

GC20/3***

Guidance Consultation and feedback statement

Guidance for firms on the fair treatment of
vulnerable customers

July 2020

How to respond

We are asking for comments on this Guidance Consultation (GC) by **30 September 2020**.

You can send them to us using the form on our website at: www.fca.org.uk/gc20-03-response-form

Or in writing to:

Consumer Strategy and Policy
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Email:

Approachtoconsumers@fca.org.uk

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1 Summary

1.1 A vulnerable consumer is somebody who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care. There are many reasons a person may be vulnerable. These may be related to health, capability, resilience, or the impact of a life event. Our 2020 Financial Lives survey showed that just under half of UK adults, aged 18 and over (24.1 million people), display one or more of these characteristics. We expect that more consumers will be in vulnerable circumstances since the onset of coronavirus (Covid-19), and many of those will be newly vulnerable and/or have multiple drivers of vulnerability (see paragraphs 1.15-1.21 below).

Why we are consulting

1.2 Protecting vulnerable consumers is a key priority for us. We want to drive improvements in the treatment of vulnerable consumers across the sectors we regulate so that they can experience outcomes that are as good as those for other consumers. We expect the fair treatment of vulnerable consumers to be taken seriously by firms, and embedded into their culture, policies and processes throughout the whole consumer journey.

1.3 When consumers are in vulnerable circumstances, this may affect the way they engage with financial services. Vulnerable consumers may be significantly less able to represent their own interests, they may have different needs, and may be more prone to behavioural biases that negatively impact their decision making. The impact of non-standard needs together with behavioural biases could be further exacerbated by firms' behaviour.

1.4 In July 2019, we published an initial consultation (GC 19/3) on draft Guidance that set out our view of what our Principles for Businesses (the Principles) require of firms to treat vulnerable consumers fairly. We decided to adopt a two-stage approach to consulting:

- First stage: GC 19/3 sought views on the aims and content of the draft Guidance, the costs and benefits, whether the draft Guidance was sufficient to ensure vulnerable consumers are treated fairly or if additional interventions were needed.
- Second stage: this consultation (GC 20/3) discusses feedback received to GC 19/3 and seeks views on our updated draft Guidance (Annex 4) and our Cost Benefit Analysis (CBA, Annex 3).

Who this applies to

1.5 This consultation will be of interest to

- all FCA regulated firms to whom the Principles apply, and their appointed representatives

- industry groups and trade bodies
- consumer organisations and organisations that promote the interests of vulnerable consumers
- consumers and consumer advisers

The wider context

- 1.6** Ensuring consumers have an appropriate degree of protection is central to what the FCA does. When we consider our consumer protection objective, we act on the principle that consumers should take responsibility for their choices and decisions. In turn, we expect firms to provide consumers with a level of care that is appropriate, given the capabilities of the consumers themselves.
- 1.7** For vulnerable consumers, there may be factors that limit their ability to make reasonable decisions and choices. So, the level of care that is appropriate for these consumers may be different from that for others. We are more likely to intervene where we identify actual, or potential, harm to vulnerable consumers.
- 1.8** Our Principles for Businesses require firms to treat their customers fairly, and we expect firms to exercise particular care where consumers are in vulnerable circumstances.
- 1.9** We published Occasional Paper 8 – Consumer Vulnerability (OP8) in 2015 to stimulate debate and interest on consumer vulnerability so that firms could better understand the issue and act appropriately.
- 1.10** Feedback to our 2017 consultation – Our Future Approach to Consumers showed that many firms were uncertain about how to understand the needs of vulnerable consumers and what they needed to do to respond to their needs. They asked us to be clearer about this. Some respondents asked for clearer guidance under the Principles.
- 1.11** We followed this up in our 2018 Approach to Consumers paper. In July 2019 we published our first consultation on Guidance for firms on the Fair Treatment of Vulnerable Customers. This set out proposals for how firms should approach the treatment of vulnerable customers, and embed it into their culture, practices and processes throughout the consumer journey, from product design to customer service. We explained that the Guidance could be used to hold firms to account against the standards set by our Principles.
- 1.12** Through our subsequent research and engagement, we have seen that many firms have made good progress in understanding and addressing issues of vulnerability. However, too often our work (for example our High Cost Credit Review and our Consumer Research) has shown that not all firms treat their vulnerable customers fairly, with the consequence that these consumers experience harm.
- 1.13** We want to see vulnerable consumers treated fairly and consistently across financial services sectors, with outcomes that are as good as those for other consumers. The draft guidance in this consultation is intended to bring about a practical shift in the behaviour of firms that enables this to happen. It will also act as a baseline for our own supervisory approach in this area.

- 1.14** Vulnerability continues to be an important part of our work. One of the key areas of focus in the FCA's [2020/21 Business Plan](#) is 'ensuring that the most vulnerable are protected'. And, as noted in paragraph 1.15 below, the Plan's 4 external Business Priorities all require us to focus particularly on vulnerable consumers.

Coronavirus

- 1.15** Our analysis of responses to [GC19/3](#) and updating the Guidance in response to comments took place before the coronavirus pandemic. We then put this second consultation on hold while we reprioritised our resources towards urgent interventions to reduce consumer harm. We have now decided to publish the consultation and draft Guidance because:

- a.** The fair treatment of vulnerable consumers remains a key priority for us. Our [Business Plan for 2020/21](#) states that we will be focusing on the longer-term economic impacts of coronavirus on society, including ensuring that the most vulnerable are protected. The 4 external priorities in the Business Plan ('enabling effective consumer investment decisions'; 'ensuring consumer credit markets work well'; 'making payments safe and accessible'; and 'delivering fair value in a digital age') all require us understand and take strong action to address issues faced by vulnerable consumers in these areas.
- b.** We expect coronavirus to have significantly increased the number and severity of issues affecting consumers (for example ill health, bereavement and job loss), particularly for those already showing characteristics of vulnerability. This shows that, now more than ever, firms should be paying particular attention to the needs of vulnerable consumers.

Our consumer research shows that the pandemic and lockdown measures are exacerbating the challenges for many who were already vulnerable. There are also many people who find themselves newly vulnerable due to the pandemic and its effects.

The financial effect is likely to have been particularly severe for some groups of consumers. These groups (which often overlap with each other) include women, low-paid workers (including those on part-time or insecure incomes), people working in sectors that have shut down, the self-employed, young people (particularly aged 18-24), students, private renters, families with dependent children, single parents, and people with health problems and disabilities.

Nationally, 23% of workers have either been furloughed, lost their job or lost hours and pay during the pandemic. As the furlough period comes to an end, more people will lose their jobs. Debt advice groups expect demand for their advice will increase substantially.

We also expect greater numbers of consumers to be affected by bereavement and health issues, including poor mental health, as a result of the pandemic and lockdown.

- 1.16** During the period while this consultation was on hold, we have worked to understand the impact of coronavirus on consumers and how it affects vulnerability. We have engaged extensively with consumer partners and carried out research to understand the nature and scale of the impact on people's financial lives. This has informed our credit and mortgage measures that give consumers temporary relief where they are affected by the pandemic.
- 1.17** We have also worked quickly to address specific issues affecting vulnerable consumers that have arisen from the pandemic, for example:
- we have worked with the Payment Systems Regulator and retail banks to ensure that consumers' access to essential banking services and cash was maintained in difficult operational circumstances, ensuring in particular that vulnerable customers' needs were addressed, and they were given the necessary support.
 - we have issued guidance on the processing of complaints, so that firms prioritise those most vulnerable to harm.
- 1.18** We are taking steps to get a clear picture of the changing nature of vulnerability, including further research to supplement our [Financial Lives Survey](#). Already it is clear that coronavirus is having different and lasting impacts on consumers. We will be using our insight work to understand where we need to take any further, targeted action to protect vulnerable consumers, for example by way of exploration of policy on emerging issues that affect vulnerable consumers.
- 1.19** We know that since the crisis began, many firms have already take additional steps to support consumers in vulnerable circumstances. While we drafted the CBA at Annex 3 below before the pandemic, we believe it remains a valid assessment of costs and benefits. It could be argued that the benefits of the guidance are now increased due to the increased risk of consumer vulnerability and harm arising from the pandemic. However, as noted in the CBA, it is impracticable to quantify these benefits so this assessment remains qualitative.
- 1.20** The CBA also notes that the crisis could potentially increase the elements of firm compliance costs that vary according to the number of vulnerable consumers, though it is not reasonably practicable to estimate any such effects.
- 1.21** In our view, the Guidance is more relevant now than ever, and remains valid for firms to use during the current circumstances as well as in the long term. It provides firms with a clear steer on the actions they can take to ensure the fair treatment of vulnerable consumers, and how consumers can expect to have their needs met. Overall, we see this consultation as an important foundation for our future approach to vulnerability, which is why we are publishing this paper now.

What we want to change

- 1.22** A key aim of issuing the proposed Guidance is to help ensure that vulnerability is taken seriously by firms, and that it prompts action by firms to embed the fair treatment of vulnerable consumers into their culture, policies and processes throughout the whole consumer journey.

- 1.23** While many firms have made significant progress in how they treat vulnerable consumers, there is still room for improvement and more consistency across the sectors we regulate. Evidence from consumer organisations and our own regulatory work shows that some firms are failing to think about vulnerability or 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.
- 1.24** In the course of our wider work, we also find evidence of firms failing to consider the needs of vulnerable consumers, leading to harm. Some examples of where we have taken action to address this include:
- Stopping the practices of some credit brokers who were charging upfront fees, often with a lack of transparency so that consumers were unaware that the fee would be charged. This exposed consumers to harm, especially vulnerable consumers and those with low credit scores.
 - Fining a retail firm for mis-selling an insurance product to mobile phone customers where we found that the firm had not trained its sales consultants to adequately assess customers' needs. Staff were trained to overcome customer objections, rather than determining whether the product was suitable. Vulnerable consumers are at increased risk from these practices, because they can be more susceptible to pressure selling.
 - Fining a retail bank for failures in their handling of mortgage customers in payment difficulties or arrears. By not sufficiently understanding their customers' circumstances, the bank risked treating unfairly more than a quarter of a million customers in mortgage arrears, over several years. In some cases, customers were treated unfairly, including vulnerable customers.
- 1.25** Following publication of [GC 19/3](#), we conducted qualitative research to improve our understanding of the experiences of consumers who show characteristics of vulnerability. We have published the research alongside this consultation. It shows that the experiences of vulnerable consumers continue to be mixed, with consumers in similar situations receiving very different treatment by firms.
- 1.26** This suggests that fair treatment of vulnerable consumers is not yet being consistently embedded by all firms in their culture. The research highlights key themes in the fair treatment of vulnerable consumers. These are:
- recognising vulnerability and responding to customers' needs
 - the value of sympathy
 - the importance of empowered and knowledgeable staff
 - addressing communications needs
- 1.27** These themes are consistent with our proposed Guidance.
- 1.28** Some firms have told us they would like to improve their treatment of vulnerable consumers but are unclear how to (see figure 2 in [GC19/3](#)). Where we see firms taking action in relation to vulnerability we have found they have mainly done this by making changes for individual consumers as the need arises. This can be a helpful approach, and firms will always need the ability to respond flexibly in their support for consumers. However, we want to see firms being more proactive in anticipating the needs of vulnerable consumers, for example by considering vulnerability at all stages of the product and service design process or designing inclusive products and services that meet the needs of all consumers.

1.29 We want to introduce guidance to help drive change by providing clarity and focusing firms' attention on what they should do to comply with our Principles. We want to ensure the fair treatment of vulnerable consumers is properly embedded by firms in their culture, policies and processes, not just on the front line but also in areas such as product development. The Guidance is important for all firms, including firms that offer self-service digital channels or are part of a distribution chain. Senior leaders in firms should create and maintain a healthy culture in which all staff take responsibility for reducing the potential for harm to vulnerable consumers.

1.30 Any finalised Guidance will support discussions between firms and supervisors about how firms treat vulnerable consumers. It will help us hold firms to account if they breach the Principles. It may be relevant to enforcement cases in helping us 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.

Outcome we are seeking

1.31 We want vulnerable consumers to experience outcomes that are as good as those for other consumers, and to receive consistently fair treatment across the firms and sectors we regulate.

1.32 In 2006, we set out 6 outcomes firms should strive to achieve to ensure the fair treatment of consumers (the 'TCF Outcomes'). Alongside the Principles, these outcomes are at the core of what we expect of firms for all consumers, including vulnerable consumers. These are:

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.

1.33 This Guidance will help deliver, across financial services, our vision of a well-functioning market that works for consumers as described in our [Approach to Consumers](#).

Our vision for a well-functioning market that works for consumers.

When competition is working well and we observe market integrity we will see:

- consumers who can buy the products and services they need because they are sold in a way that is clear, fair, not misleading and with good choice architecture (sales, disclosure or marketing environment that helps consumers to make good decisions);
- products that are high quality and good value for money, and fairly-priced services that meet consumers' changing needs.

Where markets are working well for consumers we will see that:

- the financial needs of all consumers, including vulnerable consumers, are taken into account in the provision of financial products and services;
- consumers are appropriately protected from harm.

Monitoring firms' treatment of vulnerable consumers

- 1.34** We will monitor how firms respond to our Guidance through our supervisory work. Firms will need to be able to demonstrate how their culture, policies and processes ensure the fair treatment of all consumers, including those who are vulnerable.
- 1.35** Following publication of the final Guidance, during our regular interactions assessing firms' senior managers, we will ask them about the actions their firms are taking to ensure they are treating vulnerable consumers fairly. Firms can expect us to ask them to demonstrate the actions they have taken to:
- a. understand the needs of their target market/customer base
 - b. ensure their staff have the right skills and capability to respond to the needs of vulnerable customers
 - c. respond to consumer needs through product design, flexible customer service provision and communications
 - d. monitor that the needs of their vulnerable customers are being met and responded to, collect information on the impact of their policies and processes, and assess how they are resulting in good outcomes for vulnerable consumers
- 1.36** We will use this information to target our future communications and supervision, and drive improved behaviours. Where we identify that firms are not treating consumers fairly, the Guidance will inform how we hold firms accountable against our Principles.
- 1.37** We will also use the Guidance, once finalised, to apply a 'vulnerability lens' to other supervisory and policy work with firms and sectors, to monitor and evaluate firms' treatment of vulnerable consumers. This will help us to build up a picture of firm practices and also to assess the effectiveness of the Guidance.
- 1.38** We will continue to engage with stakeholders, including firms, on the treatment of vulnerable consumers in 2021 to 2022. We will consider where further proactive supervisory work may need to be carried out focusing on sectors where we see greatest risk of harm to vulnerable consumers.

- 1.39** In 2023, we plan to evaluate what action firms have taken and whether we have seen improvements in the outcomes experienced by vulnerable consumers. We plan to make this assessment against our understanding of what firms do now and further intelligence gathered through supervisory work. We will use data from available research into consumers' experiences of financial services, including our [Financial Lives survey](#), to review consumer experience and outcomes.
- 1.40** At the same time as the evaluation of firms' treatment of vulnerable consumers, we will look again at how the financial services industry is adapting to meet the needs of older consumers. We committed to do this in our 2017 [Occasional Paper on the Ageing Population](#). We are proposing to conduct this review after the Guidance has been implemented as it is expected to improve the consistency of firms' treatment of vulnerable older people.

Feedback to our first consultation (GC19/3)

- 1.41** We received 130 responses to our first Guidance consultation – [GC 19/3](#). Our responses to feedback are in Chapter 3 of this Guidance consultation.
- 1.42** Feedback focussed on the following key areas:
- Most respondents were supportive of plans to issue Guidance under our Principles, although some consumer groups felt the absence of rules setting minimum standards could result in firms taking inconsistent approaches.
 - Respondents were interested in how we will monitor the impact of the Guidance and use it to hold firms to account. They felt effective supervision was key to this.
 - Responses broadly agreed that the proposed Guidance focussed firms' attention in the right areas but further clarity was sought in certain areas. For example, respondents asked us to clarify what firms should do in relation to potential vulnerability and how this differed from what they should do in relation to actual vulnerability.
 - Respondents asked for clarity on the scope of the Guidance. Firms queried the relevance of the proposed Guidance to smaller firms, digital customer journeys and complex distribution chains.
 - Firms asked for more examples and case studies relevant to their business model as this would provide more certainty of the actions they should take.
- 1.43** We have considered feedback and are proceeding with our proposal to issue Guidance on the fair treatment of vulnerable consumers under our Principles.
- We are not prescribing cross-sector minimum standards as we consider this could result in the unintended consequence of "levelling down" in some sectors due to the differences in services offered, firm size and customer base. The draft Guidance provides all financial services firms, large and small and across many sectors, with different ways in which they can meet the needs of their vulnerable customers and comply with their obligation to treat all customers fairly.
 - We agree that effective supervision is important and are planning communications and supervisory work around any finalised Guidance to ensure firms are aware of and are generally taking action to ensure the fair treatment of vulnerable consumers.

- We have considered whether the proposed Guidance covers the right issues and provides firms with the right degree of clarity on what they should do to comply with their obligations under the Principles. We have sought to clarify the Guidance in response to feedback. We have replaced some examples and case studies where they were unclear. We have refined descriptions of what firms should do.
- We have clarified the scope of the Guidance. Given the diversity of sectors and business models we regulate, the case studies and examples provided in the draft Guidance do not seek to cover every business model or scenario. Firms will need to use their own judgement on what the Guidance means for them. We will engage with trade associations to encourage them to support firms as they develop their strategies towards vulnerable consumers, for example through the sharing of good practice.

1.44 We are now consulting on updated draft Guidance, which is set out at Annex 4 to this paper.

Next Steps

1.45 The consultation period is 2 months and the deadline for responses to this Guidance consultation is **30 September 2020**. You can respond to this consultation by answering the questions in Annex 2, either by using our online response form or by emailing your response to approachtoconsumers@fca.org.uk.

1.46 Please let us know if your response is confidential. Please note that we may be required to publish names of respondents or responses themselves under the Freedom of Information Act, even if they are marked as confidential.

1.47 Pending responses to this consultation, we plan to finalise the Guidance later in 2020 or early in 2021.

1.48 As we have said in our [2020/21 Business Plan](#), vulnerability will continue to be a focus for the FCA. Our work on this will include further insight and analysis to understand the changing scale and nature of the issue, particularly in the context of the pandemic. We will also continue to use our policymaking and other regulatory tools to address harm where this is identified.

2 The wider context

Who are vulnerable consumers?

