characteristics and needs of vulnerable customers in the design stage. This will help firms anticipate and proactively address difficulties vulnerable customers may have over a products life. By doing this firms may prevent

potential harms from occurring, and deliver better outcomes for vulnerable customers. Firms may wish to use an inclusive design approach for this, by which we mean providing products and services that are available and accessible to all consumers equally, regardless of their personal circumstances. For example, when designing online banking interfaces, firms may include facilities for consumers to notify the firm of changes in circumstances, such as bereavement. This will be helpful in terms of general customer service as well as during a difficult period of a customer's life.

Case study 10: Good practice – Product features supporting the needs of vulnerable customers.

Several banks have introduced optional blocks on payments to gambling firms to help customers who would benefit from greater control of their spending on gambling.

These banks have considered how to support the needs of vulnerable customers in their product design. They have empowered customers who may have an addiction to gambling to take control. This is also an example of inclusive design.

Case study 11: Good practice – Product features supporting the needs of vulnerable customers.

One firm serving older customers encourages customers to provide a designated second contact (eg spouse, carer or family member) at the start of the customer journey.

Through product design, this firm has taken a proactive step to help prevent the harm that could occur when an alternative contact is needed in the future, for a demographic where this may be particularly helpful. This is also an example of inclusive design, which can benefit all customers but particularly those who may become vulnerable over time or by changes in circumstances.

c. Whether the information needs of vulnerable customers are being met so that these customers understand the purpose and risks of the product.

68. Considering the information needs of vulnerable customers could include making decisions about the distribution of products. For example, firms may decide that the product is one where vulnerable customers would be wise to seek advice and make decisions about distribution accordingly. In this case they might decide the product is to be sold on an advised basis or inform vulnerable customers that they should seek independent advice.

d. Firms should consider the needs of vulnerable customers at all stages of product and service design.

69. At the **idea generation** stage, firms should think about what vulnerable customers need from a product or service. Firms may want to consider options such as creating a product specifically to meet the needs of vulnerable customers or taking an inclusive design approach.

70. At the **development stage**, firms should think about whether products or services have features that meet the needs of vulnerable customers and, if not, whether they should. Firms should also consider whether any products or services might have

features that could risk harm for vulnerable customers, for example because they are highly complex.

- 71.** During **testing**, firms with adequate resources should test the impact the product or service has on vulnerable customers. Firms should test any innovative features they have built in specifically to meet the needs of vulnerable customers. They should adapt the product or service based on this testing to mitigate the risk of harm for vulnerable customers, or to ensure that the features of the product designed to meet the needs of vulnerable customers work.
- 72.** When the product or service is ready to **launch** firms should consider how to launch it appropriately so that vulnerable customers are aware of the product, and take steps avoid mis-selling, or selling products or services that many not be appropriate for vulnerable customers.
- 73.** All firms should periodically **review** their products and services to check whether they are continuing to meet the needs of vulnerable customers. Such systems and controls to review products and services will help firms comply with Principle 3 (see **Section 5** on monitoring and evaluation).

Below we set out possible ways firms can consider the needs of vulnerable consumers in their product and service design:

- a.** *Taking an inclusive design approach, where inbuilt features of the product or service ensure the needs of vulnerable customers are met, as well as benefitting a wider range of customers.*
- b.** *Holding focus groups with vulnerable customers at the development stage to gain a greater understanding of their needs and how products can meet them.*
- c.** *Exploring resources provided from, and consulting with, specialist organisations offering information on how the needs of vulnerable customers can be met in the design stage.*
- d.** *Stress-testing the product or service to identify how it might perform in a range of market environments and how vulnerable customers could be affected.*
- e.** *Working with third-sector organisations who can review products and services from the perspective of vulnerable customers.*

4(ii). Customer services

74. In this section, we set out how firms should ensure their customer service provision meets the needs of vulnerable customers, delivering good customer service that responds to the needs and situations of consumers. This is particularly important when considering vulnerable customers who may have additional needs or may be more susceptible to harm.

75. The following Principles are particularly relevant to this section (see **Figure 1** in this Guidance on what these Principles are):

- Principle 6, good and responsive customer service should be a key consideration for firms when seeking to treat customers fairly.
- Principle 3, having processes that support staff in delivering good and responsive customer service is necessary to take reasonable care to organise and control a firm's affairs responsibly and effectively.

Potential for harm

76. Vulnerable customers are more likely to have different service needs, for example those who find certain forms of communication challenging or stressful. If firms do not ensure their customer service provision meets the needs of vulnerable customers, there is a risk of exacerbating the risk of harm associated with being vulnerable. This might include customers who are experiencing high levels of stress for whom poor customer service may make matters worse.

77. By providing good and responsive customer service, firms can bridge the gap between what a vulnerable customer can reasonably be expected to do to engage with a firm's services and what the average consumer can do. Providing good customer service to vulnerable customers will help firms to comply with Principle 6.

Guidance for firms

78. Firms should deliver good customer service that takes a flexible approach to the individual needs and circumstances of vulnerable customers, and provide specialist services where appropriate. They should put processes in place that enable staff to continually deliver customer service that is effective and appropriate to the needs of their customers (see **Figure 7**). This will help firms to comply with their obligations under the Principles, in relation to the treatment of vulnerable customers.

Figure 7: Providing good customer service for vulnerable consumers

Flexible customer service

- a. Customer service processes and systems should be flexible enough to empower and support frontline staff to use their discretion to respond flexibly to the needs of vulnerable consumers.

Specialist services

- b. Firms should make those vulnerable customers who may be unable to make decisions, or find a situation difficult, aware of the options available to them for help, including, where relevant, third-party support and representation.
- c. Firms should make customers aware of any specialist support services that are available from the firm and ensure these services are accessible and easy to use.

Processes that support the delivery of good customer service

- d. Firms should have systems in place to record information on the needs of vulnerable customers and make that information accessible to relevant staff.