2.1 We have identified 4 key drivers which may increase the risk of consumer 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, job loss or relationship breakdown

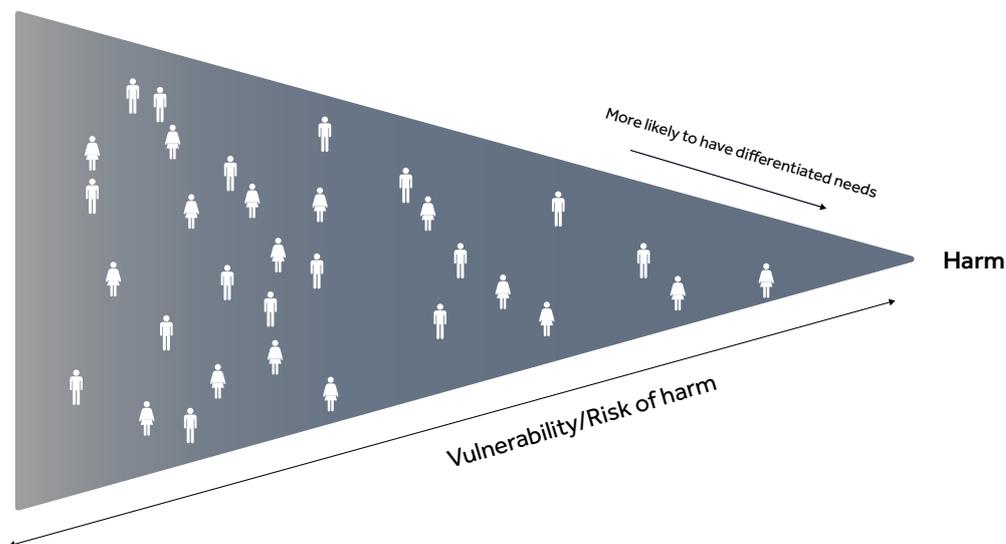
Resilience: low ability to withstand emotional or financial shocks

Capability: low knowledge of financial matters or low confidence in managing money (financial capability). Low capability in other relevant areas such as literacy or digital skills

2.2 Our [Financial Lives 2020 survey](#) has found that just under half (46%) of UK adults, aged 18 and over (24.1 million people), display one or more characteristics of vulnerability that fall under these four drivers. This research was carried out in the months before the pandemic and it is likely the number of vulnerable consumers will be now higher due to the impact of the pandemic and lockdown measures on consumers. We will carry out further research to understand the recent changes in the scale and nature of consumer vulnerability including updating our Financial Lives data.

2.3 Some groups are more likely to display characteristics of vulnerability than others, such as those over 75, those unemployed, those who rent and those with no formal qualifications. Consumers will often display more than one characteristic of vulnerability. Figure 1 uses results from our [Financial Lives 2020 survey](#) to give an overview of the proportion of UK adults that displays each of the drivers of vulnerability and the different combinations of drivers.

Figure 2 – vulnerability: spectrum of risk



- 2.5** All consumers are at risk of becoming vulnerable, particularly if they display one or more characteristics of vulnerability. Figure 2 shows that all consumers fall within a spectrum of risk. Consumers to the left of the spectrum are less likely to be vulnerable and therefore face a lower risk of harm than those on the right of the spectrum where risk of harm is more acute.
- 2.6** At the same time, consumers to the right of the spectrum are more likely to have different needs to those on the left, for example consumers with multiple overlapping characteristics of vulnerability. Firms should respond to the needs of all consumers along this spectrum. For example, if a consumer loses their job or falls ill they are more likely to have different or additional needs to other consumers. If these needs are not met, they may be vulnerable to harm. If their resilience or capability is also low they may need more support and are more likely to be at greater risk of harm if they do not receive it.
- 2.7** In responding to consumers' needs, firms need to take particular care to ensure they meet the needs of consumers at the greatest risk of harm. These consumers are more likely to require support and adaptations than other consumers. But firms should also act early to prevent risk of harm growing. For example, by ensuring their products and services have been designed to recognise and respond to the needs of vulnerable consumers in their target market and customer base.

The harm we are trying to reduce

- 2.8** In [GC 19/3](#) we set out some of the personal and behavioural consequences of vulnerability for consumers that had been highlighted in [earlier research](#). These include:
- 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 decreasing 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; being 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

2.9 We explained that these consequences may affect the way vulnerable consumers engage with 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 'scarcity mindset', which can reduce bandwidth and lead consumers to focus on certain factors at the expense of others (Mullainathan & Shafir, 2013, Scarcity: Why having too little means so much). This may mean that vulnerable consumers, especially those who may not be financially resilient, are more likely to make poor decisions about buying and using financial services. This could exacerbate financial difficulties. Vulnerable consumers' decision making may also be impacted by information asymmetry, for example they may have less information than the firm about a product or service because they are unable to access or process relevant information.

2.10 The impact of characteristics of vulnerability and behavioural biases could be exacerbated by firms' behaviour. The nature of financial services may also have a negative impact. 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, especially when they are the gateway to other services.

2.11 If firms in sectors we regulate do not understand the impact of vulnerability and associated needs and respond to these, the overall impact of these consequences on consumer welfare may well be detrimental and vulnerable consumers will be at an increased risk of experiencing harm. Where this results in actual harm, then the impact on vulnerable consumers is likely to be greater than for other consumers.

2.12 In GC 19/3 we set out identified potential harms that vulnerable consumers may be more likely to experience. Our recent qualitative research into the experiences of vulnerable consumers has provided further evidence that the way firms respond can increase or reduce the risk of harm:

- a. Financial exclusion:** vulnerable consumers are more likely to be unbanked 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 shown that 3 million people with disabilities have been turned down for insurance or charged extra. 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 accessing services:** some characteristics of vulnerability may make it difficult for consumers to use a particular communication channel. For example, a disability may make it difficult for a consumer to access a branch in person or contact a firm by phone. Low digital capability may prevent consumers from accessing services online. Unresponsive or inflexible customer service can exacerbate difficulties accessing services. Difficulties with access can lead to disengagement, exclusion, mistrust or even risk of scams as customers may instead rely on informal access methods.

Example from our Financial Lives research

A consumer with cancer wanted to understand why he was being charged for his overdraft. He did not want to talk to the bank as he was ill and didn't have good phone reception in hospital. He contacted his bank via secure email in his banking app and received a response from the customer service team. Although he was not satisfied with the outcome of his query, he was happy that the bank got back to him promptly via his preferred communication method.

- c. Disengagement with the market/partial exclusion:** consumers who show characteristics of vulnerability may find it difficult to engage with markets and search for products and services effectively. As a result, vulnerable consumers may be more likely to pay a higher price than other consumers because they do not switch. They may also go without products and services.

Example from our Financial Lives research

A consumer with poor health struggled to fill in complicated forms when searching for travel insurance. When directed to call centres she found call handlers to be abrupt and insensitive. After contacting a number of firms one call handler made her feel comfortable and explained things in plain English which made her feel at ease and comfortable discussing her circumstances. While this consumer was able to continue their search until they found a provider sensitive to their situation, such experiences can lead to mis-trust and disengagement with the market.

- d. Inability to manage a product or service:** consumers with characteristics of vulnerability 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 if 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 can be out of fear that they will be misunderstood or say the wrong thing or due to the emotional strain of trying to interact with other people.

Example from our Financial Lives research

A consumer with a mental health condition tried to become an advocate for his partner in order to manage his current account while his partner was ill. He expected to be able to look after his partner's financial affairs temporarily, until he was well enough to look after them himself. He made several calls with little progress and found it stressful and frustrating to have to prove he had permission to speak on behalf of his partner and repeat the story every time. There was no one point of contact or specialist team to deal with. The experience was in direct contrast to his own bank with whom he has had good experiences in relation to his own needs.

- e. Over indebtedness:** consumers with characteristics of vulnerability 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 all consumers in 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. Life events such as bereavement, relationship breakdown and ill health can contribute to temporary loss of income and greater risk of debt.

Example from our Financial Lives research

A consumer became overdrawn due to financial difficulties and had payments refused. The consumer asked her bank for extra time to add money to her account, but the call handler did not approach the situation sensitively and as a result the customer felt overwhelmed and unable to explain her situation which was not resolved. This contrasts with the same consumer's experience at another bank where they were put at ease so they felt comfortable discussing their financial difficulties. The bank offered to set up a basic bank account for the consumer and reassured her by offering to answer any questions.

- f. Buying inappropriate products or service and exposure to mis-selling:** consumers with characteristics of vulnerability 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, 17% of higher-risk credit card users have said that they chose their credit card because they thought it was the only card they would be accepted for ([FCA Credit Card Market Study 2016](#)).

Example from our Financial Lives research

A consumer who had to stop working in a period of serious illness contacted an equity release provider to get some more information about releasing equity from his house. He declared his health condition and circumstances and was transferred to a specialist team who gave him information about the options available in his situation. He felt the information provided was objective and he did not feel pressured. He was able to consider the information provided and decided that equity release was not a suitable option for him.

- g. Scams and financial abuse:** consumers with some characteristics of vulnerability may be more likely to fall victim to scams. They may be specifically targeted through unsolicited approaches, more trusting or more likely to be persuaded to disclose personal financial details. For example, research has shown that older consumers who may be lonely are more likely to be at risk of being scammed. Some vulnerable consumers may be less likely, or less able, to regularly check their bank account or statements and therefore less likely to spot unusual transactions. Some may need to rely on informal access methods, which can increase the risk of financial abuse. For example, our [Financial Lives 2020 survey](#) showed that one in five (20%) UK adults, equating to over 10 million adults, had, in the last 12 months, given their credit or debit card to someone else to use, or had shared their current account, savings account or credit card PIN or password with another person.

How it links to our objectives

- 2.13** The proposed Guidance will advance our consumer protection objective as it provides clarity for firms on what we want to see in relation to the fair treatment of vulnerable consumers. This will result in better outcomes for vulnerable consumers so they are as good as outcomes experienced by other consumers.
- 2.14** Fair treatment of vulnerable consumers should lead to more consumers making effective decisions. This will have positive impacts on competition as more consumers shop around and purchase products that better suit their needs.

What we are doing

- 2.15** We want to achieve more consistent outcomes for vulnerable consumers across all of the sectors we regulate. We are proposing to publish any finalised Guidance under our powers in section 139A of the Financial Services and Markets Act 2000 (FSMA). The Guidance is on the Principles and sets out our view on what firms should do to comply with their obligations under the Principles and ensure vulnerable consumers are treated fairly.
- 2.16** We supervise and enforce against the standards set by our Principles. The Guidance will support discussions between firms and supervisors about the treatment of vulnerable consumers. Firms will need to be able to demonstrate how their culture, policies and processes result in the fair treatment of all consumers, including those who are vulnerable. They should ensure that they collect information on the outcomes achieved by their actions and use it to assess the effectiveness of their policies and processes. Where we identify that firms are not treating consumers fairly, we will hold firms to account against the standards set by the Principles, and those standards are informed by the Guidance.
- 2.17** Fair treatment of vulnerable consumers should be embedded as part of a healthy culture throughout firms, not just on the front line but also in areas such as product development. Senior leaders in firms should create and maintain a culture in which all staff take responsibility for reducing the potential for harm to vulnerable consumers. In our Approach to Supervision, we outline the focus we place on business models and culture as the key drivers of harm in firms. When we assess culture, we look at what drives behaviour in a firm and what is likely to cause harm.
- 2.18** The proposed Guidance illustrates the types of actions firms should take to understand and respond to the needs of their vulnerable consumers, and ensure they treat them fairly in line with their obligations under the Principles.
- 2.19** To inform the development of the Guidance we have conducted a programme of engagement and research. We will continue this, working with consumer and trade bodies and through a programme of firm communications, to raise awareness of the expectations set by the Guidance amongst firms of all sizes and across all of the sectors we regulate.

Equality and diversity considerations

- 2.20** We are required under section 149 of the [Equality Act 2010](#) to have due regard in the exercise of our functions to the need to:
- eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between people who share a relevant protected characteristic and those who do not
 - foster good relations between people who share a relevant protected characteristic and those who do not.
- 2.21** The relevant protected characteristics which we are required to consider are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, marriage or civil partnership status.
- 2.22** We have considered the duty under section 149 of the [Equality Act 2010](#) (the Public Sector Equality Duty (PSED)) throughout the development of the proposal to issue this Guidance and we set out our views in [GC 19/3](#). We have considered responses to that consultation and we remain of the view that the proposed Guidance will not adversely affect any of the groups with protected characteristics. We think it will positively affect some groups with protected characteristics as well as consumers with characteristics of vulnerability which are not protected characteristics.
- 2.23** Some respondents to our consultation thought we should work more closely with the Equality and Human Rights Commission (EHRC) to ensure consumers with protected characteristics are protected in financial services markets. We discuss this further in Chapter 3.
- 2.24** We will continue to consider the equality and diversity implications of our proposals during the consultation period, and will revisit them when making any final Guidance. In the meantime, we welcome your input on this.

Q1: Do you have any comments on our assessment of equality and diversity considerations of our proposed Guidance?

3 Feedback statement

3.1 We received 130 responses to [GC 19/3](#). In this chapter we summarise and respond to significant areas of feedback received. This includes feedback on:

- our proposal to issue Guidance to achieve better outcomes for vulnerable consumers and how we will hold firms to account
- the scope of the Guidance
- the content of the Guidance

Proposal to issue Guidance

3.2 We set out our rationale for issuing Guidance under our Principles in [GC 19/3](#).

Feedback received

3.3 Most respondents generally agreed with our proposal to issue Guidance on the Principles in relation to the fair treatment of vulnerable consumers. They agreed that the Guidance was the right tool to clarify what firms should be doing to treat vulnerable consumers fairly and to hold firms to account. Many firms agreed that the proportionate, outcomes-based approach would help them to apply the Guidance in a way that best suits the needs of their consumers and their business model. A number of respondents, including firms and trade bodies, told us that they plan to use any finalised Guidance to identify gaps in current practice and focus on areas for improvement.

3.4 Some respondents suggested that more prescriptive minimum requirements were needed to hold firms to account, for example rules setting minimum standards. Some argued that there should be greater consistency in standards for treatment of vulnerable consumers across different sectors (eg energy, broadband, retail). A small number of other respondents thought more sector- or activity-specific rules to protect vulnerable consumers should be introduced. There was appetite from stakeholders for a list that sets out all existing sector-specific requirements in our Handbook that relate to the treatment of vulnerable consumers.

3.5 Respondents asked how the proposed Guidance interacts with our work exploring options relating to a Duty of Care. Some respondents thought that a Duty of Care, in addition to the Guidance, would be the best way to protect vulnerable consumers. Some respondents felt that the Guidance should be linked to the [Senior Managers and Certification Regime](#) to ensure that Senior Managers are accountable for the fair treatment of vulnerable consumers. A number of consumer organisations said we should work more closely with the EHRC to ensure consumers with protected characteristics are protected in financial services markets.

Our response

3.6 We have considered the feedback received and are proceeding with our proposal to issue guidance on the Principles on the fair treatment of vulnerable consumers.

- 3.7** We consider that issuing guidance under our Principles is the most effective way to raise standards for vulnerable consumers across all the sectors we regulate. Our Principles already set high-level rules requiring, among other things, firms to treat consumers fairly. Issuing guidance under these Principles will help firms take actions to meet their obligations in relation to vulnerable consumers. It will enable a consistent level of protection that can be adapted according to the circumstances of both consumers and firms.
- 3.8** We are not prescribing cross-sector minimum standards as we consider this could result in the unintended consequence of 'levelling down' in some sectors due to the differences in services offered, firm size, and customer base. Setting minimum standards could also promote a 'tick-box' approach rather than encouraging firms to embed the fair treatment of vulnerable consumers into their culture, policies and processes in a way that is appropriate for their customer base, size and business model. As discussed in Chapter 1, we will monitor firms' treatment of vulnerable consumers and if we find evidence through the evaluation, or before, that firms are not treating vulnerable consumers fairly, we will consider further interventions. These may focus on particular sectors or groups of vulnerable consumers.
- 3.9** We have considered calls for greater consistency in standards for treatment of vulnerable consumers across regulatory sectors through our work with the UK Regulators Network (UKRN). UKRN has produced a [summary](#) of the support available across sectors and identified areas where further, more in-depth, collaboration between regulators may be of benefit.
- 3.10** We have also considered whether we should introduce sector-specific requirements in addition to the Guidance. We are not proposing any sector-specific rules at this time. However, if we identify harm to vulnerable consumers arising in specific sectors we will continue to act to address this, as shown by our recent work in response to the pandemic. Other examples include our interventions on [signposting to travel insurance](#) and measures to protect consumers using [high cost credit including overdrafts and rent-to-own](#).
- 3.11** We have been progressing our work exploring options relating to a [Duty of Care](#), and will take into consideration feedback received through [GC 19/3](#). Firms asked how our proposal to issue Guidance under the Principles interacts with this work. We expect that any future policy changes will be consistent with the aims of the vulnerability Guidance as the expectations it sets will be relevant going forward. We have paused our work on Duty of Care due to the reprioritisation of resources to work relating to coronavirus, and aim to provide more detail on this at a later date.
- 3.12** We have considered the requirements of the [Equality Act 2010](#) and our responsibilities under our PSED when drafting the proposed Guidance. We have also updated the Guidance to remind firms of their obligations under that Act, as well as other matters they may need to consider. There is an overlap between the characteristics of vulnerability we have set out and protected characteristics as defined under the Act. In some areas, our characteristics of vulnerability are broader. Our draft Guidance makes clear that to meet the standards set by the Principles, firms need to understand the needs of vulnerable consumers, which may include (but is broader than) people with protected characteristics, and take practical action to respond to those needs. A breach of the Equality Act may also be a breach of the Principles. We can and do take action where we see firms breaching the Principles.

Monitoring the treatment of vulnerable consumers and holding firms to account

- 3.13** In GC 19/3 we explained that one of the key aims of the Guidance was to ensure that vulnerability is taken seriously by firms, embedded in to their culture, policies and processes throughout the whole consumer journey, and backed up by supervision and enforcement action where appropriate.

Feedback received

- 3.14** Some consumer groups were concerned that the absence of rules could make it difficult to hold firms to account. They asked for clarity on whether we could use the Guidance to take action against firms given it was not incorporated into our Handbook. Some felt that locating or referencing the Guidance within the Handbook could make the Guidance more visible.
- 3.15** Respondents strongly expressed the view that effective supervision would be key to ensuring firms take appropriate action to treat their vulnerable consumers fairly. They requested more clarity on how we will supervise and enforce the Guidance if the Guidance does not place new obligations on firms and firms are not bound to the specific actions set out in the Guidance. Some firms emphasised the importance of any supervisory approach being proportionate and flexible, taking into account firm type and size, when assessing actions taken by firms to treat vulnerable consumers fairly.
- 3.16** Respondents asked how we would monitor the adoption and impact of the Guidance, including monitoring small firms' treatment of vulnerable consumers. They requested information on the metrics we will use and what data we might request from firms to monitor the Guidance. One respondent suggested we provide an implementation framework for firms to be able to evidence what they have done to treat their vulnerable consumers fairly. Respondents argued that creating more opportunities for firms to discuss and share best practice would help firms take appropriate action and measure their progress against their peers.
- 3.17** Some firms asked if there will be an implementation period for the Guidance and if it will apply retrospectively. Some firms asked if the Financial Ombudsman Service would refer to the Guidance when assessing complaints.

Our response

- 3.18** We will use the Guidance to hold firms to account against the standards set by our Principles. While firms are not bound to adopt any of the specific actions described in the Guidance they must ensure they comply with the Principles and treat vulnerable consumers fairly. The Guidance should assist firms in doing this as it sets out the types of actions firms can take to achieve this. Firms will need to use their judgement to consider what each section of the Guidance means for them and what they should do to ensure they treat consumers fairly.
- 3.19** The location of guidance outside the Handbook does not impact its status and it should not change how firms use the Guidance to help them meet their obligations under the Principles. We will, however, seek to raise the profile of the finalised Guidance through creating a dedicated section of our website and through a programme of communications to raise awareness of the Guidance and its applicability to firms of all sizes across the sectors we regulate.

How we will supervise

- 3.20** Firms asked that we are proportionate in our supervision of the Guidance. Our approach will recognise that 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 target market and customers. We explain this in the Guidance at paragraphs 1.24-1.29.
- 3.21** Firms will need to be able to demonstrate how their culture, policies and processes ensure the fair treatment of all consumers in their target market or customer base, including those who are vulnerable. Chapter 1 of the draft Guidance and chapter 1 of this consultation discuss how we will supervise firms' treatment of vulnerable consumers. We explain that this should be embedded as part of a healthy culture throughout firms, not just on the front line but also in areas such as product development. Our supervision focuses on business models and culture as the key drivers of harm in firms. When we assess culture, we look at what drives behaviour in a firm. The proposed Guidance will support discussions between firms and supervisors about the fair treatment of vulnerable consumers. We will use it to identify and address the drivers of behaviour that could lead to harm for vulnerable consumers and inform how we hold firms to account against our Principles, both in specific discussions about vulnerability, and more generally in our supervision work.
- 3.22** We have considered requests that we set firm metrics or implementation frameworks to help firms demonstrate their progress. Throughout the Guidance we have provided tips on ways firms can operationalise it, these are included in boxes titled 'examples of how firms can put this into practice'. We are not proposing to produce an implementation framework, as we expect firms to use their judgement to determine what the Guidance means for them, and the Guidance will apply to firms in different ways. Producing such a framework could result in a tick-box approach. We support firms sharing good practice ideas and experiences on the fair treatment of vulnerable consumers. We will engage with trade associations to encourage them to support firms as they develop strategies towards vulnerable consumers, for example through producing sector-specific best practice codes or through facilitating sharing of good and bad practice.

Implementation of the Guidance, enforcement and use by the Financial Ombudsman Service

- 3.23** As the Guidance will be issued in relation to existing Principles, it will take effect when it is issued and will be relevant where the Principles apply. There will not be an implementation period.
- 3.24** The Guidance may be relevant to an enforcement case. It could inform whether a firm could have reasonably understood or predicted that their conduct in question fell below the standards required by the Principles at the time it occurred. While the Guidance itself will not apply retrospectively, firms are already bound by the obligations set by the Principles.
- 3.25** Some firms asked if the Financial Ombudsman Service would refer to the Guidance when assessing complaints. The Financial Ombudsman Service takes account of our rules and Guidance and (where appropriate) good industry practice, amongst other things, when reaching decisions on what is fair and reasonable in all circumstances of the case. This means the Financial Ombudsman Service will take the Guidance, amongst other things, into account when considering complaints involving vulnerable

consumers. The Service is operationally independent and we do not intervene in its decisions.

Monitoring and evaluation

- 3.26** Respondents asked how we would monitor adoption and impact of the Guidance, including monitoring firms' treatment of vulnerable consumers. Monitoring and evaluation are a key part of our [Mission Framework](#) and we intend to monitor the adoption of the Guidance and whether our approach has achieved the outcomes we want to see for vulnerable consumers. We discuss this in Chapter 1 of this consultation.

The scope of the Guidance

- 3.27** In [GC19/3](#), we set out the scope of the Guidance. We explained that the Guidance gives our view of what the Principles require of firms involved in the supply of products or services to retail customers who are natural persons.

Feedback received

- 3.28** Several respondents asked for clarity on whether the scope of the Guidance includes business customers.
- 3.29** A few firms asked us to clarify how the Guidance applies to providers, brokers and intermediaries within a complex distribution chain or where they outsource functions such as call centre management to third parties. One respondent also asked whether providers of group insurance policies set up via trust arrangements such as income protection, fall within the scope of the Guidance.

Our response

- 3.30** We have considered feedback relating to the scope of the Guidance. The Guidance explicitly applies to the supply of products and services to retail consumers who are natural persons. It applies to firms regardless of whether they have a direct client relationship with the consumer. Chapter 1 of the Guidance sets out its scope.
- 3.31** 'Natural persons' includes individuals and also business customers, where businesses are not incorporated. This includes sole traders and some partnerships and reflects that characteristics of vulnerability may equally impact an individual in relation to their personal and business accounts.
- 3.32** The proposed Guidance does not apply where businesses are incorporated as where that is the case, it is the company, and not a natural person, that is the customer of the firm. While the Guidance does not apply to incorporated businesses, firms must still meet the standards set by the Principles, including the obligation to treat customers (in this case incorporated businesses) fairly. We also recognise that incorporated businesses may employ individuals with characteristics of vulnerability. Firms may therefore find aspects of the Guidance helpful when considering how to comply with the Principles in relation to incorporated businesses.

- 3.33** We have considered feedback received in relation to distribution chains and outsourced functions. It is our intention that the Guidance, like the Principles, applies

to all firms in a distribution chain carrying out regulated activities regardless of whether they have a direct relationship with customer. All firms should consider the needs of vulnerable consumers and how they will ensure they treat them fairly. If firms do not operate across the whole distribution chain, they should consider which areas of the Guidance are relevant to them and apply it proportionately. For example, the product and service design section will still be relevant to a provider who does not directly interact with the end customer. The Guidance also applies to functions that are outsourced. We have added case studies to the revised Guidance at Annex 4 illustrating the responsibilities of firms to consider vulnerabilities even when they work through third party intermediaries.

The content of the Guidance

- 3.34** The draft Guidance in GC 19/3 proposed that, when seeking to treat vulnerable consumers fairly, firms should consider both consumers who are actually vulnerable and those who are potentially vulnerable. This was intended to demonstrate that there are some consumers who may not be vulnerable now, but who have certain characteristics that mean they may become vulnerable, and that firms need to take particular account of them because they are more susceptible to vulnerability.
- 3.35** The Guidance focussed firms' attention on the following areas:
- understanding the needs of vulnerable consumers
 - skills and capability of staff
 - taking practical action through product and service design; customer service and communications
 - monitoring and evaluation
- 3.36** We explained that the Guidance sets out how firms can comply with the Principles and that what the Guidance means for individual firms will depend on the specific context of the firm, including amongst other factors its target market, firm size, the markets it operates in and the characteristics of its customers.

Feedback received

Actual and potential vulnerability

- 3.37** Both firms and consumer bodies expressed doubt over the distinction between actual and potential vulnerability.
- 3.38** Firms were unclear about how to identify potentially vulnerable consumers and what actions should be taken compared to 'actually vulnerable' consumers or consumers more generally.
- 3.39** Consumer bodies also questioned the value of the distinction, arguing it would cause confusion among firms, distracting from focus on consumer needs and those most at risk. Many consumer groups also highlighted that all consumers are 'potentially vulnerable', eg due to life events, and consumers can be both 'actually vulnerable' and 'potentially vulnerable'.

- 3.40** Several respondents argued that the concept of 'potentially vulnerability' is flawed or redundant given that we have defined vulnerability as being at greater risk of harm.

Identifying vulnerability

- 3.41** Firms were concerned about the action we may take if they failed to identify vulnerability, particularly in cases where vulnerability is unobservable and has not been disclosed.
- 3.42** Firms also requested we clarify whether we expected them to analyse data to identify vulnerable customers and how they do this within the requirements of the General Data Protection Regulation (GDPR).
- 3.43** Firms had a range of interpretations of what they should be doing to identify vulnerability. In some cases, they planned to take actions that may go beyond what would be necessary to meet the standards set by the Principles and this was reflected in responses to the cost survey for the CBA. Some firms initially submitted high costs associated with staff training to support identification.

How to record and share data on vulnerability

- 3.44** Firms asked what data they should be recording, how they should record this data and how they should share it internally across their business and externally with third parties and third sector organisations.
- 3.45** Some respondents suggested we work with the Information Commissioner's Office (ICO) on additional Guidance on processing vulnerable customers' data under GDPR.

Requests for more case studies and examples to show the relevance of the Guidance to various business models including small firms and digital customer journeys

- 3.46** Some smaller firms and trade bodies expressed concern that the Guidance did not give enough examples on how smaller firms, different sectors and different business models can meet the needs of vulnerable consumers and comply with their obligations under the Principles.
- 3.47** Many firms stated that they found the case studies particularly useful in demonstrating what firms could do to treat vulnerable consumers fairly and some asked for additional case studies relevant to their sectors, business models and size. There were some requests for more Guidance on how firms with online platforms can support vulnerable consumers.

Working with third parties

- 3.48** Some respondents suggested that we signpost to useful external resources, including potential charity partners, third-party training providers and commercial registers to record vulnerability. Others questioned whether our suggestion that firms should work with charities and third-sector organisations to deliver good customer service, may lead to the charity and third sector becoming over-burdened by requests from firms.
- 3.49** Firms requested further information and clarity on their responsibility in developing good customer service to, and supporting, vulnerable consumers beyond referral to third party organisations or specialist agencies.

Customer service

- 3.50** Some respondents requested further content on Power of Attorney and third-party access outside of Power of Attorney to help their staff deliver good service where customers need someone to make decisions for them.

Communication channels

- 3.51** One firm asked whether the section on communications created an obligation on firms to introduce new communication channels or introduce services such as translation as standard.

Sale of products and services

- 3.52** Some respondents were concerned that the Guidance did not appear to apply to the sale of products and services.

Our response

Actual and potential vulnerability

- 3.53** We recognise the concerns about our use of the concepts of potential and actual vulnerability from both firms and consumer groups and we have updated the Guidance in response. We propose to move away from categorising consumers as 'actually', 'potentially', and 'non' vulnerable towards illustrating vulnerability as a spectrum of risk.
- 3.54** As discussed in Chapter 2, firms should recognise that all consumers are at risk of becoming vulnerable, particularly if they display one or more characteristics of vulnerability. For example, if a consumer loses their job or falls ill they are more likely to have different or additional needs to other consumers. If these needs are not met, they may be vulnerable to harm. If their resilience or capability is also low they may need more support and the risk of harm if they do not receive it is likely to be greater.
- 3.55** The extent of a person's vulnerability will change over time according to a range of factors, and people can be vulnerable on a short or longer-term basis. The actions of firms can mean that consumers are more or less likely to suffer harm. For example, if a consumer loses their job or falls ill and is not offered appropriate forbearance measures on their mortgage, this could lead to greater stress and anxiety which could cause further harm, such as taking an inappropriate additional product in an attempt to make up a shortfall.
- 3.56** Firms need to respond to the needs of all consumers along the spectrum of vulnerability. In doing so they should take particular care to ensure they meet the needs of consumers at the greatest risk of harm. These consumers are more likely to require support and adaptations than other consumers. But firms should also act early to prevent risk of harm growing, for example, firms should ensure their products and services have been designed to recognise and respond to the needs of vulnerable consumers in their target market and customer base.

Identifying vulnerability

- 3.57** We have considered firms' concerns around the impact of failure to identify and respond to vulnerability and the expectations that will be placed on staff. We recognise that firms can only take reasonable steps to identify and respond to vulnerability.

Proactive identification

- 3.58** Whilst we expect firms to understand the needs of vulnerable consumers, the Guidance does not place obligations on firms to proactively identify individual vulnerable consumers through staff interactions or the use of data analytics.
- 3.59** However, firms, particularly those that do not rely significantly on frontline staff in customer interactions (for example predominantly digital customer journeys), may find data particularly useful to understand their customer base and to identify characteristics of vulnerability in individual customers so they can offer support proactively. Firms exploring the use of machine learning and data analytics in this way may wish to consider contacting [Innovate](#) if they have questions about the application of our regulatory regime or if they wish to undertake a test in our Regulatory Sandbox. However, where questions relate specifically to the application of GDPR, the [ICO's innovation hub](#) or [sandbox](#) may be more appropriate.

Making it easy to disclose a need

- 3.60** We have set out in the Guidance that firms should set up their systems and processes in a way that will support and enable consumers to disclose their needs.
- 3.61** Firms should also be able to spot signs of vulnerability. Firms should help front line staff to understand how to actively listen out for information that could indicate vulnerability and, where relevant, seek information from customers displaying characteristics of vulnerability that will allow them to respond to their needs. Where firms do not rely on front line staff, for example in digital customer journeys, they should consider introducing tools, such as text boxes or chatbots, to allow consumers to share information about their needs.
- 3.62** Paragraph 3.18 of the Guidance sets out that the steps firms should take to seek information will depend on the type of interaction, the consumer, and the type of service provided. If a consumer displays a characteristic of vulnerability, staff should be proactive in following up on this, for example by sensitively asking if it might affect their needs or by offering a service that is available.
- 3.63** We recognise that, if a consumer is not willing to share information, it may not be reasonable for staff to continue asking questions. If a consumer attempts to conceal information, or is unaware they have additional needs, staff or customer service systems may not be in a position to recognise characteristics of vulnerability or related needs.

Responding to signs of vulnerability

- 3.64** Firms should ensure they respond to consumer needs where the consumer has told the firm about a need, where it is clear the consumer has characteristics of vulnerability or where there is relevant information noted on the consumer's file that indicates an additional need or vulnerability.
- 3.65** Firms should ensure that staff have the skills and capabilities and support they need to recognise characteristics of vulnerability and respond to consumer needs, for example by responding to a consumer's needs directly or by referring them to a specialist team or colleague for help.

Training staff

- 3.66** We recognise that firms will need to train staff to recognise and respond to vulnerability. Firms should consider how best to ensure that all of their staff have the right skills and capability to treat vulnerable consumers fairly. While firms may find that specialist staff and teams require additional stand-alone training, it may not be proportionate to send all staff on vulnerability training courses. Instead, to embed consideration of vulnerability into their culture, firms should consider updating existing training to reflect how the fair treatment of vulnerable consumers is relevant to their role.

How to record and share data on vulnerability

- 3.67** We have considered feedback from firms around the recording and sharing of data and have updated the Guidance in response. Our priority is that firms recognise and meet the needs of vulnerable consumers. To do this firms should have systems and staff that can understand what information is relevant to the fair treatment of vulnerable consumers and future interactions, and how to record and make that information accessible to staff that need it to respond to consumers' needs.

- 3.68** What information is recorded is up to firms to determine based on their target market and customer base. Firms also have a responsibility to comply with their obligations under GDPR. While we are not able to provide Guidance on GDPR, as this is the role of the ICO, we have included in the Guidance an appendix (appendix 1) that highlights aspects of data protection law that are most relevant for firms to consider when interpreting the Guidance. We have updated this, with input from the ICO, in response to feedback to include further information on relevant areas such as transparency and rights, accountability and data sharing.

- 3.69** Firms may wish to consider the benefits of working with their trade associations or industry groups to produce industry codes that address data protection issues or challenges within a sector. The ICO will provide advice and support to trade associations in developing codes of conduct.

Requests for more case studies and examples to explain the relevance of the Guidance to business models including small firms and digital customer journeys

- 3.70** We have considered requests to clarify how the Guidance relates to particular business models and sectors. Firms need to use their judgement to consider what actions may be proportionate to their business. We have updated the draft Guidance to reflect that firms, including small firms, should take actions that are proportionate to the size of their firm and their business model. Actions taken should always be guided by the characteristics of vulnerability and associated consumer needs in their target market and customer base.

- 3.71** Where firms rely on self-service digital customer journeys they should consider, in their product design, how their customer service can recognise and respond to vulnerability in the absence of interactions with front line staff. For example, firms could use online forms or prompts to encourage consumers to share information or request help.

- 3.72** We have added some further examples to the Guidance to reflect the types of actions firms of different sizes and business models and in different sectors can take to treat vulnerable consumers fairly. Our 'Financial Lives: the experiences of vulnerable consumers' research also includes further case studies, which firms can

use to understand the impact their actions can have on the outcomes experienced by vulnerable consumers.

- 3.73** The case studies and examples set out in the Guidance do not seek to cover every firm type or scenario as this is not possible given the diversity of firm business models operating in the sectors we regulate. Firms need to use their own judgement on what the Guidance means for them.
- 3.74** We support firms sharing good practice ideas and experiences on the fair treatment of vulnerable consumers. We will engage with trade associations to encourage them to support firms as they develop their strategies towards vulnerable consumers, however it is their role to determine how best to do this.

Working with third parties

- 3.75** It is up to firms to determine whether partnerships with other organisations or charities could improve outcomes for their vulnerable consumers. We have considered the possibility of maintaining a directory of useful resources. We see possible benefits and drawbacks to this: it could raise awareness of available resources amongst firms but we are concerned that including an organisation or charity in a directory could be seen as an endorsement. It may mean firms do not use resources that may be useful to them because they are not included on our list. In our view, it may be more appropriate for trade bodies to maintain such a list.
- 3.76** The Guidance suggests that where a firm believes that a customer may benefit from support or assistance from a third party, firms should signpost, or provide a 'warm handover' (this is introducing the customer, with their consent, to another organisation that can offer them assistance) if they are able, to the third-party organisation. Depending on the third party and the firm's partnership with that organisation, firms could maintain contact with the customer if appropriate or retain a 'feedback loop' with the third party.
- 3.77** Where there is immediate or serious risk to health or life (for example credible risks of suicide or threats to harm family members) firms should raise concerns with the relevant authorities.
- 3.78** We are aware that while they can offer valuable insight and services, consumer bodies and charities have limited resources and capability. We have engaged with the third sector and provided examples in the updated Guidance of different ways firms can engage with charities. Where possible, firm should seek to collaborate with charities for mutual gain.

Customer Service

- 3.79** The customer service section of the Guidance sets out what firms should be doing with regards to third party access and representation. We also provide a link to a guide, written with the Office of the Public Guardian (OPG) and UK Regulators Network (UKRN), that tells firms how to support customers who need help to make decisions. We believe that this is sufficient to give firms clarity on this topic. We suggest that firms consider, through their trade bodies, if there is a need for sector specific guides.

Communication channels

- 3.80** The Guidance highlights the importance of flexible and appropriate communications where necessary to ensure communications are accessible and understandable by vulnerable consumers in their target market and customer base. The Guidance sets out that firms should consider how they communicate with vulnerable consumers, taking into consideration their needs. Where possible, they should make multiple channels available so that vulnerable consumers have a choice.
- 3.81** Paragraph 4.76 of the Guidance sets out that firms with a predominantly single channel strategy should think about the possible communication needs that consumers with characteristics of vulnerability may have, and consider providing another channel or channels.
- 3.82** Firms are not required to translate their communications. However, they should consider whether doing this is proportionate if they see a significant need or demand for this in their customer base.

Sale of products and services

- 3.83** Firms should respond to the needs of vulnerable consumers at all stages of the customer journey and this includes the sale of products and services. For example, we explain in the communications section that firms should assess the challenges that consumers with characteristics of vulnerability may face at point of sale and ensure that information is provided in a way that the consumer will understand.

4 Second consultation on Guidance for firms on the fair treatment of vulnerable consumers

4.1 Having considered the feedback received to [GC 19/3](#) we are continuing with our proposal to issue Guidance under our Principles in relation to the fair treatment of vulnerable consumers. This chapter explains that we are now consulting on updates to the draft Guidance and our cost benefit analysis. We are also seeking views on our approach to monitoring firms' treatment of vulnerable consumers.