Flexible customer service

- a. *Customer service processes and systems should be flexible enough to empower and support frontline staff to use their discretion to respond flexibly to the needs of vulnerable consumers.*

79. The needs of some vulnerable consumers may be met by building flexibility into existing customer services at the point of delivery to make any necessary adjustments or provide extra time that may be needed. Making adjustments to customer services helps to ensure that customers with particular needs due to disability or health conditions are able to access firms' services. For example, adjusting a process that may usually involve automated letters being sent to customers, so that a person who may be visually-impaired receives a more appropriate communication, such as using braille. Firms may need to make such adjustments to comply with the Equality Act 2010.

Case study 12: Good practice – Allowing staff the time to respond to customer needs.

A customer with dementia went into a bank branch. A staff member told them about their partnership with Dementia Friends and said if they ever wanted to come in for a chat then they were more than welcome to. They have since been into the branch several times to chat to the staff member about their progress over a cup of tea.

This example demonstrates how a firm has adapted its approach to better engage with vulnerable customers with dementia, giving frontline staff the flexibility to take extra time to service their needs.

80. Frontline staff should feel supported and empowered to take decisions about how they adapt their customer service approach, and be enabled to depart from standard customer service provision where necessary and appropriate. This will allow frontline staff to deliver a flexible customer service that meets the individual needs of vulnerable customers. This means firms should ensure that the culture, and systems in place, do not penalise staff or act as a disincentive to them taking the extra time or steps needed to respond to vulnerable customers' needs. For example, staff should be able to 'stop the clock' on a case if they feel the customer needs more time or extra advice, and pay and reward structures should not just look at volumes or speed of customers served but the quality of service and outcomes.

Case study 13: Poor practice – Poor processes and inflexible staff.

A customer who had recently suffered the loss of their partner went to the bank to sort out their partner's affairs. They were told "There isn't anyone here who does bereavement today. Come back tomorrow."

In this example, the firm has inflexible processes for dealing with vulnerable customers experiencing distressing life events. Lack of sensitive frontline support can lead to immediate disengagement and harm to the customer.

Case study 14: Poor practice – Poor processes and inflexible staff.

A customer contacted a debt management firm in writing to explain that they had been diagnosed with cancer and had to give up work due to starting treatment. The customer included in the letter an updated income and expenditure form, reflecting that their income had reduced and was now based on benefits. The customer said they were struggling financially, and asked the firm for help. The firm received the customer's letter but took no action. Payments were only reduced 6 months later when the issue was discussed during an annual review, despite the material change in the customer's circumstances.

The firm had poor processes in place, demonstrated by its failure to respond to information provided by the customer in a timely way. This resulted in the firm collecting unaffordable payments for a period of 6 months.

Specialist services

b. *Firms should make those vulnerable customers who may be unable to make decisions, or find a situation difficult, aware of the help/support available to them, including, where relevant, third party support and representation.*

- 81.** Some vulnerable customers rely on others to help them manage their money. Sometimes this is because vulnerable customers struggle with conventional channels such as apps or online banking. Our Financial Lives survey in 2017 found that 8% of potentially vulnerable people have given someone else their bank or credit card to use. In other cases, vulnerable customers may have an impaired ability to make decisions about their financial services products and services or to represent their own interests. Examples include those with low mental capability or declining cognitive ability (such as dementia, learning difficulties or brain injuries). In some cases, this might be temporary, such as customers with fluctuating mental-health conditions.
- 82.** Safe third-party access arrangements can help to meet the needs of vulnerable customers. Firms should provide information about third party access options available to their customers. Where appropriate, firms should provide straightforward options to facilitate legitimate and legal delegated access, while maintaining robust safeguards to reduce the risk of abuse. Firms should think about different approaches that could be considered for customers experiencing short, medium and longer-term needs for third party access or support. Flexibility that doesn't undermine important safeguards may be appropriate in the case of an emergency or short-term need, for example to allow a third party to pay an emergency bill to prevent a customer from going into debt. There are a range of mechanisms for third party access for vulnerable customers who need others to help them long-term. These include: an Ordinary Power of Attorney (OPA), Lasting Power of Attorney (LPA), Department of Work and Pension (DWP) Appointee, Court of Protection Order (also known as a Deputyship Order) or

Third Party Mandate. There are also variants in Scotland and Northern Ireland. Firms may wish to take account of the following guide: <https://www.ukrn.org.uk/publications/joint-ukrn-opg-guide-to-power-of-attorney/>.

Case study 15: Good practice – Flexible processes to respond to temporary need.

A bank has implemented a flexible third-party policy to ensure that nominated people, such as family members, friends or carers, can access and manage the customer's account on a short-term basis, with the customer's consent. The policy clearly outlines the different levels of access that a customer can give to a nominee; the arrangement can be stopped at any time.

The bank explains where a Power of Attorney would be suitable for certain levels of management, such as changing the name on the account, opening and closing accounts and signing up to or changing products. The firm also allows customers to nominate a third-party who can manage their account in the short-term if they suffer temporary capacity loss. The policy also offers customers home and hospital visits in emergency situations if they require this.

In this example, the firm has a pre-emptive and flexible process for dealing with temporary vulnerability, and has explored different types of third-party representation.

83. Firms should also consider how else they can help customers who need additional support to manage their finances. For example, this could be through third-party bill-management processes or systems that allow customers to self-exclude from certain products. Firms may wish to consider how digital services and information technology can provide helpful tools to facilitate this type of extra support, such as bank account in-App functionality allowing customers to place blockers for certain types of expenditure.
- c. Firms should make customers aware of any specialist support services that are available from the firm and ensure they are accessible and easy to use.*
84. Some vulnerable consumers will have complex needs or be in situations that will be difficult for firms to address within existing or standard processes. To treat these customers fairly and prevent harm, firms may need to refer these customers to specialist services that have the skills and time to address their needs.
85. Larger firms or those with many vulnerable customers may consider introducing specialist teams or staff who are trained to support vulnerable customers; they may be a central team or within teams likely to encounter vulnerable customers such as debt collection or insurance claims. For example, some larger firms may want to have dedicated bereavement services where staff have the training and time to deal with the needs of bereaved customers sensitively. If alternative specialist support is available internally, firms should ensure frontline staff are aware and make it easy for vulnerable customers to access the support. For example, firms may enable warm handovers where a vulnerable customer is transferred directly to a specialist team.
86. Where firms use external specialist support services, they should ensure these services are clearly advertised and that customers are aware of the support specialist organisations and charities offer.