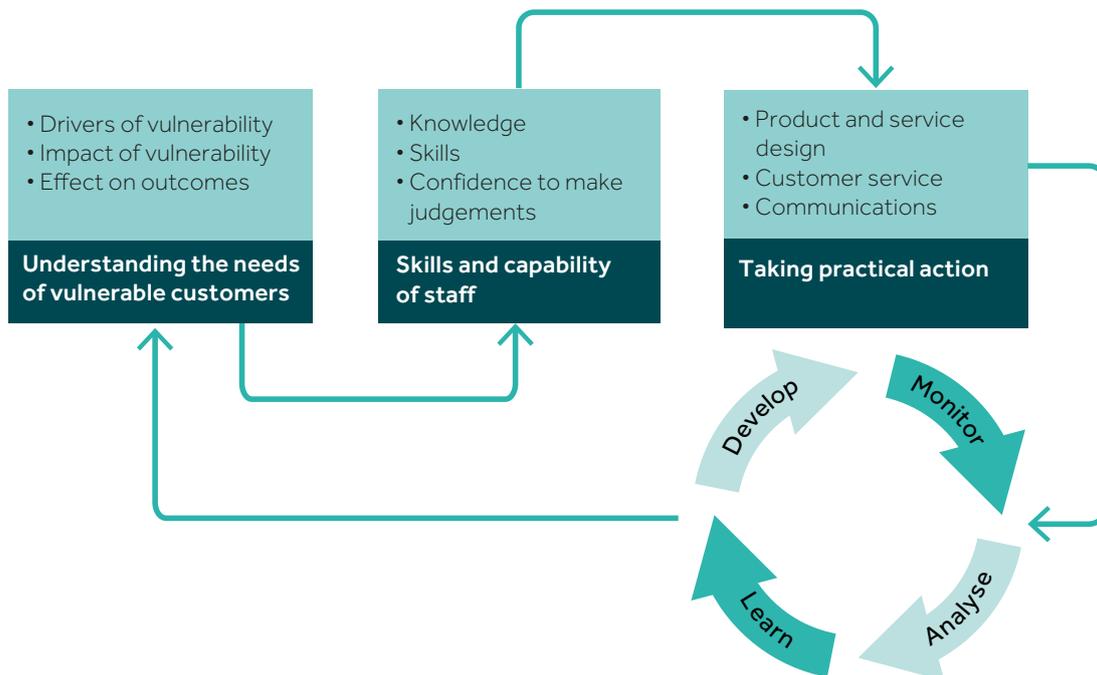
Updates to the draft Guidance

4.2 The general structure of the draft Guidance is unchanged from [GC 19/3](#) as shown in Figure 3. However, we have made changes in response to feedback and to provide clarity where needed. These include:

- updating the introduction of the draft Guidance to better explain the application of the Guidance and how it relates to our Principles. We set out how firms should understand vulnerability and why we are issuing Guidance. We summarise the content of the Guidance and other obligations firms should consider relevant to their treatment of vulnerable consumers.
- refining our descriptions of what firms 'should' do to make these as clear as possible and to avoid unnecessary repetition within the Guidance.
- moving some content to different sections of the guidance to improve clarity and avoid unnecessary repetition. For example, moving content relating to recognising vulnerability in individual consumers from Chapter 2 (Understanding the needs of vulnerable consumers) to Chapter 4 (Taking practical action) to make clearer the distinction between firms understanding vulnerability in their target market and customer base and recognising vulnerability in individual consumers.
- replacing some of the examples and case studies in the Guidance where feedback highlighted the originals were unclear or resulted in unintended interpretations.
- adding content to the Guidance in areas feedback suggested it was required, for example highlighting how the Guidance is relevant to small firms, digital customer journeys and complex distribution chains.
- making editorial changes to aid readers of the Guidance, ensuring the content is as clear as possible and to improve the flow of the document.

4.3 The updated Guidance is included at Annex 4 to this CP.

Figure 3 Meeting the needs of vulnerable consumers



4.4 We encourage stakeholders to read and provide feedback on the updated draft Guidance.

Q2: Do you have any feedback on the updated draft Guidance?

Cost Benefit Analysis

4.5 In line with the commitments set out in [GC 19/3](#), we have published at Annex 3 to this consultation a draft cost benefit analysis.

Q3: Do you have any feedback on our cost benefit analysis?

Monitoring and supervision

4.6 As discussed in Chapter 3, we recognise the importance of effective embedding and supervision to the success of the proposed Guidance. One objective in issuing the Guidance is to ensure that vulnerability is taken seriously by firms, embedded into their culture, policies and processes throughout the whole consumer journey, and backed up by supervision and enforcement action where appropriate.

4.7 We set out our plans to monitor and supervise firms' treatment of vulnerable consumers in Chapter 1. During our regular interactions assessing firms' senior managers, they will be asked about the actions their firms are taking to ensure they are treating vulnerable consumers fairly. We will consider where proactive supervisory work may be carried out in 2021 to 2022 focussing on sectors where we see the greatest potential for vulnerable consumers to experience harm.

- Q4:** Do you have feedback on what we should prioritise when monitoring firms' treatment of vulnerable consumers?
- Q5:** What types of information do you envisage it would be necessary for firms to collect, to assess the effectiveness of their policies and processes in respect of vulnerable consumers?
- Q6:** Do you have any other feedback on our proposals?

Annex 1

List of non-confidential respondents to GC 19/3

Updated on 2 December 2020

Association of British Insurers

Advice NI

Aegon

Age UK

Altus Consulting

Association of British Credit Unions

Association of Consumer Support Organisations

Association of Financial Mutuals

Association of Member Directed Pension Schemes

Association of Mortgage Intermediaries'

Aviva

AXA UK Group

Barclays

BGL Group

British Insurance Brokers Association

Brewin Dolphin

British Gas Insurance Ltd

Cabot Credit Management

Cameron Trinity Ltd

Capgemini Invent

CapitalOne (Europe) plc

Creditlink Account Recovery Solutions

CashPlus

Chartered Banker Institute

Chartered Insurance Institute

Christians Against Poverty

Cifas

Citizens Advice

Citizens Advice Scotland

City of London Law Society

CLASP

Compare the Market

Consumer Council for Northern Ireland

Consumer Finance Association

Credit Services Association

Cruse Bereavement Care

Debt Managers Standards Association

Digital Money Advice Services and Solutions Ltd

Direct Line Group

Dudley Building Society

Equity Release Council

Experian

Fair By Design

Fidelity International

Finance & Leasing Association

Financial Planning Forum Committee of the CISI

Financial Services Consumer Panel

Hey Habito Ltd

HIFX Europe Ltd trading as XE

IDO (BISL)

Institute and Faculty of Actuaries

Investment & Life Assurance Group

Investment Association

James Hay Partnership

Jim Shannon MP

Just Group plc

Key Group

KPMG LLP

Law Society of Scotland

Lending Standards Board

Leukaemia Care

Low Income Tax Reform Group

M&G Prudential

Macmillan Cancer Support

Mental Health UK

Money Advice Scotland

Money Advice Trust

Money and Mental Health Policy Institute

Money and Pensions Service

Monzo Bank

Morgan Ash

MySafeHome Ltd

National Bereavement Alliance

National Franchised Dealers Association

National Pawnbrokers Association

Nationwide

Paragon Customer Communications

Payplan

PensionBee

Pension Scams Industry Group

Personal Finance Society

Personal Investment Management & Financial Advice Association

Phoenix Group

PPI Advice Ltd

Principality Building Society

Rathbones Brothers plc

Responsible Finance

Revolut

RSA Insurance

Saga

Scope

Shoosmiths LLP

SimplyBiz

Speedfast Limited

Standard Life Aberdeen

Step Change

Stewarts

Surviving Economic Abuse

The Money Charity

TISA

Total Systems plc

Toucan

Triodos Bank UK

TSF Consultants

UK Finance

Vanquis Bank

Vestigium Services Ltd

Vulnerability Registration Service

Wescot Credit Services Limited

Wessex Investment Management Ltd

Wessex Resolutions CIC

Which?

Zurich

Annex 2

Consultation questions

- Q1:** Do you have any comments on our assessment of equality and diversity considerations of our proposed Guidance?
- Q2:** Do you have any feedback on the updated draft Guidance?
- Q3:** Do you have any feedback on our cost benefit analysis?
- Q4:** Do you have feedback on what we should prioritise when monitoring firms' treatment of vulnerable consumers?
- Q5:** What types of information do you envisage it would be necessary for firms to collect, to assess the effectiveness of their policies and processes in respect of vulnerable consumers?
- Q6:** Do you have any other feedback on our proposals?

Annex 3

Cost Benefit Analysis

Introduction

1. In July 2019, we issued our first consultation GC19/3: Guidance for firms on the fair treatment of vulnerable customers. This sets out our view of what the Principles of Business (the Principles) require of firms to ensure the fair treatment of vulnerable customers. We confirmed that we are adopting a two-stage approach to consulting on the Guidance.
2. There is no statutory requirement in the Financial Services and Markets Act 2000 for a cost benefit analysis on Guidance. However, we produce CBAs for general guidance if a high-level assessment identifies an element of novelty which may be prescriptive or prohibitive such that significant costs may be incurred. We are required to have regard to our regulatory principles, including the need to act proportionately and transparently, and we have carried out a CBA of our proposals.
3. In this CBA, we have assessed the potential impacts of the proposed Guidance. Where it is reasonably practicable to do so, we have provided monetary values for the impacts. Where we have been unable to quantify the impact, we have provided a qualitative assessment of these elements.

Problem and rationale for intervention

4. In GC 19/3 and GC 20/3, we outline how vulnerable consumers may be at increased risk of harm in financial markets, especially when firms do not take particular care in their treatment of vulnerable consumers. The FCA's Financial Lives 2020 survey suggests that in early 2020, before the coronavirus (Covid-19) pandemic, 46% of adults in the UK displayed one or more drivers of vulnerability. For example, nearly 11 million people had low financial resilience and 20% of UK adults had experienced a significant negative life event in the previous 12 months (Financial Lives 2020). We expect that more consumers will be in vulnerable circumstances since the onset of the pandemic, and we are taking steps to understand the changing nature of vulnerability to supplement our Financial Lives Survey. However, as set out below (at paragraph 1.24), we are of the view that this CBA, which was compiled based on data and information collected before the pandemic, remains a valid assessment of the costs and benefits.

Description of the harm

5. The presence of vulnerability leads to a risk of harm in the absence of intervention. This harm may lead to vulnerable consumers:
 - purchasing unsuitable or being mis-sold products or services that do not meet their needs

- being more at risk of debt
- being excluded from certain financial markets or paying more than efficient costs for products or services

6. These harms for vulnerable consumers can arise even when a market is competitive. In cases where market failures are present, vulnerable consumers may be more susceptible to harm. If firms do not exercise sufficient care in their treatment of consumers, it may lead to customers becoming vulnerable.

Description of the drivers of harm

7. In paragraphs 2.6 – 2.10 we discuss the consequences of vulnerability and the harms that we are trying to reduce. We also set out four key indicators of vulnerability in financial services; health, life events, resilience and capability. These were set out in our Occasional Paper on Consumer Vulnerability, and are also used in our Approach to Consumers paper and our Financial Lives Surveys.

8. Vulnerability can accentuate market failures, including asymmetric information and behavioural biases. In turn, these can lead to other market failures such as firm market power over vulnerable customers, which can lead to exploitation of consumers. Overall, the market failures drive the harms we have identified, for example vulnerable consumers paying higher than efficient prices. These market failures are explored below.

Asymmetric information between firms and vulnerable customers

9. Vulnerable consumers may be less likely than the average consumer to:

- Be able to access online information (e.g. due to a lack of skills or access), or access providers in person – impeding those consumers from searching the market, appraising options or finding products that meet their needs.
- Be able to process information about products and services.
- Be aware of their rights, including their ability to get redress when it is due.

10. Even if information is available, some vulnerable consumers face barriers in understanding and acting on it. Vulnerable consumers may be less likely to understand how to manage a product or service on an ongoing basis. For example, 48% of those with mental health problems surveyed by the Money and Mental Health Policy Institute reported being unable to weigh-up the advantages and disadvantages of a loan product.

Behavioural biases

11. Behavioural biases, such as aversion to loss or risk-taking tendencies during times of stress, impede consumers' ability to make choices that are in their best interests. Consumers displaying characteristics of vulnerability may be particularly affected by these biases. For instance, vulnerable consumers may have a 'scarcity mindset', which can lead them to focus on certain factors at the expense of others, resulting in the purchase of unsuitable products. In the absence of a dedicated consideration of vulnerability, even business practices that are consistent with a well-functioning market could risk leaving vulnerable consumers disproportionately worse off.

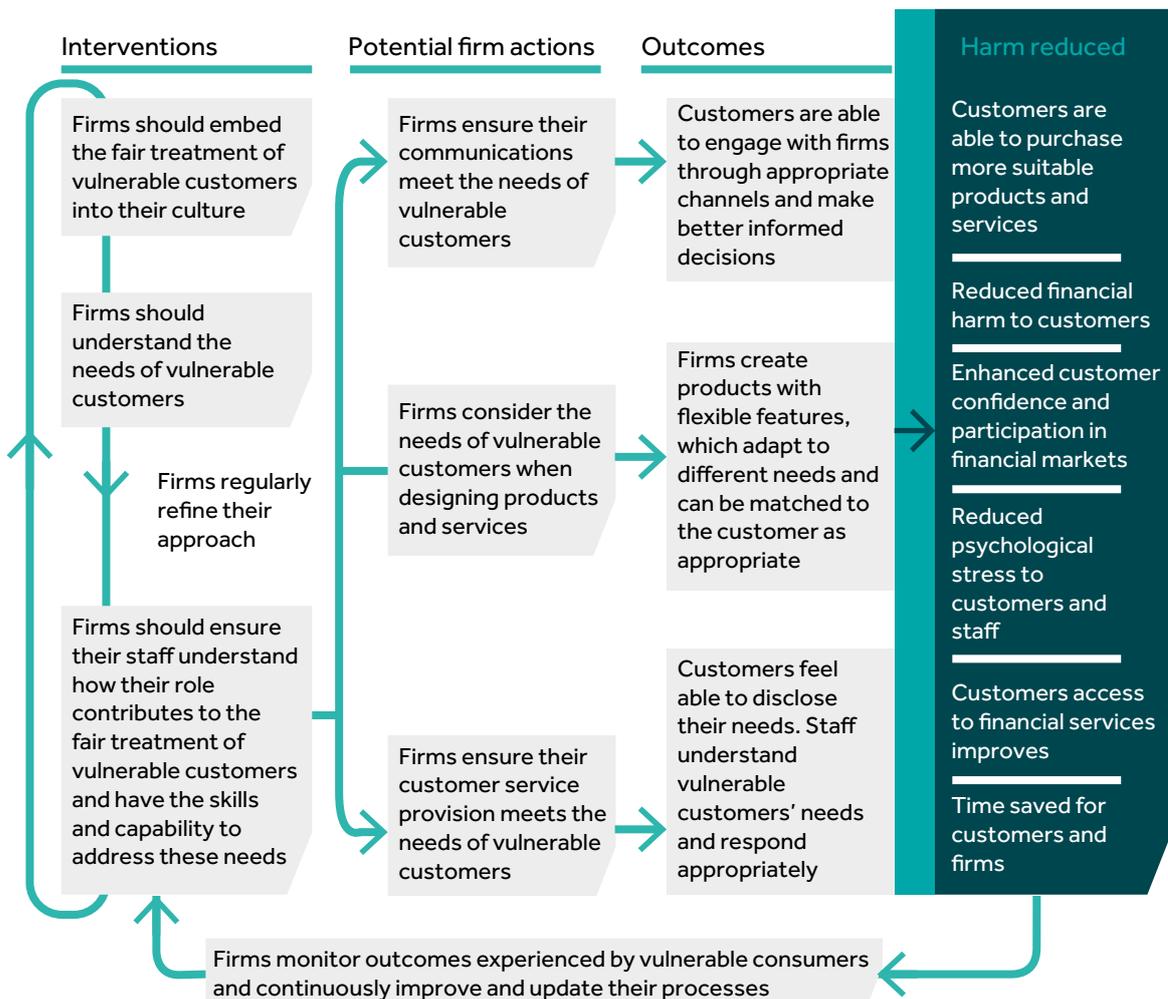
12. The combined effects of asymmetric information and behavioural distortions can contribute to vulnerable consumers purchasing unsuitable products and services, and paying higher than efficient prices.

13. In addition, certain firm practices such as framing information in certain ways can exploit information asymmetries and behavioural distortions, leading to harm for vulnerable consumers. A lack of trust in firm practices may contribute to disengagement or exclusion from financial markets among certain vulnerable groups, and worsen psychological stress. Vulnerable consumers may also be more likely to fall victim to scams and financial abuse.

Our proposed intervention

14. To address the harms above, we are consulting on Guidance for firms on the fair treatment of vulnerable customers. We want to introduce Guidance to drive change by providing clarity and focusing firms' attention on what they should do to comply with our rules, and ensure that vulnerable consumers are treated fairly and consistently. This Guidance does not provide a checklist of required actions, rather it provides options for ways in which firms can comply with the Principles.
15. Figure 1 below outlines how we expect this Guidance to improve outcomes for vulnerable consumers.

Figure 1. Causal chain



16. The range of interventions and potential firm actions are set out in [GC 19/3](#) and [GC 20/3](#).

Baseline and key assumptions

17. Our proposed Guidance applies to firms to which the Principles apply and that are involved in the supply of products or services to retail consumers (natural persons only). This includes firms that do not have a direct client relationship with the consumer.

Baseline

18. There are existing rules in the Handbook that relate to the fair treatment of all consumers, including vulnerable consumers, or specifically to vulnerable consumers. See Chapter 1 of the Guidance (Annex 4) which lists some examples of obligations that firms should consider relevant to their treatment of vulnerable customers, though this list is not exhaustive.
19. The starting point for our baseline is the activity that firms already take to treat vulnerable consumers fairly. Our supervisory work, stakeholder engagement and survey of firms has given us an overview of the actions firms are already taking to treat vulnerable customers fairly. Due to coronavirus, some firms may be taking further steps to treat vulnerable customers fairly, and we are carrying out work to understand the impact of the pandemic on consumers and vulnerability. This CBA is focused on the incremental costs and benefits arising from the proposed Guidance. These arise from novel elements of the Guidance, where we have indicated a firm should be considering a course of action to comply with the Principles.
20. In 2019, we commissioned a survey to gather information about firms' understanding and confidence in relation to vulnerability (127 firms responded to this survey). 84% of respondents confirmed that they have a policy in place for dealing with customers in vulnerable circumstances.
21. We also conducted a compliance cost survey of firms in 2019 (see below and Technical Appendix), from which we gained a more detailed understanding of firms' current approach to vulnerability. We found that:
- 75% of respondents have a fully or mostly developed approach to vulnerability.
 - 50% of respondents have a fixed and centralised approach to vulnerability.
 - 47% of respondents have existing plans in place to make changes or further develop their approach to vulnerability.
22. Based on firm responses to the survey on their expenditure to date, we estimate that the industry currently incurs annual costs of £1.4 billion in relation to approaching treating vulnerable customers fairly. This baseline does not form part of the cost of the proposed Guidance.
23. We have no evidence to suggest that the current harm arising from unfair treatment of vulnerable consumers is likely to increase or reduce as a result of trends and current initiatives in the market. Therefore, our baseline for the harm in the market is taken to be the existing level of harm. We undertook this CBA before the onset of coronavirus. Our view on the potential impacts of the pandemic on this CBA is set out in the section below.

Key assumptions

Impact of coronavirus

24. We undertook this CBA before the onset of coronavirus and the ensuing economic downturn. We are of the view that the CBA remains a valid assessment of the costs and benefits.
25. We set out below some of the potential impacts of coronavirus on the CBA:
- We expect that the proportion of consumers with characteristics of vulnerability will be greater since the CBA was undertaken. For example, coronavirus and the economic downturn have caused labour market conditions to deteriorate significantly. As of mid-June, over 9 million employees have been furloughed through the Coronavirus Job Retention Scheme. Therefore, more consumers are likely to stand to benefit from the implementation of the proposed guidance. However, this may also imply some increase in the elements of costs that vary in proportion to the number of vulnerable consumers (i.e. as opposed to elements of costs that are fixed).
 - Some firms may have independently enhanced their approach to vulnerable consumers, potentially to be more in line with the proposed guidance, as a result of the impact of coronavirus on consumers. Therefore, the costs that could be incurred in implementing the measures suggested in the proposed guidance may be lower than before the crisis. If this was the case, the incremental benefits of the guidance for customers of these firms would also be proportionately lower (as, in effect, the firms have already improved their practices).
26. In both of the cases, we consider that it is not reasonably practicable to estimate any changes to our pre-coronavirus estimates. While some of the cost categories we identify could vary to some degree according to the number of vulnerable consumers, it is not possible to identify the proportion of variable or fixed elements. And we consider that it would be disproportionate to re-survey firms to reflect any changes in practices since the start of the crisis.

Other key assumptions

27. In this CBA we also make the following key assumptions:
- We have assumed that the firms that have provided data on implementation costs are representative of the wider affected population. If responses were not representative, we would overestimate or underestimate the costs of our proposal. However, we consider that our approach minimises these risks and is reasonable for reasons set out in the Technical Appendix.
 - Furthermore, we assume the adjustments we have made to survey responses based on consultation with respondents (see the Technical Appendix) are representative of both the rest of the sample and the population.
 - Firms who provided cost information may have found it difficult to provide accurate estimates without having seen the final Guidance, and without completing a gap analysis to identify what changes need to be made. This was reflected in many qualitative responses throughout the survey. Following the adjustments made (see the Technical Appendix), we have assumed that the costs are an accurate reflection of the actions that firms will be taking.

Costs and Benefits

Summary of Costs and Benefits

- 28.** In the sections below, we have assessed the costs and benefits arising from the Guidance. While firms are not bound to adopt or follow any of the specific actions described in this Guidance, they must ensure they comply with the Principles, on which this Guidance is issued, and treat vulnerable consumers fairly.
- 29.** Our conclusions on the costs and benefits have been informed through consultation with firms, trade bodies and consumer groups. Costs and benefits that have not been reasonably practicable to quantify are described in the respective sections below.
- 30.** Table 1 summarises the monetised one-off and ongoing (annual) costs arising from each area of the proposed Guidance. To calculate estimated total compliance costs, we calculated the average cost for each firm size category in the sample and then multiplied this average by the number of firms in that category in the affected population. On a per-firm basis, the average one-off cost ranges from £3,200 for the smallest firms to £3.3 million for the largest firms. The average ongoing cost ranges from £2,400 to £2.4 million per year.
- 31.** Based on the FCA Register, we estimate the proposed Guidance will apply to 52,000 firms. When scaled up to the total affected firm population, the estimated total one-off cost of the Guidance is **£709.6 million** and the total ongoing cost is **£448.1 million per year**.
- 32.** The estimated total costs of the proposal are significant because of the large number of regulated firms the Guidance applies to. We believe the expected benefits of the Guidance are proportionate to the cost to industry, especially when compared against the number of customers potentially affected. We explore this further below.

Table 1: Summary of average and total cost of implementing the guidance by firm size

	Number of employees					Total policy cost
	Less than 50	50-249	250-999	1000-9999	10,000 and above	
Average one-off cost	£3.2k	£63.8k	£69.1k	£221.4k	£3.3m	
Average ongoing annual cost	£2.4	£33.3k	£20.8k	£152.8k	£2.4m	
Estimated number of firms	47,320	2,937	1,090	604	50	
Firms in Sample	175	39	22	20	5	
Total one-off costs	£149.5m	£187.4m	£75.3m	£133.7m	£163.1m	£709.6m
Total ongoing annual costs	£114.6m	£97.7m	£22.6m	£92.3m	£120.9m	£448.1m

Source: FCA analysis of compliance cost survey.

Notes: Estimates are rounded. The total one-off cost includes familiarisation costs of £542,000 incurred by CMCs (see section on costs).

Costs

Implementation costs to firms

- 33.** Our compliance cost survey set out the main categories of compliance costs that could arise from firms' implementation of the proposed Guidance. We have not made a separate estimation of familiarisation costs, as we understand that firms incorporated

these within the survey's categories below. However, we make a separate estimation of familiarisation costs for one group of firms, explained further below.

- 34.** Following the publication of GC 19/3, we held industry roundtables with firms from across the impacted sectors to gain feedback on the proposed Guidance. Some firms indicated that they could incur other types of cost, such as staff time arising from additional time spent with vulnerable consumers. We are not able to quantify these types of costs unless they were reported in survey responses (the questionnaire allowed firms to specify additional costs).
- 35.** The main categories of compliance costs are:
- Understanding the needs of vulnerable customers – Firms may incur costs to understand vulnerabilities and associated needs present in their target market or customer base. Firms may choose to carry out or use existing research and data to understand the vulnerabilities that may be present in their customer base.
 - Training and Development – Firms may incur costs in training and developing their staff by adapting and developing existing programmes to embed the consideration of vulnerable consumers. This could include external or in-house training, or purchasing e-learning courses, as well as the opportunity cost of staff time spent on more informal training or knowledge sharing sessions.
 - Communications – Considering the information needs of vulnerable customers in firm communications could give rise to certain costs, for instance in reviewing the language used in key documents or considering how to tailor communication channels.
 - Customer Service – If firms adapt customer service processes and systems to allow staff to respond flexibly to vulnerable customers, they could incur costs. This could also include IT systems changes, for instance to improve recording and information sharing between relevant staff on the needs of vulnerable consumers.
 - Product and Service Design – These could arise from firms integrating the consideration of vulnerable customers into the product and service design process. Firms may choose to hold focus groups or explore resources to understand how products can better meet the needs of vulnerable customers.
 - Monitoring and Evaluation – Firms could incur costs through efforts to monitor and evaluate their treatment of vulnerable customers. Firms may use feedback from customers and staff, or carry out reviews of processes and policies. Costs reported by respondents may also include time spent by board and executive committee members to review and discuss firm approaches to vulnerability.
- 36.** Our cost estimates according to these categories are summarised in Table 2 and Table 3 below. In reality, the cost incurred by each firm will vary depending on the actions taken to implement the Guidance. They may be lower or higher than the average costs below, depending on factors such as firm type, size and business model, and their current approach to vulnerable consumers.
- 37.** We have not made a separate estimation of familiarisation costs incurred, as we understand that firms incorporated these within the survey's categories.
- 38.** As explained in the Technical Appendix, we have excluded Claims Management Companies (CMCs) from the sample of firms because the consideration of vulnerability is already embedded into their rules. Nevertheless, we have assumed that CMC firms would still need to familiarise themselves with the proposed Guidance and to undertake a 'gap analysis' of their current processes against the Guidance. Based on our standard assumptions for these cost types, we estimate a total familiarisation cost to CMC firms of £542,000.

Table 2: Average one-off cost by firm size and area of guidance

Area of Guidance	Less than 50	50-249	250-999	1000-9999	10,000 and above
Understanding the Needs	£1.2k	£19.0k	£6.1k	£64.7k	£964.0k
Training and Development	£0.3k	£9.6k	£1.3k	£5.0k	£200.0k
Communications	£0.7k	£13.1k	£14.4k	£45.6k	£-
Customer Service	£0.1k	£5.6k	£30.4k	£62.5k	£400.0k
Product and Service Design	£0.4k	£12.4k	£5.4k	£18.9k	£1.7m
Monitoring and Evaluation	£0.5k	£4.2k	£11.4k	£24.6k	£-
Total average one-off cost	£3.2k	£63.8k	£69.1k	£221.4k	£3.3m

Source: FCA analysis of compliance cost survey.

Notes: There are zero average costs for Communications and Monitoring and Evaluation for firms over 10,000 employees. This is most likely due to the fact that the large banks and insurers already have established communications channels and processes for monitoring consumer outcomes.

Table 3: Average ongoing annual cost by firm size and area of guidance

Area of Guidance	Less than 50	50-249	250-999	1000-9999	10,000 and above
Understanding the Needs	£-	£-	£-	£-	£-
Training and Development	£1.1k	£14.3k	£9.2k	£63.2k	£400.0k
Communications	£-	£-	£-	£-	£-
Customer Service	£0.6k	£6.8k	£5.4k	£47.3k	£2.0m
Product and Service Design	£-	£-	£-	£-	£-
Monitoring and Evaluation	£0.7k	£12.2k	£6.1k	£42.4	£51.5k
Total average ongoing cost	£2.4k	£33.3k	£20.8k	£152.8k	£2.4m

Source: FCA analysis of compliance cost survey.

Notes: Average ongoing costs for the 250-999 group are lower than those for the 50-249 group. This is inconsistent with our expectation that average costs will be positively correlated with firm size. The pattern we observe could be due to a small sample size and large variance of cost estimates. Also note that average ongoing costs for Understanding the Needs, Communications and Product and Service Design are zero as they are assumed to be entirely one-off (see Technical Appendix).

Table 4: Total one-off cost by firm size and area of guidance

Area of Guidance	Less than 50	50-249	250-999	1000-9999	10,000 and above	Total
Understanding the Needs	£56.2m	£55.7m	£6.7m	£39.1m	£47.7m	£205.5m
Training and Development	£12.5m	£28.1m	£1.5m	£3.0m	£9.9m	£55.1m
Communications	£33.0m	£38.5m	£15.7m	£27.6m	£-	£114.7m
Customer Service	£5.3m	£16.5m	£33.1m	£37.8m	£19.8m	£112.5m
Product and Service Design	£18.9m	£36.3m	£5.9m	£11.4m	£85.7m	£158.2m
Monitoring and Evaluation	£23.6m	£12.2m	£12.4m	£14.9m	£-	£63.1m
Total	£149.5m	£187.4m	£75.3m	£133.7m	£163.1m	£709.6m

Source: FCA analysis of compliance cost survey.

Notes: The total one-off cost includes familiarisation costs of £542,000 incurred by CMCs (see section on Costs).

Table 5: Total ongoing annual cost by firm size and area of guidance

Area of Guidance	Less than 50	50-249	250-999	1000-9999	10,000 and above	Total
Understanding the Needs	£-	£-	£-	£-	£-	£-
Training and Development	£51.8m	£41.9m	£10.1m	£38.2m	£19.8m	£161.7m
Communications	£-	£-	£-	£-	£-	£-
Customer Service	£30.4m	£20.1m	£5.9m	£28.6m	£98.5m	£183.4m
Product and Service Design	£-	£-	£-	£-	£-	£-
Monitoring and Evaluation	£32.4m	£35.7m	£6.7m	£25.6m	£2.6m	£103.0m
Total	£114.6m	£97.7m	£22.6m	£92.3m	£120.9m	£448.1m

Source: FCA analysis of compliance cost survey.

- 39.** The estimated total one-off and ongoing costs of the Guidance are £709.6 million and £448.1 million.
- 40.** While we have used the survey responses to estimate these costs, we recognise that some firms may not have submitted costs that are truly incremental as a result of the Guidance. Where possible, we have taken steps (as detailed in the Technical Appendix) to ensure that the data is reflective of additional costs that could be incurred in implementing the measures suggested in the proposed Guidance.
- 41.** These overall figures are sensitive to the assumptions that we apply to the data. Because the guidance applies to 52,000 firms, a £1,000 change in overall per-firm estimated average cost, for example, would amount to a £52 million change in total estimated costs. However, we believe that our estimates of the incremental costs of this Guidance are reasonable.

Costs to the FCA

- 42.** We do not anticipate a significant increase in costs for the FCA. The proposed Guidance will build on our existing supervisory approach and will be taken forward within existing resources, see Chapter 1 in GC 20/3 for more information.

Indirect Impacts

- 43.** It is possible that there may be additional indirect costs arising from the Guidance. For example, customers could spend more time on interactions with financial services. Equally, as explored below, there could also be time saved due to clearer information and more efficient processes.
- 44.** In addition, firms who are facing higher compliance costs may increase prices for consumers. There is also the potential loss of profits which is not captured in the cost survey. It has not been practicable to quantify potential lost profits from changes in firm behaviour.

Benefits to consumers

45. We have identified potential benefits by analysing the harm experienced by vulnerable consumers and the impact this has in the absence of the proposed Guidance. We have found the potential benefits for both consumers and firms from introducing the Guidance are in four key areas, in line with the [FCA benefits framework](#):
- *More appropriate consumer transactions* – consumers are enabled to make more informed decisions leading to an improved matching of appropriate products/ services to consumer needs.
 - *Reduction in the probability of individuals experiencing financial loss/harm* – reduced financial losses to consumers from unsuitable product purchases (e.g. unaffordable credit) and improved access to financial services generally.
 - *Reduced psychological stress* – firm employees feel better equipped to handle challenging situations, and consumers will be more likely to receive timely, appropriate support that meets their needs. This will reduce stress and lead to enhanced consumer confidence and participation.
 - *Time saved* – arising from better quality transactions and interactions, and avoiding the effort of seeking compensation or redress.
46. We expect all potential benefits to be on-going. Although it is not reasonably practicable to quantify them, we have provided an illustrative comparison between the costs and potential benefits.
47. To illustrate the scale of those impacted, we have analysed the results of a survey of over 1,600 frontline and specialist staff in lending firms [conducted by the University of Bristol](#) in 2017. The results imply that 5% of staff's consumer interactions are with individuals with problems comprehending and assessing information, which can be a key indicator of some forms of vulnerability.
48. This figure compares with potentially higher estimates of the incidence of vulnerability indicated through analysis of the [FCA Financial Lives 2020](#) survey. For instance, 1 in 5 (20%) UK adults deem their own financial capability as particularly low, and nearly 1 in 4 (23%) had low financial resilience. An alternative illustration of the extent of vulnerability, therefore, could be in the region of 20% of adults. Note that these figures are prior to coronavirus, and the number of consumers with these characteristics of vulnerability is now likely to be higher than our Financial Lives findings.
49. Although vulnerability can take many forms, we might assume from the evidence in paragraph 1.45 that at least 5% of UK adults are vulnerable. As there are approximately 50 million adults in the country, this would imply that there are 2.5 million consumers who might benefit from the Guidance each year. Therefore, ongoing costs of around £448 million per annum, would be offset if each vulnerable consumer experienced benefits of on average around £180 per year.
50. If instead we assumed that around 20% of consumers are vulnerable, as per the estimates from [Financial Lives 2020](#) of the proportions of adults displaying low financial capability or displaying low financial resilience (see paragraph 1.46), the break-even point at which ongoing benefits would exceed ongoing costs would be on average less than £50 per consumer per year.
51. These required savings of £50-£180 per consumer per year could arise across any of the financial services products that these vulnerable consumers hold; for example, they could be delivered in smaller values across several different products or in relation

to one particular change in behaviour. For example, optional blocks on payments (e.g. gambling), increased engagement leading to lower interest rates and charges or time saved.

- 52.** These break-even figures are purely illustrative, and do not reflect the number of consumers who could become vulnerable due to poor firm actions and their potential costs saved, or non-monetary benefits such as reduced psychological stress or increased consumer confidence.
- 53.** The illustration above could differ from reality in several ways. For instance, a different proportion of consumers in retail lending could exhibit problems in comprehending and assessing information than other sectors due to external reasons. Staff in retail lending firms may be more likely or less likely to notice such characteristics than in other industries. And rates of vulnerability may differ among modes of communicating with firms (i.e. telephone or online). The characteristics noted in the University of Bristol study are only one indicator of vulnerability.
- 54.** The monetary savings and non-monetary benefits we expect to see arising from the Guidance could be achieved in a range of ways, these are explored in detail below.
- 55. Improved matching of products and services to consumer needs, and better-quality transactions.**
- The proposed Guidance should improve the likelihood of firms adapting their products to meet the needs of vulnerable customers in their customer base or target market. Therefore, these customers should have more choice, and are more likely to be matched to appropriate products and services, achieving more appropriate consumer transactions.
 - To illustrate this, we have considered another recent intervention carried out by the FCA to improve navigation of the travel insurance market for consumers with pre-existing medical conditions. The objective of this intervention is to improve access to products that are more appropriate for the customer's needs. This intervention was estimated at delivering consumers with the annual savings of £6.8-7.5 million through lower prices paid. While this is a separate intervention, it illustrates the quantitative benefits that could be achieved through improved matching of products and services to consumer needs.
 - In our research survey exploring firms' understanding of vulnerability, 41% of respondents reported they had not made any modifications of their product range to meet the specific needs of vulnerable customers.
 - Research indicates that as many as 3 million disabled people feel that they are either charged too much for insurance or denied cover. This is often due to firms failing to understand individual needs and therefore not offering appropriate products, which can result in psychological stress. Encouraging customers to disclose their needs should help them find more suitable products.
 - Macmillan Cancer Support reports that 39% of people with cancer have used savings, sold assets or borrowed to cover the costs or the loss of income caused by their diagnosis. However, a previous report by Macmillan showed that following disclosure of their cancer diagnosis to their financial service providers, 37% of people living with cancer have an increased awareness of, and are able to take up, options designed to help with their circumstances. This illustrates how if consumers felt more comfortable disclosing their needs to their financial provider, firms should be more likely to match them to appropriate products and services.

This should reduce the probability of individuals with a diagnosis of a long-term health condition experiencing financial loss/harm.

- Increasing the number of products designed with the needs of vulnerable customers in mind should lead to increased disclosure of conditions. Customers will see that firms are thinking about their needs and understand the benefits of disclosure, reducing psychological stress and enhancing consumer participation.

56. More flexible customer service and product features can help to prevent further financial harm/spirals.

- According to the FCA's 2014 report 'Vulnerability Exposed', the vast majority of problems experienced by consumers related to poor customer interaction or systems which didn't flex to consumers' needs. This can result in negative experiences and detrimental outcomes for vulnerable consumers. For example, the Financial Lives 2020 survey reported that around 130,000 vulnerable customers in arrears in the last 6 months (on their credit card or store card bills or on other credit commitments) had had contact with their lender(s) and said their lender(s) were unsympathetic to their difficulties, unwilling to allow them more time to pay and had not encouraged them to seek free debt advice. Improving the customer experience and providing staff with the ability to respond to customer needs flexibly should reduce the probability of individuals experiencing financial loss, and reduce intangible harms such as psychological stress.
- A University of Bristol study showed that 42% of staff working in debt advice agreed that clearer processes or procedures would improve the way they work with vulnerable consumers. Producing clearer procedures for dealing with consumers in vulnerable situations could further support frontline and specialist staff, and reduce the potential for further financial harms, as well as their psychological burden. Having a clear customer journey and internal processes will also save time for both consumers and firms.
- The research conducted by the University of Bristol implies that only 3% of people with comprehension issues engaging with the debt advice sector would seek additional help on their own. By improving customer service and taking proactive steps to encourage consumers to disclose their needs, staff will know what additional support is needed, which should reduce the probability of individuals experiencing financial loss/harm.
- For example, over 3,700 people have been referred from a large retail bank to Macmillan's financial guidance service (or vice versa) for further assistance. Out of these referrals, over £485,000 in additional support has been given to people in need since the partnership was initiated in 2017. This illustrates that if the firm had not been able to signpost the vulnerable person to the additional support provided by Macmillan's Financial Guidance Service, the customer may have had to take on these costs themselves, equating to £131 per customer.

57. Meeting the communication needs of vulnerable customers can improve their decision making and save time for both firms and consumers.