87. Some vulnerable customers may be in difficult or crisis situations that it is not appropriate for the firm to resolve. Firms should ensure such customers are aware of organisations and charities who can offer extra support and help them. Large firms or those with many vulnerable customers could explore partnerships with specialist organisations, for example, benefits advice or support for mental health problems.

Case study 16: Good practice – Helping vulnerable customers access specialist services.

One insurer created a partnership with a voluntary organisation where it can refer customers for a home visit if it feels they are in a particularly vulnerable situation. The firm makes a donation for each referral to prevent burdening the charity's resources. Some employees also volunteer with the charity for an afternoon each week.

The firm helps customers get the support they need where it is beyond what the firm itself can offer, and is considerate of the resource constraints faced by voluntary organisations. Staff can be reassured that those in particularly vulnerable situations will receive further help, and have the opportunity to learn more about circumstances that drive vulnerability.

Processes that support the delivery of good customer service

- d. *Firms should have systems in place to record information on the needs of vulnerable customers and make that information accessible to relevant staff.*

88. Firms should consider how to improve their processes and systems to help staff to record and share information on vulnerable customers' needs (this is noted in **Section 3** of this Guidance, and firms may wish to see **Appendix 1** for more information on GDPR). Such processes and systems should enable relevant information to be accessible to all staff who need it to ensure that:

- customers don't have to repeat information about themselves.
- staff are well prepared with all the information they need to deliver good and appropriate customer service.

Case study 17: Good practice – Recording and using relevant information on consumer vulnerability.

A customer with mental health issues missed several direct debit payments due to feeling too overwhelmed and anxious to deal with the situation. When they finally contacted the firm, the firm was very helpful. It noted the customers' difficulties on file, asked if the customer would like a named representative put on file, and arranged an affordable repayment plan for the customer. The customer now feels comfortable to call the firm in future.

In this example, a process was in place for recording customer vulnerability and third-party representation, as well as helping the customer deal with their arrears.

89. Vulnerable customers can also be exposed to harm if firms have incorrect information or are not aware of information that has already been disclosed to another part of the organisation. For example, if a customer in debt informs one part of the business that they are experiencing financial difficulties due to illness but the system does not allow it to be shared with the collections department. Whilst digital-only customers

may present a challenge for firms in how they assess customers' needs, information technology tools can also be used to positive effect by facilitating improved disclosure and recording of vulnerable consumers' needs.

Case study 18: Good practice – Offering specialist and flexible services.

A firm allows customers to enter text into a box in their App to inform them about their personal circumstances, and how these might affect how they manage their finances or use their account.

The firm has made good use of technology by creating an easy way to encourage customers who use their mobile app to disclose information in their own time, and made them aware of the kind of things they may be able to help with.

Below we set out possible ways firms can deliver good customer services to vulnerable consumers:

- a. *Removing target times for phone calls where a customer is vulnerable.*
- b. *Giving staff the ability, within limits, to adjust service standards to suit the needs or situation of a vulnerable customer.*
- c. *Appointing vulnerability champions whose role could include supporting frontline staff with more difficult or challenging decisions.*
- d. *Giving frontline staff clear boundaries on areas where they have discretion to adjust or change processes and when they need to seek permission from more senior or experienced staff.*
- e. *Supporting vulnerable customers to articulate their needs and what adjustments would help them, for example by asking questions about needs and preferences across key points of the customer journey, such as when taking out a new product or service.*
- f. *Using phrases such as 'extra help' or 'additional support', rather than the term 'vulnerable', when interacting with customers, may encourage customers to disclose needs.*
- g. *Empowering customers to take actions that will support them in times of low capacity or impaired decision-making. For example, some firms allow people to put flags on credit card files to prevent overspending.*
- h. *Early in the customer journey allowing for a customer to nominate a designated third-party who can support the customer in their interactions and be contacted if a firm has concerns.*
- i. *Creating dedicated vulnerability units that can support consumers with complex or specialist needs as well as offer advice and support to frontline staff.*
- j. *Ensuring staff are aware of how to support vulnerable customers in a range of situations they may face. For example, if they are experiencing significant life events such as bereavement or divorce, firms should ensure any processes involved are simple to navigate for both consumers and staff.*
- k. *Making staff aware of any specialist and alternative services available and ensure that training on how to use them is kept up to date.*
- l. *Giving staff access to support from colleagues with a higher level of expertise of vulnerability, particularly to help with challenging cases, and offering support to staff who have had to deal with upsetting situations.*
- m. *Providing information on the services that can be offered to vulnerable customers, for example via a website link if the customer is interacting online, which can give customers confidence that what they disclose will be beneficial for them.*

- n. Using information provided by vulnerable customers to adjust processes, such as agreeing to set a 'check in' date to discuss whether there have been any changes to the customer's situation.*
- o. Having systems in place that minimise the number of times a customer must inform the firm about their vulnerability, for example a "tell us once" style process where customer can notify a firm of a bereavement just once.*
- p. Having a free-text box that allows staff to describe the customer's needs or the adjustments they require.*
- q. Using technology such as apps, text messages or online forms that allow customers to register their needs or vulnerabilities in their own words at a time that is easiest for them and that they can update.*

4(iii). Communications

- 90.** In this section, we set out how firms should ensure their communications meet the needs of vulnerable consumers, communicating clearly so as to lead to good outcomes. Communication is particularly important when considering vulnerable consumers as they may have different information needs. Communication between firms and their customers occurs throughout the customer journey, including marketing products or services, providing the necessary information at the point of sale, as well as providing ongoing information post-contract, for example policy updates or monthly statements. Therefore, communications between firms and vulnerable customers at all these stages are relevant to the overall outcome consumers experience.
- 91.** Principle 7 is particularly relevant to this section (see **Figure 1** in this Guidance on what this Principles is). Under Principle 7, firms must pay due regard to the information needs of its clients, including those who are vulnerable, and communicate to them in a way which is clear, fair and not misleading. [This may require firms to depart from their standard communications to meet the needs of vulnerable consumers.]
- 92.** Firms must also consider our requirements relevant to communications where they apply. For example, rules concerning financial promotions and communications with customers in specific sourcebooks, such as those in MCOB 3A, COBS 4, ICOBS 2.2, BCOBS 2, CMCOB 3 and CONC 3. Firms may also want to refer to our [Discussion Paper 15/5, Smarter Consumer Communications](#), and subsequent publications, for a wider discussion on how firms can communicate effectively.