- At present, asymmetrical information between firms and consumers causes an imbalance of knowledge, leading to harm and uninformed decisions. 54% of debt advice staff surveyed by the University of Bristol agreed with the statement that "training on communication with and handling vulnerable consumers" would "improve the way they work with vulnerable consumers". This should lead to a reduction in the probability of an individual experiencing financial loss/harm as they should be able to access timely information that could inform their decisions.

- The Money and Mental Health Policy Institute reports that people whose mental health has led to problems with social cognition are often reluctant to bring problems to their providers' attention, often because of the emotional strain of trying to interact with other people. Making this as easy as possible for individuals, for example by having alternative ways customers can report or share information with their provider, will support customers with this psychological burden.
- The Money and Mental Health Policy Institute further suggests that 75% of customers with mental health problems have serious difficulties engaging with at least one commonly used communication channel, such as the telephone, email or letters. Meeting the communication needs of vulnerable customers should improve their decision making and save time for both firms and consumers.

Technical Appendix – Cost Estimation Methodology

58. This Technical Appendix explains in detail our sampling approach, data cleaning, assumptions and adjustments that we have made to the raw data, as per routine validation of survey responses.

Sample size and adjustments to the sample size

59. We sent 2,141 firms our survey on costs and benefits arising from the proposed Guidance. This sample size was chosen based on the estimated response rate to the survey.
60. The survey sample reflects the population of firms that the Guidance will apply to. We also included 71 firms who have attended previous industry events related to the proposed Guidance and engaged with us throughout this project. We drew randomised samples from the different sectors affected by the proposed Guidance. These are:
- Claims Management
 - General Insurance & Protection
 - Investment Management
 - Payments and e-money
 - Pensions & Retirement Income
 - Retail Banking
 - Retail Investments
 - Retail Lending
61. We received responses from 733 firms, representing a response rate of 34%.
62. In cleaning the data we took the following steps:
- 373 firms were not able to quantify costs arising from the guidance and were excluded from our calculations. Firms reporting costs of zero are included in the average calculations.
 - Firms reported estimated costs in either monetary terms or in full-time equivalent staff (FTE). We refer to these as 'FTE responses'. Of the remaining 360 firms in the sample, 221 responded in monetary terms and 139 responded in FTE units. To convert FTE responses to monetary figures, we estimated the cost of staff time to the firm. We assumed an average salary of £44,615, and added 30% to account for firm overheads. Each FTE unit is therefore converted to £58,000.
 - Since we do not have information on the type of employees referred to in FTE estimates, we took a weighted average of salaries based on data from the Willis Towers Watson 2016 Financial Services Report, adjusted for subsequent annual wage inflation. We assumed a single salary estimate for firms of all sizes, which may slightly over-estimate for smaller firms since the data source primarily relates to large and medium-sized firms. In addition, the estimate is likely to be an upper bound as the majority of affected staff are likely to be client facing and may receive a lower salary than our assumption.
 - After calculating the additional monetary cost for each firm, we removed outliers according to two criteria:
 - Where the additional monetary cost reported for the proposed guidance was more than 25% of a firm's total revenue. This reduced the sample by 11 observations.
 - In FTE responses, where the reported number of full-time staff allocated to vulnerability was higher than 25% of that firm's total staff. We took the

threshold to be FTE greater than 25% of the mid-point of the size category (i.e. 25 would be the mid-point of 'less than 50 employees'). This reduced the number of observations by a further 67.

- While the thresholds above are arbitrary, we believe that we have taken a conservative approach and removed only responses that are very likely to be erroneous. 76 out of the 78 excluded observations on this basis were FTE responses. The overestimation in these cases is most likely due to using a different FTE definition (e.g. days per year).
- We excluded four respondents who indicated that they do not have retail clients and are therefore not affected by the proposed Guidance.
- We noted that many of the FTE responses which remained in the sample after cleaning had significantly higher costs than firms reporting in pounds. We therefore followed up with the remaining FTE respondents to confirm the definition of FTE used. As a result, we excluded five firms who used a different definition of FTE (e.g. hours per week). A further 12 firms were removed because they did not confirm the FTE definition used.

63. The final sample size used to estimate compliance costs was therefore 261 firms.

Firm size

- 64.** Our approach to estimating the total additional compliance cost of the Guidance involved calculating the average reported cost for groups of firms of different size. We then scaled up according to how many firms are in each size category.
- 65.** To ascertain firm size, survey respondents were asked to provide the total number of employees in their organisation according to five categories: less than 50 employees, 50-249 employees; 250-1,000 employees; 1,000 – 9,999 employees and 10,000 employees or more. Initially we had 7 categories: less than 50 employees; 50-249; 250-499; 500-999; 1,000-4,999; 5,000-9,999; and 10,000 employees and above. Due to a small sample size, we combined several of these categories.
- 66.** We estimated the number of firms in each size category by extrapolating from existing regulatory data. For example, firms with fewer than 50 employees account for 91% of regulatory returns, hence we take the total number of firms with fewer than 50 employees in the total affected population to be 47,320 (91% of 52,000).
- 67.** Note that we assumed the distribution of firms by size among the affected population was the same as the distribution among firms completing FCA data return RMA-G. While this assumption is unverifiable based on the data we hold, we consider our approach to be preferable to alternative methods of scaling up such as using turnover or more generic measures of firm size. Results could have been scaled-up on the basis of primary sector of activity, but this would have assumed equivalence between firms of vastly different sizes, which was not realistic based on preliminary analysis. We did not have sufficient sample size to scale-up results on both number of employees and sector.
- 68.** Table 6 summarises the estimated number of firms in the market, number of total survey respondents, and number of valid responses used to estimate costs, by size category.

Table 6: Firms by number of employees

	Less than 50	50-249	250-999	1,000-9,999	10,000 and above	Total
Firms in Population	47,320	2,937	1,090	604	50	52,000
Survey Responses	512	105	54	52	8	731
Valid Responses	175	39	22	20	5	261

Source: FCA compliance cost survey.

Categorisation of costs

69. Firms were asked to report compliance costs according to five separate categories, and to distinguish between staff costs, IT systems costs and 'other' costs for each category. From this breakdown, we have inferred which costs are ongoing and which are one-off according to Table 7 below. These distinctions are based on analyses of previous FCA CBAs and on our discussions with firms on the nature of the costs they expect to incur.

Table 7: Compliance cost categories and assumed distinction between one-off and ongoing annual costs

Area in the Guidance	Type of Cost		
	Staff	IT systems	Other
Understanding the needs	One-off	One-off	One-off
Training and development	Ongoing	One-off	One-off
Communications	One-off	One-off	One-off
Customer service	Ongoing	One-off	One-off
Product and service design	One-off	One-off	One-off
Monitoring and evaluation	Ongoing	One-off	Ongoing

Adjustments to ensure only incremental costs are included

70. We have taken steps to understand the cost data provided by firms. This has led to some adjustments from the original responses.
71. First, we identified that several firms had misinterpreted aspects of the proposed Guidance, causing them to overestimate costs. Therefore, we contacted a random sample of 34 firms to set out clarifications for these aspects of the Guidance, and asked them if they wished to submit revised costs. 17 firms submitted revised costs, and we used these revisions to estimate an average reduction for each size category, and extrapolated this to the rest of the sample. The average reductions are summarised in Table 8 below.

Table 8: Follow Up Reductions of Average Cost by Firm Size

Firm Size (Employees)	Average Reduction	Sample Size
Less than 249	-2%	8
250-9,999	-16%	9
10,000 or more	N/A	0

- 72.** Second, we carried out analysis of the proposed Guidance compared to existing sector specific rules, to ensure we are only capturing incremental costs from the proposed Guidance. We identified that the consideration of vulnerability is already embedded into rules for Claims Management Companies (CMCs). CMCCOB 2.1 states that *Firms carrying on regulated claims management activities must establish and implement clear, effective and appropriate policies and procedures to identify and protect vulnerable customers*. The detail in the existing rules means that CMCs should already be aware of the actions they need to take in relation to vulnerable customers. Therefore, we removed costs for CMC firms from the total cost estimates, apart from those arising from monitoring and evaluation, for which the proposed Guidance provides additional clarifications. We did include familiarisation costs for CMCs, as set out in paragraph 38 of our cost benefit analysis.
- 73.** Third, firms were asked to submit details of training and development costs associated with the proposed Guidance in Section 3 of the compliance cost survey. However, responses to this section are likely to considerably overlap with training and development estimates in Section 4 of the compliance cost survey, alongside all other cost types. We have taken the Section 4 figures in our CBA estimates, as these are defined on the same basis as all other cost types. However, for transparency, we have compared our results with the implied costs from Section 3. Our estimates from Section 3 are an opportunity cost of staff training and development of £133 million one-off and £198 million ongoing. This contrasts with the £54 million and £158 million estimated based on responses to Section 4.
- 74.** We took the training time requirements for different staff types submitted by firms and matched each with an average hourly salary estimate. We used annual salary estimates from the Willis Towers Watson 2016 Financial Services Report, uprated for annual wage inflation, adding 30% firm overheads, and assuming 225 working days per year and 7 working hours per day. These figures do not include estimates for training development costs (eg developing e-training or purchasing external training) since we do not have a practicable method to estimate these based on firm responses.

Annex 4

Draft Guidance for firms on the fair treatment of vulnerable consumers

1 Introduction

- 1.1** In our 2018 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 based on a combination of Principles for Businesses (the Principles), other high-level rules and detailed rules and guidance.
- 1.2** This Guidance is issued under section 139A of the Financial Services and Markets Act 2000 as guidance on our Principles. It sets out our view of what the Principles require of firms to ensure fair treatment of vulnerable consumers.
- 1.3** It applies to all firms where the Principles apply, regardless of sector. It applies in respect of the supply of products or services to retail customers who are natural persons.
- 1.4** In this Guidance, the term 'retail customer' has the same meaning as 'retail client' as defined in our Handbook Glossary. We use the terms vulnerable consumer and vulnerable customer throughout the Guidance to refer to retail customers who are 'natural persons' and have characteristics of vulnerability.

The Principles

- 1.5** We want vulnerable consumers to experience outcomes as good as those for other consumers and receive consistently fair treatment across the firms and sectors we regulate.
- 1.6** There is a risk that vulnerable consumers may not experience good outcomes due to their circumstances. They may have additional or different needs that affect their ability and willingness to engage with financial services, make decisions or represent their own interests. Firms should therefore take particular care when it comes to treating vulnerable consumers fairly.
- 1.7** 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 consumers are set out in Figure 1.

Figure 1: The Principles underpinning the fair treatment of vulnerable consumers

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.

1.8 The key Principle underpinning the need for firms to take particular care in the treatment of vulnerable consumers is Principle 6 – Customers' interests.

1.9 In Figure 2 we have set out 6 outcomes, under Principle 6, that firms should strive to achieve. Alongside the Principles, these outcomes are at the core of what we expect of firms for all consumers, including vulnerable consumers.

Figure 2: Consumer outcomes that firms should strive to achieve for all consumers.

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.

1.10 PRIN 1.2.1G states that the extent to which firms meet their requirements under Principles 6, 7 and 9 will depend, in part, on the characteristics of the consumers concerned. The relevant interests and needs that firms must have due regard to will depend on those characteristics, and what is reasonable care in the relevant circumstances will depend in part on the characteristics of the consumer.

1.11 Beyond specific interactions with consumers, firms should integrate an understanding of the needs of vulnerable consumers into their business. To meet the requirements of Principles 2 and 3, this means ensuring the business and staff have the necessary knowledge and skills to treat vulnerable consumers fairly, and that there are adequate

processes and control systems in place to ensure the firm is mitigating the risk of harm to vulnerable consumers.

Who are vulnerable consumers?

1.12 A vulnerable consumer is:

“someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care.”

1.13 We have identified 4 key drivers which may increase the risk of vulnerability.

1.14 These are:

- **Health** – health conditions or illnesses that affect the ability to carry out day-to-day tasks.
- **Life events** – major life events such as bereavement, job loss or relationship breakdown.
- **Resilience** – low ability to withstand financial or emotional shocks.
- **Capability** – low knowledge of financial matters or low confidence in managing money (financial capability). Low capability in other relevant areas such as literacy, or digital skills.

1.15 Our Financial Lives 2020 survey found that just under half (46%) of UK adults, (24.1 million people), display one or more characteristics that fall under these 4 drivers. This research was carried out in the months before the coronavirus pandemic, and we expect that the number of vulnerable consumers will now be higher due to the impact of the pandemic and lockdown. We will carry out further research to understand the recent changes in the scale and nature of consumer vulnerability including updating our Financial Lives data.

1.16 Some groups are more likely to display characteristics of vulnerability than others, such as those over 75, the unemployed, those who rent and those with no formal qualifications. Consumers will often display more than one characteristic of vulnerability. Figure 3 uses results from our Financial Lives 2020 survey to give an overview of the proportion of UK adults displaying each of these drivers and the different combinations of drivers.

best outcomes for all consumers achieved where commitment comes from the top and where there is a culture of feedback and learning from the frontline.

- 1.21** In our *Approach to Supervision*, we outline the focus we place on business models and culture as the key drivers of harm in firms. To identify the types of harm a firm could cause, we use a firm assessment model which sets out 9 key areas that we assess, each made up of a number of specific elements. A similar model is used to assess portfolios of firms.

How do we assess a firm's culture?

- 1.22** When we assess culture, we look at what drives behaviour in a firm. We address the key drivers of behaviour which are likely to cause harm. These include:

- the firm's purpose (as understood by its employees).
- the attitude, behaviour, competence and compliance of the firm's leadership.
- the firm's approach to managing and rewarding people (e.g. staff competence and incentives).
- and the firm's governance arrangements, controls and key processes (e.g. for whistleblowing or complaint handling).

- 1.23** We want firms to use this Guidance to embed the fair treatment of vulnerable consumers into their culture, policies and processes throughout the whole consumer experience, from product design to customer service. This includes understanding the needs of vulnerable consumers, making sure that staff have the right skills and capability to meet those needs, and taking practical action through product and service design, customer service and communications to identify and respond to the needs of vulnerable consumers. It also includes monitoring and evaluating this in a continuous cycle of improvement.

The application of the Guidance

- 1.24** The Guidance is relevant to all firms to which the Principles apply that are involved in the supply of products and services to retail customers who are 'natural persons', even if they do not have a direct client relationship with the customers. For many firms, the entire Guidance may be relevant to their business. For other firms, including those that do not have a direct relationship with consumers, for example in complex distribution chains, only certain chapters might be relevant.
- 1.25** This Guidance does not provide a checklist of required actions, but sets out ways in which firms can comply with their obligations under the Principles. It will apply to firms in different ways because of the significant diversity across and within sectors. Precisely what the Guidance means for individual firms will depend on the specific context of the firm, including, amongst other factors, its size, the markets it operates in and the characteristics of its target market and its customers.
- 1.26** While firms are not bound to adopt or follow any of the specific actions described in this Guidance, given that the Guidance itself is not legally binding, they must comply with the Principles, on which this Guidance is issued, and treat vulnerable consumers fairly. The Principles are legally binding and therefore enforceable. Firms should use their judgement on what the Guidance means for them in each of the key areas

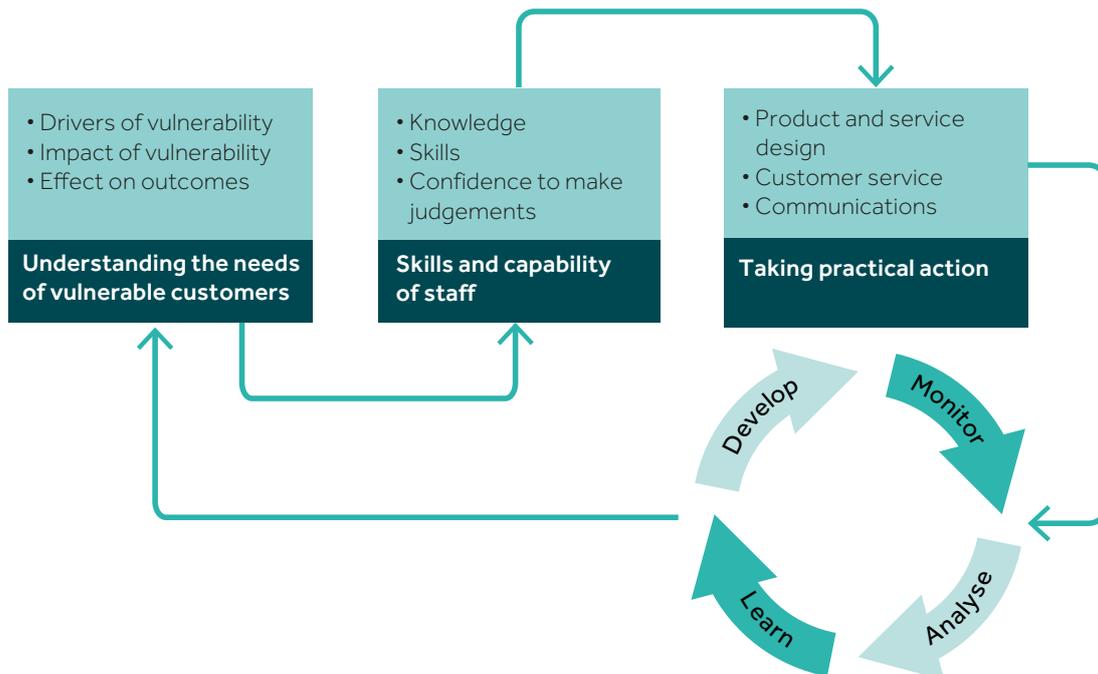
outlined in Figure 4 below. They should consider if any of the actions suggested would help them to comply with the Principles, and they may also consider other ways to do this. We will use this Guidance to supervise firms in a proportionate way.

- 1.27** We supervise and enforce against the standards set by our Principles. This Guidance will support discussions between firms and supervisors about the treatment of vulnerable consumers. Firms need to be able to demonstrate how their culture and processes result in the fair treatment of all consumers, including those who are vulnerable.
- 1.28** This Guidance may also be relevant to an enforcement case. For example, we may use the Guidance and supporting materials to help us 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. For more information on how we use guidance, please refer to our [Enforcement Guide](#).
- 1.29** While this Guidance applies to firms' dealings only with retail customers who are natural persons, firms should remember that the Principles, including the obligation to treat customers fairly, extend to all customers. Firms may still find the Guidance helpful when considering how to comply with the Principles in relation to incorporated businesses.

Summary of the Guidance

- 1.30** Figure 4 shows how the various sections of the Guidance interact with each other.

Figure 4: Meeting the needs of vulnerable consumers



1.31 Throughout this Guidance we use:

- **Must:** where an action is required by a Principle or rule.
- **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 they should follow a detailed or prescribed course of action.
- **May:** where an action is only one of several ways of complying with a Principle.
- **How firms can put this into practice:** these boxes illustrate how firms may put actions described in the Guidance into practice.
- **Case studies:** to provide examples of good and bad practice we have seen in specific scenarios.

Understanding the needs of vulnerable consumers (Chapter 2)

1.32 Consumers with characteristics of vulnerability are more likely to have different or additional needs to other consumers. If firms do not understand the potential needs of the vulnerable consumers in their target market or customer base, they will not be able to take practical action to take these needs into account in their product and service design, customer service or communications. This may result in gaps in the provision of suitable services and products or lead to poor outcomes for vulnerable consumers. For example, if a firm offers products largely used by consumers with low financial resilience, arrears and debt collection processes that do not meet the needs of consumers with these characteristics could cause harm.