The potential for harm

- 93.** Failure to communicate appropriately may result in an increased risk of harm for vulnerable customers for several reasons:
- Vulnerable customers may have lower levels of understanding of financial products. Our [Financial Lives Survey 2017](#) found that 17% of UK adults have low financial capability. Several factors can drive low capability, including low literacy, numeracy, knowledge of financial products, and English language skills, as well as cognitive impairments.
 - Physical conditions can require specific interventions. Sensory impairment, for example sight and hearing loss, can make certain channels of communication impossible to use and alternative accessible formats essential. Physical conditions may also result in some channels being particularly challenging and frustrating, for example writing when suffering tremors.
 - Mental health conditions can cause anxiety when, and avoidance of, using certain channels of communication, for example apprehension of using telephones, or agoraphobia concerning branch visits. Mental health crises can also cause fluctuations in understanding and ability to make decisions.
 - Vulnerable customers may be in stressful circumstances after a life event, making them more susceptible to harm where communications are unclear or are potentially misleading. Our [Financial Lives Survey 2017](#) found that 19% of UK consumers will have experienced a life event in the past 12 months.
 - Previous [FCA research](#) has found that consumers can find it difficult to distinguish between marketing material, changes to terms, and important letters that require action. Furthermore, where information is not presented in a simple and clear manner, consumers can struggle to know if action needs to be taken – especially

if they are under stress and struggling to cope. Vulnerable customers will be more likely to suffer detriment as a result.

- Vulnerable customers may be more susceptible to some firms exploiting low knowledge and understanding; this could result in them buying unsuitable products, using them in a manner that the products were not designed for, or being mis-sold.

Guidance for firms

94. Firms should ensure that their communications with vulnerable customers meet their needs (see **Figure 8**), in order to comply with their obligations under the Principles, in particular Principle 7.

Figure 8: Communications with vulnerable customers

Firms should take steps to ensure vulnerable customers are not disadvantaged in understanding products and services:

- Communications should be clear and easy to understand for vulnerable customers.
- Post-contractual information should be provided to vulnerable customers in a way that they will understand.
- Any changes to the terms or features of a product should be communicated in a way that vulnerable customers will understand.
- Firms should proactively check that vulnerable customers understand communications at the point of sale.

Firms should take into account vulnerable customers' information needs:

- Communications should be tailored where proportionate to do so, to meet the specific needs of vulnerable customers.
- Firms should use multiple channels to ensure, where appropriate, vulnerable customers have a choice.
- Customers should be made aware what different communication channels are available.

- Communications should be clear and easy to understand for vulnerable customers.*
- Post-contractual information should be provided to vulnerable customers in a way that they will understand.*
- Any changes to the terms or features of a product should be communicated in a way that vulnerable customers will understand.*

95. Firms should ensure communications are clear and easy to understand throughout the life-cycle of a product or service, including marketing, point of sale, and post-contract. Where changes to the product occur, firms should ensure that vulnerable customers are clear what the changes are and how they affect them. This does not necessarily mean that firms need separate communications for vulnerable customers, but that they should consider how their communications work for vulnerable customers, and adapt appropriately where necessary.

- Firms should proactively check that vulnerable customers understand communications at the point of sale.*

96. Firms should consider the challenges vulnerable customers may face in understanding features of a product or service. Some vulnerable customers may be concerned that asking for clarification on seemingly basic terms or for extra thinking time could be perceived negatively, or they might feel under pressure to agree to a purchase quickly. In addition to how they present information, firms should also consider how vulnerable customers process that information, including considering the effect of potential behavioural biases, and giving additional time where appropriate. This may help vulnerable customers make improved decisions and prevent some of the harm that can occur from poor understanding.

Case study 19: Good practice – Checking understanding.

For a product which is mainly purchased by vulnerable consumers, one firm, which gains custom via brokers, also contacts customers directly to talk about their circumstances and understanding of the product. Another firm, where the sale is on an execution-only basis, contacts the customer to check that they wanted the product in question and to let them know advice is available, and also use the contact to pick up on other needs the customer may have.

The firms use proactive communication to check the understanding of potentially vulnerable consumers and understand any other needs.

- e. *Communications should be tailored where proportionate to do so, to meet the specific needs of vulnerable customers.*
97. Firms should be aware that certain potentially vulnerable groups, including, for example, those with sensory impairments, disabilities, and a poor understanding of the English language may have particular needs regarding accessible communications. Firms should therefore explore customers' needs and preferences around how to communicate with them.
98. Firms should provide alternatives where reasonable, particularly for key documents, to ensure those with accessibility needs have them met (see **Table 2** for examples). Firms should determine what alternatives are appropriate based on their understanding of vulnerable customers' needs. For example, firms should offer alternatives such as braille and British Sign Language options as standard if it is reasonable given the target market and the size and nature of the business. Firms may need to consider providing alternatives to comply with their requirements under the Equality Act 2010.

Table 2: Examples of accessible formats or adjustments

Sign language video services, or providing other means of communicating using British Sign Language (BSL)
Simplified versions of communications, such as use of infographics
Colour schemes friendly to those with conditions such as dyslexia
Large print
Accessible websites
Next Generation Text
Easy grip pens in branch
Translations
Audio options

Case study 20: Good practice – Meeting specific communication needs.

As well as using internal translators, one life assurance provider partners with a commercial translation service to offer real-time and written translation for customers who don't have English as a first language. Feedback from this service is used to inform the languages that their key documents are provided in as standard.

This service increases accessibility, and the firm has a process for embedding its learnings back into its operations.

Case study 21: Good practice – Meeting specific communication needs.

One bank offers access to British Sign Language interpreters in-branch, via an app on branch iPads, and on its website, giving customers access from the comfort of their own home.

This service increases accessibility and effectively meets customers' communication needs.

Case study 22: Poor practice – Not meeting specific communication needs

One bank uses 'alternative format' tick boxes to give visually impaired customers a choice of either large print or braille communication options. One customer was unable to read large print and does not know braille. As he had not ticked either of these choices the bank does not treat him as vulnerable and still writes to him on paper. He wants them to communicate by email as he can turn emails into speech, but they do not offer this option.

The firm does not have processes that can flex and adapt to deal with non-standard situations, and to clearly inform the consumer of how to proceed in such circumstances. The firm could consider embedding a permanent solution to any support gaps it identifies.

f. Firms should use multiple channels to ensure, where appropriate, vulnerable customers have a choice.

g. Customers should be made aware what different communication channels are available.

99. Firms should ensure vulnerable customers are able to access a communication channel they are comfortable using to share important information. This is because some vulnerable customers, perhaps due to a mental health condition, could find using

telephones stressful and so may choose not to inform a firm of an important issue if that is the only available channel. Equally, others who find writing or typing difficult could suffer detriment if they are unable to speak to the firm.

- 100.** Firms should offer customers a choice of channels where possible. By being able to engage through the channel most comfortable for them, vulnerable consumers will have better and more effective engagement with firms. Larger firms should offer a broader range of communication options.

Case study 23: Poor practice – Inflexible communication options.

A customer had severe social anxiety disorder and had difficulty using a phone. Their new bank refused to speak to the customer's husband, or suggest alternatives, when he phoned to try and help get a block on a transfer removed. The customer was forced into a long phone call leaving them quite distressed, and they fear the thought of it happening again.

The firm took appropriate steps to protect the consumer from fraud but did not have an alternative third-party support process or option to communicate over a different channel.

Below we set out possible ways firms can ensure their communications meet the needs of vulnerable consumers:

- a.** *Assessing complexity and readability of key documents and web pages and making changes to make them more appropriate for the differing levels of understanding of consumers in the target market or customer base.*
- b.** *Working with charities and other organisations supporting potentially vulnerable groups that can review communications from the perspective of vulnerable groups.*
- c.** *Allowing staff to take sufficient time to explain details clearly, for example talking customers through a leaflet, and explaining the long-term impact of choices.*
- d.** *Asking consumers if they understand key product details, and addressing situations where they do not. Firms could seek feedback to understand which approaches to communicating information work most effectively.*
- e.** *Offering a range of channels which could include telephone, email, in branch, text, written, web-chat, and video calls.*
- f.** *Making staff aware of the different channels which can be offered.*

5. Monitoring and evaluation

- 101.** In the preceding sections of the Guidance, we have set out our view on what the Principles require of firms involved in the supply of products and services to retail customers who are actually, or are potentially, vulnerable. We have set this out in three main sections:
- Understanding the needs of vulnerable consumers
 - Ensuring staff have the skills and capabilities needed
 - Translating that understanding into taking practical action
- 102.** We want to see doing the right thing for vulnerable consumers embedded in the culture of firms. This will help firms focus more on ensuring the outcomes experienced by vulnerable consumers are at least as good as those of other consumers.
- 103.** To achieve this, firms should not consider that a one-off process would meet their obligations under the Principles. Instead firms should embed their interpretation of this Guidance into their businesses as an ongoing process of continuous action involving learning and improvement through effective monitoring. Firms may also want to consider relevant obligations under our rules, for example in SYSC.

Guidance for firms

- 104.** Firms should regularly monitor the extent to which they are doing what they should under the Principles in terms of treating vulnerable consumers fairly (see **Figure 9**). This means firms should monitor their understanding of vulnerable consumers is embedded across their business, and monitor how their actions affect the outcomes vulnerable consumers are experiencing. Monitoring in this way will allow firms to determine whether they are achieving the right outcomes for vulnerable consumers. For some, for example larger firms with a diverse customer base, this may entail an ongoing process. Whilst for smaller firms it may involve a regular review, rather than on an ongoing basis.
- 105.** Firms should use the results of this monitoring to continually learn and develop their understanding of the needs of vulnerable consumers. They should also understand what activities and processes work well, and what needs to be adapted to improve the outcomes for vulnerable consumers. Firms should continue to strive towards ensuring they are treating their vulnerable customers fairly.

Figure 9: What firms should do in terms of monitoring and evaluation

- Firms should implement appropriate processes at key points in the customer journey to identify instances where the needs of vulnerable consumers are not met, so that they are able to address the causes and issues identified.*
- Firms should produce, and regularly review, management information, appropriate to the nature of its business, regarding the outcomes for vulnerable consumers.*

a. *Firms should implement appropriate processes at key points in the customer journey to identify instances where the needs of vulnerable consumers are not met, so that they are able to address the causes and issues identified.*

106. If firms do not monitor the quality and consistency of their products and services, their customer service provision, and the outcomes they are achieving for consumers, they risk delivering inconsistent and potentially poor outcomes for vulnerable consumers.

107. Lack of effective quality assurance may also result in firms failing to spot areas they need to improve.

108. Firms should implement quality assurance processes throughout the whole customer journey to highlight areas where:

- they do not fully understand vulnerable consumers' needs
- the performance of staff has led to poor outcomes for vulnerable consumers
- products or services exploit, or potentially exploit, the characteristics of vulnerable consumers that risks harm
- customer service processes are not meeting vulnerable consumers' needs
- gaps in customer service mean that there are needs that are not met
- the performance of staff has led to poor outcomes for vulnerable consumers

Case study 24: Good practice – Assessing treatment of vulnerable consumers.

One firm has a self-assessment scoring method for various requirements for treating vulnerable consumers fairly, and several parts of the organisation complete this. It has set criteria for achieving each rating out of 10.

The firm has created a way to self-assess its progress, but also indicates what steps could be taken to achieve higher scores, encouraging improvement.

109. For example, some firms, especially larger firms or those with a customer base who may be particularly vulnerable, may wish to consider carrying out proactive data analysis to identify where vulnerable consumers are more likely to suffer harm when things have gone wrong or where there are patches of poor staff knowledge and performance.

b. *Firms should produce, and regularly review, management information, appropriate to the nature of its business regarding the outcomes for vulnerable consumers.*

110. To understand if vulnerable consumers are being fairly treated, firms should understand more about how their customer journey affects their vulnerable customers and the outcomes they experience.