1.33 Firms should:

- understand the nature and scale of characteristics of vulnerability present in their target market and customer base.
- understand the impact of vulnerability on the needs of consumers in their target market and customer base, and how this might affect the consumer experience and outcomes.

Skills and capability of staff (Chapter 3)

1.34 Vulnerable consumers are more likely to experience harm when staff do not understand how vulnerability is important to their role. For example, if staff working in product and service design do not understand the importance of their role as part of the fair treatment of vulnerable consumers, the products or services may not take into account the needs of vulnerable consumers and may cause harm. Likewise, if frontline staff do not have the skills and capability to recognise and respond to vulnerable consumers' needs, those needs can be missed and go unmet.

1.35 Firms should:

- embed the fair treatment of vulnerable consumers across the workforce. All relevant staff should understand how their role impacts the fair treatment of vulnerable consumers.
- ensure frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability.
- offer practical and emotional support to frontline staff dealing with vulnerable consumers.

Taking practical action (Chapter 4)

1.36 Firms should turn their understanding of the needs of vulnerable consumers into practical action. Firms should take into account the characteristics of vulnerability present in their target market or customer base and how they can meet their needs through:

- how they design their products and services.
- their customer services.
- how they communicate.

Product and service design

1.37 When firms design products and services that do not consider the needs of vulnerable consumers in their target market, there is a risk that vulnerable consumers can suffer harm as their needs may not be met from the start.

1.38 Some products and services can have features that are harmful to vulnerable consumers. For example, short term credit with high fees and charges for roll overs can harm consumers when they are more likely to have low financial resilience.

1.39 Standard services with little flexibility can prevent consumers from engaging with or using them. For example, automated customer service helplines with no clear exit routes can be very confusing for people with cognitive disabilities or more complex needs.

1.40 Overly complex products and services can be hard for consumers to understand and might make it difficult for the consumer to buy the product best suited to their needs. For example, structured products, a type of fixed-term investment where the amount consumers earn depends on the performance of a specific market, often have complicated features that can make it difficult for consumers to understand the return they are likely to get, including the risk of getting no return on their investment at all. Vulnerability can exacerbate this as consequences of vulnerability may negatively impact the consumer's decision making (see our research report: [vulnerability exposed](#)).

1.41 Firms should:

- consider the potential positive and negative impacts of a product or service on vulnerable consumers and design products and services to avoid potential negative impacts.
- take vulnerable consumers into account at all stages of the product and service design process (idea generation, development, testing, launch and review) to ensure products and services meet their needs.

Customer service

1.42 Vulnerable consumers are more likely to have different service needs, for example they may find certain channels of communication challenging or need more time to understand information and make decisions.

1.43 If firms do not ensure their customer service provision meets the needs of vulnerable consumers, they can exacerbate the risk of harm associated with being vulnerable. For example, unresponsive or inflexible customer service can increase the stress and confusion a consumer may experience when already dealing with unexpected or challenging life events.

1.44 If a firm fails to recognise when consumers are struggling to make decisions, or acts in its own interest and does not provide the right support, it can cause harm. For example, cognitive impairments, mental health problems or addictions can lead to consumers making harmful financial decisions, being more exposed to scams or more likely to purchase unsuitable products.

1.45 Firms should:

- set up systems and processes in a way that will support and enable vulnerable consumers to disclose their needs. Firms should be able to spot signs of vulnerability.
- deliver appropriate customer service that responds flexibly to the needs of vulnerable consumers.
- make consumers aware of support available to them including options, where relevant, for third party representation and specialist support services.
- put in place systems and processes that support the delivery of good customer service, including systems that enable the recording of and access to information about consumers' needs.

Communications

1.46 Vulnerable consumers should not be disadvantaged in understanding or accessing products and services because of their information needs.

1.47 Failure to communicate with vulnerable consumers in ways they can understand may result in an increased risk of harm. Consumers may not be able to understand the information they are sent or may struggle to communicate their needs to firms. Low capability or physical impairments may result in particular communication needs. Several factors can drive low capability, including low literacy, numeracy, poor knowledge of financial products and cognitive impairments. Physical conditions can also result in particular communication needs. For example, sight and hearing impairments can make certain channels of communication impossible to use and alternative accessible formats essential.

1.48 Some temporary circumstances or characteristics can mean that consumers struggle to understand or take in information. For example, stressful circumstances after life events like divorce or bereavement may make consumers more susceptible to harm, particularly where communications are unclear or are potentially misleading. Some mental health issues can lead to anxiety and avoidance of certain communication channels such as letters or the telephone.

1.49 Firms should:

- ensure all communications and information about products and services are understandable for consumers in their target market and customer base.
- consider how they communicate with vulnerable consumers, taking into consideration their needs. Where possible, they should offer multiple channels so vulnerable consumers have a choice.

Monitoring and Evaluation (Chapter 5)

1.50 If firms do not monitor the quality and consistency of their products and services and the outcomes they are achieving for consumers, they risk delivering inconsistent and

potentially poor outcomes for vulnerable consumers. They may not be able to improve the quality of their products and services.

1.51 Firms should:

- implement appropriate processes to evaluate where the needs of vulnerable consumers are not met, so that they can make improvements.
- produce and regularly review management information, appropriate to the nature of their business, regarding the outcomes they are delivering for vulnerable consumers.

Other obligations relevant to the treatment of vulnerable consumers

1.52 In addition to the Principles, there may be other legal and regulatory obligations that firms should consider and comply with in relation to vulnerable consumers. We set out below what some of these may be, but this is not intended to be an exhaustive list and firms will need to consider for themselves how they comply with all their legal and regulatory obligations.

1.53 This Guidance does not replace or substitute other applicable rules, guidance or law and does not require firms to act in a way that is incompatible with legal or regulatory requirements.

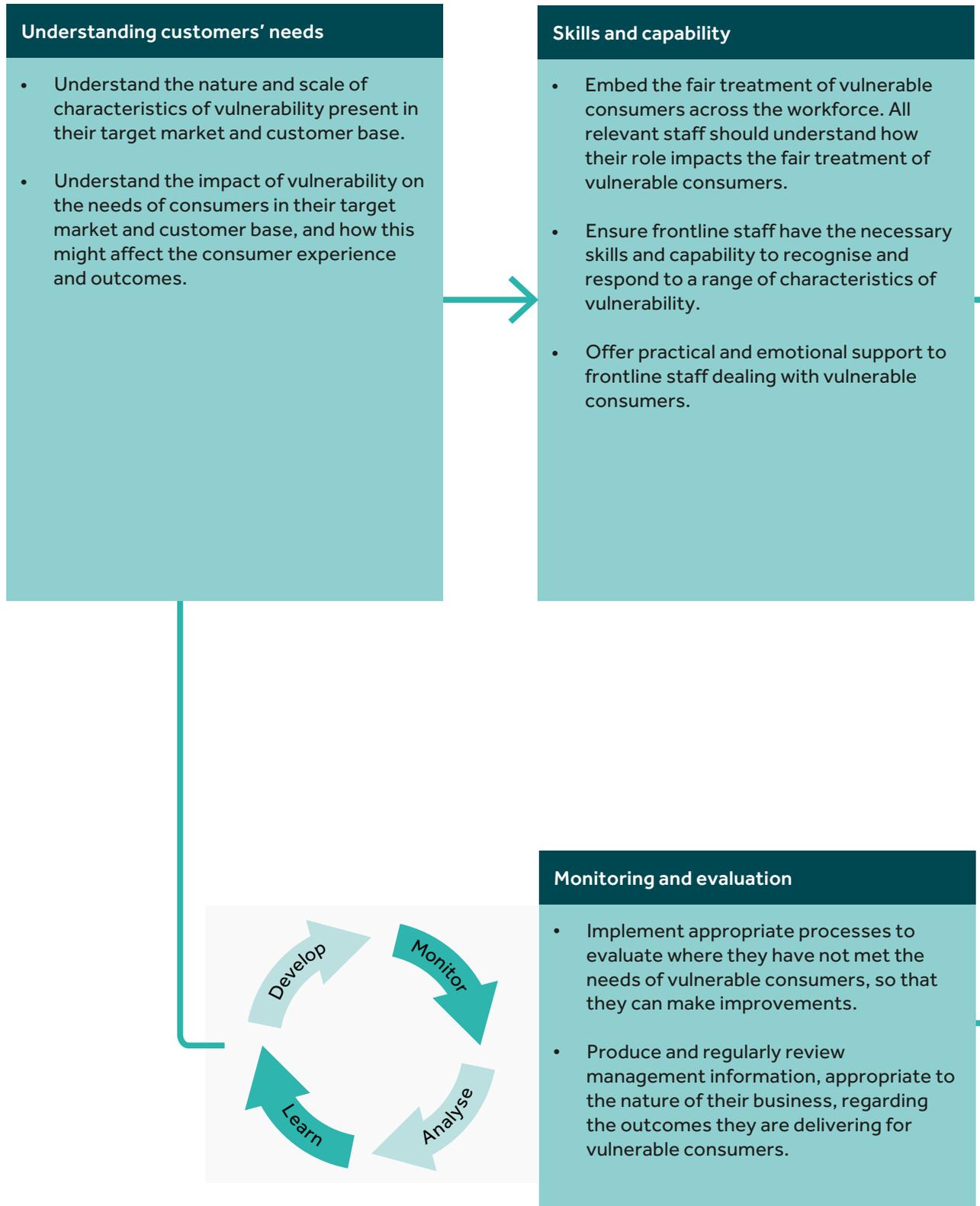
1.54 Examples of matters beyond the Principles that firms may need to consider in relation to the treatment of vulnerable consumers include:

- the rules relating to vulnerable consumers in specific sourcebooks, such as those in Claims Management Conduct of Business sourcebook (CMCOB), Mortgages and Home Finance Conduct of Business sourcebook (MCOB) and Consumer Credit sourcebook (CONC).
- the application of the Senior Managers and Certification Regime (SM&CR), which includes requirements to ensure that all senior managers and staff are fit and proper persons.
- our training and competence regime (set out in the Training and Competence sourcebook (TC)) which requires that the financial services workforce is appropriately qualified. This includes the high-level competent employees rule in SYSC 5.1.1.
- the Product Intervention and Product Governance sourcebook (PROD) and our regulatory guide, the Responsibilities of Providers and Distributors for the Fair Treatment of Customers. These are also relevant to the design of products and services.
- the requirements set out in Conduct of Business sourcebook (COBS) 9 and COBS 9A when providing investment advice to retail clients. Firms must understand and assess the needs of consumers, including vulnerable consumers, in accordance with the suitability requirements.
- the rules and guidance concerning financial promotions and communications with consumers can be found in our Handbook, such as those in CMCOB, MCOB, CONC, COBS, Insurance Conduct of Business sourcebook (ICOBS) and the Banking Conduct of Business sourcebook (BCOBS). Any different or additional communications provided for vulnerable consumers must always be in line with

existing regulation. Firms may 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.

- obligations under the [Equality Act 2010](#) which, in broad terms, places a duty to ensure people with protected characteristics are not discriminated against. There may be circumstances where a consumer is both vulnerable and has one or more protected characteristics. When carrying out our functions, if we are concerned that firms may be acting in breach of our requirements as well as the Equality Act, we will work with the Equality and Human Rights Commission to inform our assessments and to support any work they may do.
- the requirements for fairness and transparency under Part 2 of the [Consumer Rights Act 2015](#) and the [Unfair Terms in Consumer Contracts Regulations 1999](#) (for contracts entered into before 1 October 2015). Firms may want to refer to our website for further information about unfair contract terms and our powers.
- the requirements of other consumer protection law including the [Consumer Protection from Unfair Trading Regulations 2008](#) which prohibits engagement in unfair commercial practices and makes specific reference to commercial practices aimed at vulnerable consumers.
- data protection requirements – Appendix 1 to this Guidance highlights some of the relevant areas of data protection requirements firms should consider. Firms must also take into account other relevant requirements, such as those concerning direct marketing under the [Privacy and Electronic Communications \(EC Directive\) Regulations 2003](#). For more information, please refer to the [Information Commissioner Office's \(ICO\) website](#).

Vulnerability Guidance: firms should...



Product and service design

- Consider the potential positive and negative impacts of a product or service on vulnerable consumers. Design products and services to avoid potential negative impacts.
- Take vulnerable consumers into account at all stages of the product and service design process (idea generation, development, testing, launch and review) to ensure products and services meet their needs.

Customer service

- Set up systems and processes in a way that will support and enable vulnerable consumers to disclose their needs. Firms should be able to spot signs of vulnerability.
- Deliver appropriate customer service that responds flexibly to the needs of vulnerable consumers.
- Make consumers aware of support available to them, including options, where relevant, for third party representation and specialist support services.
- Put in place systems and processes that support the delivery of good customer service, including systems to note and retrieve information about customers' needs.

Communications

- Ensure all communications and information about products and services are understandable for consumers in their target market and customer base.
- Consider how they communicate with vulnerable consumers, taking into consideration their needs. Where possible they should offer multiple channels so vulnerable consumers have a choice.

2 Understanding the needs of vulnerable consumers

- 2.1** The needs of vulnerable consumers are likely to vary and often require additional measures to ensure good outcomes.
- 2.2** Understanding the needs of vulnerable consumers is important for all firms, including firms who do not directly interact with consumers because they offer self-service digital channels or are part of a distribution chain. If firms do not understand the potential needs of the vulnerable consumers in their target market or customer base, they may not be able to ensure staff have the right skills and capability (chapter 3) or take appropriate practical action (chapter 4). This may result in gaps in the provision of suitable services and products and lead to poor outcomes for vulnerable consumers.
- 2.3** In this chapter, we set out how firms should:
- a.** understand the nature and scale of characteristics of vulnerability in their target market and customer base.
 - b.** understand the impact of vulnerability on the needs of consumers in their target market and customer base, and how this might affect the consumer experience and outcomes.

Understanding the nature and scale of characteristics of vulnerability in the firm's target market and customer base

- 2.4** 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. This understanding will allow firms to design their products and services, and implement customer services and communications, in a way that responds to consumers' needs.
- 2.5** As discussed in chapter 1, we have identified four key drivers of vulnerability, which are health, life events, resilience and capability. These were built on the risk factors for vulnerability identified in our [Occasional Paper on Consumer Vulnerability](#) and are also used in our [Approach to Consumers](#) and our [Financial Lives Surveys](#).
- 2.6** Table 1 below gives examples of the types of circumstances and characteristics under the four drivers of vulnerability which can lead to consumers having additional or different needs. This is not an exhaustive or definitive list as we recognise that firms may have their own approach to identifying characteristics of vulnerability in their target market.

Table 1: The 4 key drivers of vulnerability and the types of characteristics of vulnerability they may cause

Health	Life events	Resilience	Capability
Physical disability	Caring responsibilities	Low or erratic income	Low knowledge or confidence in managing finances
Severe or long-term illness	Bereavement	Over indebtedness	Poor literacy or numeracy skills
Hearing or visual impairment	Income Shock	Low savings	Low English language skills
Poor mental health	Relationship Breakdown	Low emotional resilience	Poor or non-existent digital skills
Addiction	Domestic Abuse		Learning impairments
Low mental capacity or cognitive impairment	People with non-standard requirements such as people with convictions, care leavers, refugees		No or low access to help or support
	Retirement		

- 2.7** Firms should understand that characteristics of vulnerability are likely to be complex and overlapping. For example, a life event such as a relationship breakdown or bereavement may lead to further vulnerability such as mental ill-health or low financial resilience. This may be further exacerbated if the consumer has low or limited ability to engage with financial services or to manage their finances.
- 2.8** All consumers are at risk of becoming vulnerable, particularly if they display one or more characteristic of vulnerability, and they may become more or less vulnerable (and therefore at increased or reduced risk of harm) throughout the course of their lives. A heightened period of vulnerability can be short (for example, a hospital stay) or long term (for example, an extended period of unemployment).
- 2.9** Firms should understand what characteristics of vulnerability are likely to be present in their target market or customer base. For example, firms that advise on investments and pensions may have an older customer base, therefore common characteristics of vulnerability may fall under health and life events. If a firm is selling high-cost credit, it is likely that the common characteristics of vulnerability in its customer base will be caused by a lack of financial resilience, such as low or erratic pay. Some characteristics of vulnerability, for example bereavement, will be present in all sectors.

Examples of how firms can put this into practice

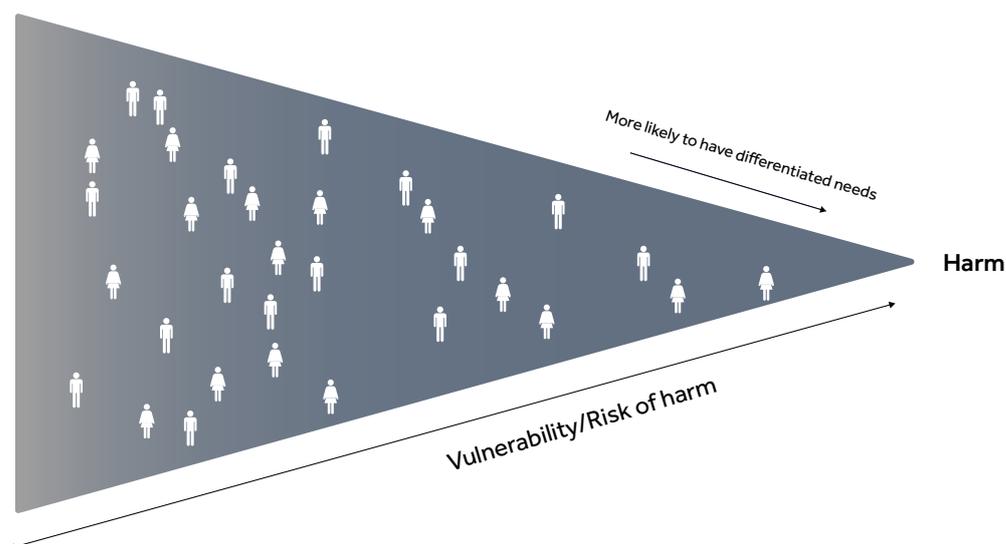
Using published information to understand the drivers of vulnerability and the impact being vulnerable can have on a person’s ability to engage in financial services markets. As well as previous FCA publications, many other organisations, including charities and trade bodies, have created materials on vulnerable consumers. Many of these materials are widely available and free of charge.

Using existing internal and external research and 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 consumers likely to be in the target market and customer base – for example by reference to ONS statistics, or combining these sources with customer transaction activity for more advanced analysis.

Understanding the impact of vulnerability on the needs of consumers

- 2.10** Figure 5 below illustrates that all consumers sit on a spectrum of vulnerability. Consumers to the left of the spectrum are less likely to be vulnerable and therefore face a lower risk of harm than those on the right where risk of harm is more acute. Those consumers to the right of the spectrum are more likely to have different needs, for example, consumers with multiple overlapping characteristics of vulnerability. Firms should respond to the needs of all consumers along this spectrum.
- 2.11** Firms should take particular care to ensure they meet the needs of consumers at the greatest risk of harm. These consumers are more likely to require support and adaptations than other consumers. But firms should also act early to prevent risk of harm growing. For example, by ensuring their products and services have been designed to recognise and respond to the needs of vulnerable customers in their target market and customer base.

Figure 5 – spectrum of vulnerability



- 2.12** Firms should understand how vulnerability can be perpetuated or exacerbated by the actions, or inaction, of the firm itself. For example, if a consumer loses their job or falls ill and is not offered appropriate forbearance measures on their mortgage, this could lead to greater stress and anxiety. In turn, this could lead the customer to take actions that may create more harm (for example borrowing money from other sources such as credit cards or high cost loans) in an attempt to address the payments shortfall.