111. Customer needs can change, as can the way different customers prefer to interact with firms. If firms do not regularly collect and analyse management information on the experience of vulnerability in their customer base, they risk being unable to ensure they are delivering the right outcomes for vulnerable consumers. They may also miss new areas of need or opportunities to achieve this more effectively.

112. Firms should therefore ensure they collect management information at different points in the customer journey, including key points of interaction between customers and a firm. Firms should also ensure that the management information is meaningful

and will allow them to measure both the experience and outcomes of vulnerable consumers. Finally, firms should ensure the information collected is effectively fed back into the process to ensure that continuous improvements can be made. The type of information, and frequency with which it is collected will be depend on the firm in question.

Case study 25: Good practice – Implementing learnings from management information.

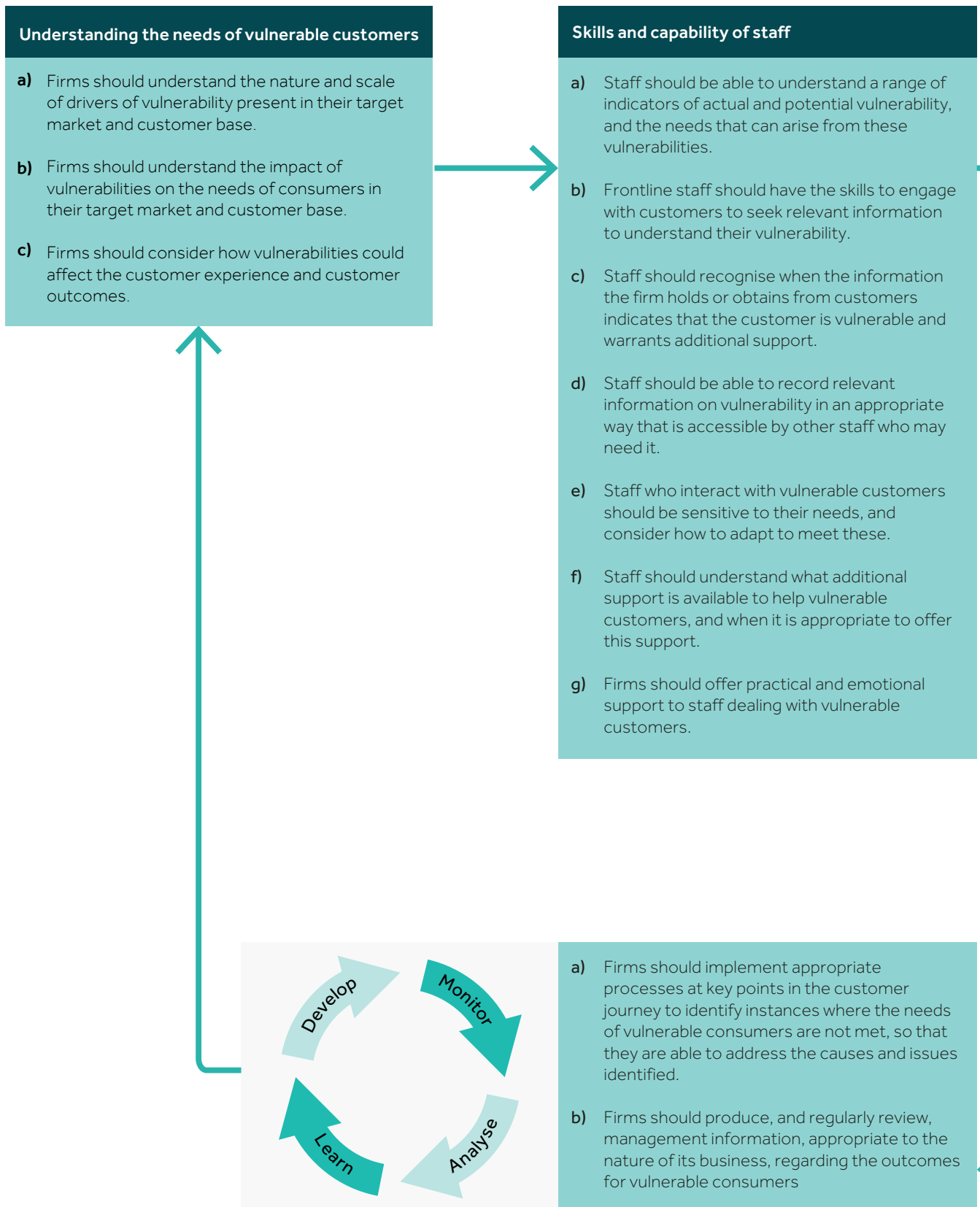
A firm saw from their management information that one product they offered was disproportionately likely to be purchased by vulnerable consumers. Following this, the firm introduced a specific phone-based sales process to make it easier to identify the characteristics of the consumers purchasing the product, and therefore better understand their needs.

The firm made changes as a result of learnings from their management information, which helped to improve the way they were able to identify, and therefore ultimately, address the needs of, vulnerable consumers.

Below we set out possible ways firms can monitor and evaluate their treatment of vulnerable consumers:

- a. *Establishing quality assurance processes that identify areas that require improvement.*
- b. *Testing experiences of vulnerable customers through processes such as mystery shopping, auditing, focus groups and deep dives.*
- c. *Reviewing whether processes and policies are effective in the fair treatment of vulnerable customers.*
- d. *Allowing staff to feedback anonymously when they think processes for vulnerable consumers could be improved.*
- e. *Ensuring it is easy for vulnerable consumers to make complaints, and through multiple channels.*
- f. *Using information on firm's treatment of vulnerable customers and the customer's experience to help inform understanding of effectiveness of policies, processes, training and controls in place.*
- g. *Producing Management Information (MI) that captures outcomes for identified vulnerable customers, and making sure it is discussed regularly at an appropriate level, and escalated and acted on where necessary.*
- h. *Senior Management or the Board may request reports on progress and provide challenge where appropriate.*
- i. *Using feedback that may not be directly sent to the firm, including online reviews and social media complaints.*
- j. *Selecting particular products, processes or types of vulnerability for 'deep dives' to help better understand where to focus its services or where to make improvements.*

Figure 10: What firms should do to treat vulnerable customers fairly



Taking practical action

Product and Service Design

- a) Firms should consider the impact of features of products or services that deliberately or inadvertently exploit customers in vulnerable circumstances.
- b) Firms should consider the impact of features of products services designed specifically to deliver positive outcomes for vulnerable customers.
- c) Firms should consider whether the information needs of vulnerable customers are being met so that these customers understand the purpose and risks of the product.
- d) Firms should consider the needs of vulnerable customers at all stages of product and service design.

Customer Services

- a) Customer service processes and systems should be flexible enough to empower and support frontline staff to use their discretion to respond flexibly to the needs of vulnerable consumers.
- b) Firms should make those vulnerable customers who may be unable to make decisions, or find a situation difficult, aware of the options available to them for help, including, where relevant, third-party support and representation.
- c) Firms should make customers aware of any specialist support services that are available from the firm and ensure these services are accessible and easy to use.
- d) Firms should have systems in place to record information on the needs of vulnerable customers and make that information accessible to relevant staff.

Communications

- a) Communications should be clear and easy to understand for vulnerable customers.
- b) Post-contractual information should be provided to vulnerable customers in a way that they will understand.
- c) Any changes to the terms or features of a product should be communicated in a way that vulnerable customers will understand.
- d) Firms should proactively check that vulnerable customers understand communications at the point of sale.
- e) Communications should be tailored where proportionate to do so, to meet the specific needs of vulnerable customers.
- f) Firms should use multiple channels to ensure, where appropriate, vulnerable customers have a choice.
- g) Customers should be made aware what different communication channels are available.

Appendix 1 – GDPR and DPA 2018 considerations when interpreting the Guidance

- 113.** We recognise that several elements of the Guidance may involve obtaining, storing and sharing personal data. In **section 2** of this Guidance, we set out firms should understand the needs of vulnerable consumers, which may involve obtaining and storing personal data. In **section 3** we set out how firms should ensure staff are able to utilise this data and share where appropriate. In **Sections 4(i)-(iii)** we set out how firms should have systems in place to record information on the needs of vulnerable consumers, and also to make this information accessible to all staff.
- 114.** Given this, firms will need to ensure that they continue to comply with the relevant requirements of the General Data Protection Regulation (the GDPR) and Data Protection Act 2018 (the DPA 2018). This Appendix highlights some of the areas of the GDPR and DPA 2018 that may be relevant for firms to consider when interpreting the Guidance.
- 115.** The GDPR and DPA 2018 are regulated and enforced by the Information Commissioner's Office (ICO). This appendix does not constitute legal advice or suggest firms take particular approaches to interpreting the GDPR and DPA 2018. Firms are responsible for ensuring that they comply with the requirements of the legislation. If firms are unsure of what is required under the GDPR and DPA 2018, firms should refer to ICO guidance or obtain their own legal advice.

Key relevant principles for this Appendix

- 116.** *Personal data*, which is information that relates to an identified or identifiable individual.
- 117.** *Processing* refers to any operation or set of operations which is performed on personal data or on sets of personal data, including collection, recording and sharing.
- 118.** *Special Category Data* is more sensitive personal data, for example about an individual's: race, ethnic origin, politics, religion, trade union membership, genetics, biometrics, health, sex life or sexual orientation. Because it is more sensitive, it requires more protection.
- 119.** A *lawful basis* is needed to process personal data. Article 6 of the GDPR details the 6 available lawful bases for processing. To process Special Category Data, an additional legal basis under Article 9 needs to be identified.

Bases on which firms can process data

- 120.** Under the GDPR, there must be a lawful basis to process personal data. Article 6 of the GDPR details the 6 lawful bases on which firms can rely on when processing personal data. Where firms process personal data in interpretation of this Guidance, firms will need to consider which of the 6 lawful bases is the most appropriate in the circumstances.
- 121.** We have set out below the lawful bases that may be the most relevant for firms when interpreting the Guidance. Firms should note that this is not an exhaustive list of the lawful bases on which they may process personal data, and they should therefore consider Article 6 of the GDPR as a whole:

- Basis (a), *Consent*: the individual has given clear consent for a firm to process their personal data for a specific purpose.
- Basis (b), *Contract*: the processing is necessary for a contract a firm has with the individual, or because they have asked you to take specific steps before entering into a contract.
- Basis (f), *Legitimate interests*: the processing is necessary for a firm's legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. This may be most appropriate where firms use customers' data in ways the customer would reasonably expect and which have a minimal privacy impact, or where there is a compelling justification for the processing.

122. In determining whether legitimate interests can be relied upon as a lawful basis, firms will need to consider the three-part test set out by the ICO:

- Purpose test: are you pursuing a legitimate interest?
- Necessity test: is the processing necessary for that purpose?
- Balancing test: do the individual's interests override the legitimate interest?

123. Firms could use a legitimate interests assessment to help determine whether they should use it as a basis for processing <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/legitimate-interests/how-do-we-apply-legitimate-interests-in-practice/>.

Special Category Data

124. Some personal data that are processed about vulnerable consumers may be Special Category Personal Data as defined by GDPR.

125. It may not always be immediately obvious that information about a consumer is Special Category Personal Data. For example, information about reasonable adjustments made for a consumer because of their health may not specifically identify the health issue, but would be likely to constitute Special Category Personal Data as their health issue could be inferred.

126. When processing Special Category Data, in addition to identifying a lawful basis under Article 6 (see above), firms need to identify a separate condition under Article 9 of GDPR. This details the additional separate considerations for Special Category Data, only one of which needs to be met. We set out the potentially most relevant conditions below. Firms should also note that there are additional requirements that must be met outlined in the DPA 2018.

Explicit Consent

127. Firms may be able to obtain explicit consent, condition (a) of article 9. Explicit consent does not have to be written, and can also be oral, however, it is more difficult to prove explicit consent when it is not in writing. Making consent explicit can usually be achieved through affirmation of a clear statement. For example, by ticking the box below:

I consent to you using this information to ensure provision of appropriate services

Public interest

- 128.** Another condition in Article 9 which firms may find appropriate to use is processing necessary for reasons of substantial public interest (g). Where relying on Article 9(g), firms must also refer to Schedule 1 Part 2 of the DPA 2018 and identify the further relevant condition.

Safeguarding Economic well-being

- 129.** Under paragraph 19 of Schedule 1 DPA 2018, firms can process, including recording and sharing, health data without the customer's consent if they believe it is necessary for the purpose of protecting the economic well-being of an adult at economic risk and it might be unreasonable to expect them to obtain consent concerning physical or mental injury, illness or disability, or if obtaining consent would adversely affect the provision of the protection.
- 130.** Applications of Paragraph 19 of Schedule 1 could include the context of third parties sharing and recording health data where consent from the customer is not possible, for example:
- between product providers and other involved third-party firms, for example brokers;
 - where a third party is claiming to be in contact on behalf of the customer but no formal arrangement with the third party (such as Power of Attorney) is currently in place. In such a case, firms will have to satisfy themselves that the third party is truly acting on the customer's behalf, because of the informal nature of the arrangement.

Figure 1: using Schedule 1 Paragraph 19

A mortgage lender receives a call from the daughter of a customer, to inform them they have suffered a serious head injury. Even though the daughter does not have a formal arrangement with the firm, they have a legal basis to process this information, because the customer is at economic risk and obtaining consent from the customer would be unreasonable. The lender refers to legitimate interests as a means of meeting requirements under article 6.

- 131.** Please find more information on legal basis for processing data on the following link: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

Additional areas to consider

- 132.** Firms will need to consider all further requirements of the GDPR, including but not exclusive to: data protection impact assessments, data accuracy, and data minimisation and storage limitation.

Data protection impact assessments

- 133.** Prior to processing data on vulnerability, firms should consider carrying out a Data Protection Impact Assessment (DPIA) to help identify and minimise data protection risks. A DPIA is a key tool for identifying and mitigating data protection risks and ensuring consideration of how the processing will comply with the principles contained in Article 5 GDPR.

134. In certain circumstances under Article 35 of GDPR, performing a DPIA is a requirement to comply with the regulations and firms should refer to ICO guidance or seek their own legal advice on this if they are unsure as to whether they need to carry out a DPIA.

135. Please consult the following link for further information: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/Text>.

Data accuracy

136. Data accuracy is important when interpreting this Guidance, especially with respect to customer service provision (see **Annex 1, Section 4(ii)**).

137. Firms should take care to ensure the accuracy of information they record about customers and vulnerabilities. This may be challenging for firms where vulnerabilities are transient, and firms should consider this in the context of the customer service they provide.

138. Where a customer provides information about an actual or potential vulnerability this should be recorded accurately to reflect the information as presented by the customer. This should help staff when interacting with such customers in the future (see **Annex 1, Section 3**).

139. Firms should consider how they ensure the data they hold remains accurate. For example, they could ask customers who have disclosed a vulnerability if or when they would like to be contacted again, or check that particular events relating to vulnerability, the customer previously indicated were upcoming, had occurred. Recording the date alongside the information provided by the customer may also prevent any data becoming inaccurate.

140. Please find more information on the following link: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/accuracy/>.

Data minimisation and storage limitation

141. Firms should ensure that the information they record in relation to customer vulnerability meets the data minimisation requirements under Article 5 (c) of the GDPR. This requires that information recorded should be "adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed."

142. Firms should ensure that the information they collect about vulnerable customers is enough to understand their needs and translate that into action, but not more than what is necessary.

143. Firms could record the interventions or adjustments requested by a customer rather than the vulnerability itself. However, if this information is capable of inferring a vulnerability that would come under special category data, it has to be treated as such.

144. Firms should also take into account the principle of storage limitation, as personal data held for too long will become unnecessary.

- 145.** Please find more information on the following link: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/data-minimisation/>.

Annex 2

Consultation questions

- Q1:** Do you have any comments on the aims of the draft Guidance?
- Q2:** Do you have any comments on the application of the Guidance or its status as non-Handbook guidance?
- 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.)
- 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)?
- 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)?
- 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)?
- Q7:** Do you have any other comments on the draft Guidance?
- Q8:** Do you have any comments on how firms are expected to use and apply the Guidance?
- 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?
- Q10:** To inform our cost-benefit analysis, do you have any comments on what costs firms may incur as a result of this Guidance?
- 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?

- 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?
- 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?
- Q14:** Do you have any comments on our intention to monitor the effectiveness of the Guidance?
- Q15:** Do you have any comments on the potential additional policy options?
- Q16:** Should we consider any further additional policy options?
- Q17:** Do you agree that proposing to issue guidance is the most effective means of achieving our aim at this stage?
- 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.

Annex 3

Abbreviations used in this document

BCOBS	Banking: Conduct of Business sourcebook (FCA Handbook)
BEIS	Department for Business, Energy and Industrial Strategy
BSL	British Sign Language
CMA	Competition and Markets Authority
CMCOB	Claims Management: Conduct of Business sourcebook (FCA Handbook)
COBS	Conduct of Business sourcebook (FCA Handbook)
CONC	Consumer Credit sourcebook (FCA Handbook)
DPA	Data Protection Act 2018
DPIA	Data protection impact assessment
DWP	Department for Work and Pensions
EA 2010	Equality Act 2010
EG	Enforcement Guidance (FCA Handbook)
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
GDPR	General data protection regulation
ICO	Information Commissioners Office
ICOBS	Insurance: Conduct of Business sourcebook (FCA Handbook)
LPA	Lasting Power of Attorney
MCOB	Mortgages and Home Finance: Conduct of Business sourcebook (FCA Handbook)
NAO	National Audit Office
OPA	Ordinary Power of Attorney
PCH	Personal contract hire

PCP	Personal contract purchase
PPI	Payment Protection Insurance
PRIN	Principles for Businesses (FCA Handbook)
SM&CR	Senior Managers and Certification Regime
SYSC	Senior Management Arrangements, Systems and Controls (FCA Handbook)
TC	Training and Competence (FCA Handbook)
TCF	Treating Customers Fairly
TSC	Treasury Select Committee
UKRN	UK Regulators' Network