Examples of how firms can put this into practice

Using market research, such as surveys or focus groups, to inform a good understanding of the risks of harm for vulnerable consumers, or to understand how vulnerable consumers would find it easier to share information about their needs with the firm. Alternatively, firms can access existing research published by the third sector, trade bodies and regulators.

Creating an internal vulnerability policy that includes information on the vulnerabilities and needs present, or likely to be present, in the firm's target market. Formalising this information in a policy can help raise awareness throughout the firm.

- 2.13** Although some consumers may display characteristics of vulnerability and be at greater risk of harm, this does not mean that they will suffer harm, particularly if firms act with appropriate levels of care. A demonstration of this is provided in the case study below which is taken from our [Financial Lives](#) research.

Case study: Good practice – A firm acts with an appropriate level of care avoiding harm

A consumer had recently lost her partner and explained this to a member of staff at her bank. She was then offered the option to go to a separate room where she was able to speak to a specialist adviser who was well informed in bereavement matters. The adviser explained the process and cancelled the partner's Direct Debits.

By acting with appropriate levels of care, the firm was able to prevent problems with payments and further distress to the customer.

- 2.14** Firms should also understand how vulnerable consumers may be more likely to be susceptible to behavioural biases. Firms should know how behavioural biases may present themselves so that they understand where there may be a risk of inappropriately exploiting these biases when engaging with those consumers. This is explored in our [Occasional Paper 8 – Consumer Vulnerability](#).

Case study: Poor practice – failing to understand the characteristics and needs of your target market

A firm that provides car purchase finance to consumers with poor or non-existent credit files placed consumers who were having trouble repaying their loans into short term repayment arrangements. The firm did this as it avoided further charges and further devaluing of the car in case of default. However, many of these short-term repayment arrangements were set at unsustainably high levels, particularly for consumers with a history of defaults and non-standard financial circumstances. This caused consumers to default or become short of money for other essential expenses.

This case study illustrates the need for firms to understand and respond to the needs of their target market. This firm's target market consisted of consumers who could not access standard financial services, including consumers with characteristics of vulnerability including a poor credit history, illness, unemployment and other adverse life events. These consumers were at greater risk of suffering detriment once they fell into arrears. Understanding the needs of this target market and putting adequate policies and procedures in place and using them appropriately should have formed an essential part of how this firm approached arrears management and forbearance.

Case study: Good practice – Understanding and responding to the evolving needs of different clients

A wealth management firm records information about individual clients during its onboarding process and it uses this opportunity to assess indicators of vulnerability. It also conducts periodic reviews of the client's information and circumstances to ensure its records are up to date and accurately reflect the client's situation. Where a client is presenting indicators of vulnerability, or conversations indicate a change in circumstance, cases are assessed by the firm. Steps are taken to ensure only appropriate products and services are offered to the client, and in a way that suits their needs.

This small firm monitors the needs of their consumers and regularly checks to ensure that their offer to their clients is appropriate.

3 Skills and capability of staff

- 3.1** It is important for firms to recognise the role that staff play in meeting the needs of vulnerable consumers. Vulnerable consumers are more likely to experience harm when staff do not understand how vulnerability is relevant to their role, or if frontline staff do not have the skills and capability to recognise and respond to the needs of vulnerable consumers.
- 3.2** In this chapter, we set out how firms should:
- embed the fair treatment of vulnerable consumers across the workforce. All relevant staff should understand how their role impacts the fair treatment of vulnerable consumers.
 - ensure that frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability.
 - offer practical and emotional support to frontline staff dealing with vulnerable consumers.
- 3.3** This chapter may not be relevant to some staff, such as ancillary staff to whom the Code of Conduct Rules do not apply (see COCON 1.1.2), i.e., people who don't perform a role specific to financial services such as catering staff, drivers and cleaners.

Embedding the fair treatment of vulnerable consumers across the workforce

- 3.4** Staff, from senior management through to frontline staff and relevant back office staff, can influence outcomes for vulnerable consumers. Firms should ensure that all relevant staff have the appropriate skills and capability, as well as support from appropriate systems and processes, to understand and take into account the needs of vulnerable consumers in their work.
- 3.5** Senior leaders should create and champion a firm culture that prioritises the fair treatment of vulnerable consumers. They should ensure that governance, processes and systems support staff to meet the needs of vulnerable customers when carrying out their role.
- 3.6** All relevant staff should understand how their role can impact vulnerable consumers, for example staff working in product and service design should take vulnerable customers' needs into account as part of the design process. If these staff do not have a sufficient understanding of the needs of vulnerable consumers in a firm's target market, products and customer service systems may not meet consumers' needs.
- 3.7** Firms should ensure that all relevant staff understand the potential needs arising from the vulnerabilities in their target market and what this may mean in practice for their role. For example, where relevant, staff should recognise that a consumer with poor mental health may be more likely to fall into debt and that debt can worsen a consumer's mental health. 86% of respondents to a Money and Mental Health Policy Institute survey of nearly 5,500 people with experience of mental health problems

said that their financial situation had exacerbated their mental health problems. If a vulnerable consumer does indeed become indebted and the staff understand the potential reasons for this, they will have a better understanding of the support and assistance the consumer may need.

- 3.8** Firms should improve the skills and capability of staff in a way that is proportionate. For example, smaller firms may choose to share existing materials on vulnerabilities with their staff, or hold informal information sharing sessions amongst staff. Large firms may opt to adapt existing training programmes to ensure they share understanding of the needs of vulnerable consumers.

Case study: Good practice – increasing staff understanding of the needs of vulnerable consumers

An insurance, savings and pension provider has introduced the option for new starters to become a Dementia Friend in their induction, online through the Dementia Friends programme, a free initiative. All existing staff (customer-facing or otherwise) are also invited to regular sessions, supported by Dementia Friends Champions. Employees are invited to organise Dementia Friends Information Sessions as part of their 'vulnerable customer awareness training' given to all frontline staff. To communicate these opportunities, they promote activities for awareness weeks, for example Dementia Action Week, Carers Week and World Alzheimer's Day.

The Training and Consultancy team of a large dementia charity provides specialist 'paid for' training to organisations who directly deliver dementia care and support and corporate organisations who provide a service to people living with dementia.

Part of the service offered involves a member of the team spending time with firms to observe how current practices and the physical environment may be affecting the experiences of consumers living with dementia. In addition, they will conduct a training needs analysis of staff and review product literature used for people with dementia. The audit will look at the organisation's website, call handling process, staff interactions with consumers and product promotional material.

The charity has advised that firms have seen multiple benefits from gaining insight into how to support those with dementia. These include improved customer satisfaction, improved staff confidence in communicating with people with dementia and enhanced business reputation.

These firms found different ways of working with consumer organisations. The aim was to increase understanding and awareness across their staff groups of how a health condition could affect the vulnerable consumer experience.

Ensuring frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability

- 3.9** Firms should ensure that staff have the skills and capabilities to recognise vulnerability and respond appropriately to individual consumer's needs in order to treat them fairly. Staff should be capable of recognising and responding to needs where the consumer has told the firm about a need, where there are clear indicators of vulnerability or where there is relevant information noted on the consumer's file that indicates an additional need or vulnerability.
- 3.10** Frontline staff should be capable of exercising particular care to adapt to the consumer's needs and be able to exercise judgement on when it is necessary to do so. Where possible, staff should be able to respond to the consumer's needs promptly so that action is taken to ensure harm does not occur or become more severe. Adapting to consumers' needs may mean referring them to a colleague or specialist team that is able to help.
- 3.11** Staff should be able to recognise when it is appropriate to seek additional support, such as escalating a case to the next level, seeking additional help from specialist teams or referring a consumer to third-party support. For example, if the consumer is in a difficult situation which is out of scope of the firm's remit (see chapter 4 on taking practical action for more information).
- 3.12** Harm can arise because frontline staff are not aware of policies that may exist. 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 have the right knowledge or skills to implement these effectively. We refer to this as the policy/practice gap. We cover how firms can put in place appropriate systems that support staff to implement vulnerability policies in chapter 4.

Examples of how firms can put this into practice

Sharing relevant briefings or training materials created by charities or trade bodies with staff.

Updating staff training to ensure it gives staff an understanding of vulnerability and skills relevant to their role.

Giving staff opportunities to share knowledge and experiences with other colleagues to help improve the level of support and increase understanding of how to take into account vulnerable consumers when performing their duties.

Appointing 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.

Developing 'How To' guides and knowledge bases on vulnerability that frontline staff can use in their day-to-day role, e.g., a signposting document to additional information or support, or collection of best practice examples.

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

A firm launched a training tool to educate financial advisers on interacting with older consumers 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 particular care and support is provided where necessary.

This 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.

Encouraging disclosure

- 3.13** Firms should help frontline staff to understand how to actively listen out for information that could indicate vulnerability and, where relevant, seek information from vulnerable consumers that will allow them to respond to their needs.
- 3.14** The steps firms should take to seek information will depend on the type of interaction, the consumer, and the type of service provided. For example, if a consumer has briefly mentioned something that could indicate vulnerability, then staff should be proactive in following up on this, for example by sensitively asking if it might affect their needs or by offering a service that is available. Contrary to this, if the consumer is clearly not willing to share further information, it may not be reasonable for staff to continue asking questions.
- 3.15** Chapter 4 on taking practical action also provides more detail on how firms can make it easier for consumers to share information about their needs, for example by providing a range of channels for consumers to share information (see para 4.36).

Recording and accessing information about consumers' needs

- 3.16** Knowing how to record and access information about consumers will enable firms to meet their needs promptly, consistently and fairly. If staff do not record and access this information, customer service and communications are unlikely to meet consumers' needs. For example, if a consumer with a sight impairment requests a document in large print and this is provided, but information about the consumer's need for large print communications is not recorded or is not accessed by staff in future interactions, the customer may be sent important communications they cannot read. In this scenario, the consumer is likely to experience harm. They might contact the firm to repeat their request which may be time-consuming or stressful. If they do not do this, they may miss out on important information about their product, such as a notice requiring immediate action, which could result in charges on their account, causing financial harm.
- 3.17** Firms should ensure that staff are able to recognise when information about a consumer's needs is relevant to future interactions and how to record it. Staff should also know how to access and use previously recorded information that is relevant to promptly meeting that consumer's needs.

Case study: Poor practice – Staff failing to understand changing need

A consumer 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 consumer included in the letter an updated income and expenditure form, reflecting that their income had reduced and was now based on benefits. The consumer said they were struggling financially, and asked the firm for help. A member of staff received the consumer'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 consumer's circumstances.

The firm had not sufficiently trained their staff to understand the impact of changing needs and did not have processes in place for them to respond flexibly. As a result, the firm failed to respond to information provided by the consumer, collecting unaffordable payments for a period of 6 months. This may make a difficult personal and financial situation worse.

- 3.18** When dealing with personal information of its customers, firms and staff must ensure that they comply with all applicable data protection requirements. Appendix 1 discusses data protection considerations that firms should take into account when interpreting the Guidance.
- 3.19** We discuss systems and process to support good customer service in chapter 4.

Offering practical and emotional support to frontline staff dealing with vulnerable consumers

- 3.20** Frontline staff may come across challenging situations and firms should offer practical and emotional support to staff where appropriate. This may take the form of offering self-help information, time out following difficult or challenging phone calls or time for staff to share experiences either in face to face meetings or via online forums. Large firms may offer an employee assistance service. By supporting and improving staff members' mental and emotional resilience, firms can help their frontline staff engage with vulnerable consumers more sensitively.

4 Taking practical action

- 4.1** Firms should turn their understanding of vulnerable consumers in their target market or customer base (see chapter 2) into practical action to meet their needs.
- 4.2** In this chapter, we set out how firms should take into account the needs of vulnerable consumers in their:
- product and service design
 - customer service
 - communications

Product and service design

- 4.3** Firms should use their understanding of the needs of vulnerable consumers in their target market or customer base when designing products and services.
- 4.4** Where firms design products and services that don't take into account the needs of vulnerable consumers in their target market and customer base, there is a risk that vulnerable consumers can suffer harm as their needs may not be met from the start. Products and services can have inherent features that could be harmful to some vulnerable consumers. For example, if products and services are complex, some vulnerable consumers may find it more difficult to understand and access the products best suited to their needs.
- 4.5** In this section, we set out how firms should:
- a. consider the potential positive and negative impacts of a product or service on vulnerable consumers, and design products and services to avoid potential negative impacts.
 - b. take vulnerable consumers into account at all stages of the product and service design process (idea generation, development, testing, launch and review) to ensure products and services meet their needs.

Considering the potential positive and negative impacts of a product or service on vulnerable consumers and designing products and services to avoid potential negative impacts

Could features of products or services exploit vulnerable consumers?

- 4.6** Some products and services can have features that are harmful to vulnerable consumers. For example, short term credit with high fees and charges for roll overs can negatively affect consumers with low financial resilience. If a firm designed products and services in order to intentionally exploit vulnerable consumers, this would be a clear breach of our Principles.

- 4.7** Harm to vulnerable consumers might occur unintentionally and firms should actively consider the likelihood of any unintended effects when they are developing products and services to avoid potential harm. Firms should proceed with particular care in relation to characteristics of vulnerability present in their target market or customer base. This includes cases where the product is targeted at vulnerable consumers, or where the firm sells to a broad cross-section of people, which will include vulnerable consumers.
- 4.8** An example of poor design that could result in harm to vulnerable consumers is contracts for difference (CFDs) offered to retail consumers. These complex, leveraged products are offered through online trading platforms. Before we imposed restrictions on how CFDs were sold to retail consumers, their projected returns made these high-risk, speculative products look attractive. However, many consumers were unable to understand the complexities of the products or the impact of the leverage on the likelihood that the products would make a profit. This placed consumers, particularly those with low financial resilience, at risk of significant financial losses that they would be unable to absorb.

Designing products and services that meet evolving needs and avoiding inflexibility that could result in negative impacts

- 4.9** Firms should consider how characteristics of vulnerability present in their target market or customer base may impact their customers' needs over time. Standard services with little flexibility can prevent consumers from engaging with or using them. For example, automated customer service helplines with no clear exit routes can be very difficult for people with cognitive disabilities or more complex needs to use.
- 4.10** Standard contracts can be inflexible and often don't have easy options for consumers to vary or change them in response to changes in circumstances. For example, an individual who has had a change in financial circumstance, arising from taking an extended period off work due to medical treatment, might find they are struggling to repay their mortgage. If their provider is not able to respond flexibly to their circumstances this could exacerbate any financial strain they are experiencing due to their ill health, resulting in harm.

Designing sales processes that meet consumers' needs

- 4.11** Firms should consider the characteristics of vulnerability present in their target market or customer base when designing how they distribute products. For example, firms may decide that it is prudent for consumers with certain characteristics of vulnerability to seek advice before making a decision. Where that is the case a firm may decide the product will be always sold on an advised basis. Alternatively, they may tell consumers who could be at greater risk of harm that they should seek advice.
- 4.12** In some circumstances, a firm may decide it would be prudent for consumers whose vulnerability is transient, for example caused by a life event, to have a 'cooling off period' before they make a decision. This might be because the customer lacks the capability to make a decision at that point in time, or is faced with an unexpected or complex decision. For example, a customer with a sum of money to invest as a result of a negative life event (for example a life insurance pay-out or compensation for a life-changing accident), may need more time and help to consider all the information and options they have to ensure they reach a conclusion which is best for them in the long-term.

Case study: Good practice – Tailoring customer service to meet the needs of a consumer

An investment management company had a client who needed advice on their pension but could not read or write and did not appear to have any relatives who could help him. The firm sat down with the client over a number of weeks and explained their options, breaking these down into small decisions. Did they prefer a larger pension or a smaller one with some cash? Did they prefer a pension that went up each year or a larger one that stayed the same? At each stage the consumer indicated their preferred option.

This firm found value in taking the time to explain options to a consumer with limited capability in a way they could understand, helping them to make a decision.

Taking vulnerable consumers into account at all stages of the product and service design process

- 4.13** To ensure products and services meet the needs of vulnerable consumers in their target market or customer base, firms should take such needs into account at all stages of the product and service design cycle. They should also take them into account if they are considering changing a product or service. Firms may use different terminology to refer to their design process but the key considerations will remain the same.

Idea generation

- 4.14** During idea generation, firms should spend time understanding what vulnerable consumers might need from a product or service. Firms should consider the characteristics and needs of vulnerable consumers likely to be in their target market and customer base. This will help firms anticipate and proactively address difficulties vulnerable consumers may have over a product's life. By doing this firms may prevent potential harms from occurring, and deliver better outcomes for vulnerable consumers.

Examples of how firms can put this into practice

Consulting with people in the firm who are in contact with consumers most frequently.

Holding focus groups with vulnerable consumers or consumer representatives at the development stage to gain a greater understanding of their needs and how products can meet them.

Exploring resources provided from, and consulting with, specialist organisations offering information on how the needs of vulnerable consumers can be met in the design stage.

- 4.15** Firms may want to consider options such as creating a product specifically to meet the needs of vulnerable consumers or taking an inclusive design approach (see box on page 84).

Development

- 4.16** During development of a product or service, firms should build features into products or services that meet the needs of vulnerable consumers. Firms should also consider whether any products or services might have features that could risk harm for vulnerable consumers, for example because they are highly complex, and find ways to mitigate this.

- 4.17** When designing products and services, firms should consider what distribution channel (how consumers access their service) is suitable for their target market. For example, firms should consider whether a digital or telephone-only channel is appropriate or if it is necessary to provide an alternative way of communicating.
- 4.18** Firms who do operate via a single channel should consider how they might recognise and respond to the needs of their consumers if they were to develop characteristics of vulnerability. For example, providing a call back service for consumers who might struggle with phone menus or the option to notify the firm of a change in circumstance via an app or live web chats.
- 4.19** Proactively offering help is valuable and this applies even in digital journeys. For example, some websites have the functionality to pick up on hesitation (for example by tracking analytics such as 'hover time') on their pages and automatically generate chatbots or webchats. Some provide simple definitions of jargon if the reader hovers over a word or phrase. Others offer screen reader functionality.

Examples of how firms can put this into practice – Inclusive design

Firms may wish to take an inclusive design approach to meet the needs of their vulnerable customers as well as the majority of consumers in their target market. By this we mean designing inbuilt features of the product or service which ensure the needs of vulnerable customers are met, while at the same time benefitting a wider range of consumers. For example:

- easy to read materials in plain English would be beneficial to a wide range of consumers. This can include people with low capability, people with poor literacy (1 in 6 adults have the literacy skills expected of a 9 year- old) and people with cognitive disabilities.
- having an online or text function that allows customers to notify their financial provider easily and quickly of a change of circumstances. This can be used by everyone to update their circumstances in their own time and at their own pace. For people with characteristics of vulnerability it may help them avoid a challenging conversation, and provide some privacy.

We encourage firms to research the needs of consumers with characteristics of vulnerability in their target market and customer base and consider inclusive design principles.

Testing

- 4.20** Firms should consider, and potentially test, the impact the product or service has on vulnerable consumers. Firms should test any innovative features designed specifically to meet the needs of vulnerable consumers, and assess how flexible the product could be to changing needs. They should adapt the product or service based on this testing to mitigate the risk of harm for vulnerable consumers, or to ensure that the features of the product designed to meet the needs of vulnerable consumers work.

Examples of how firms can put this into practice

Stress-testing the product or service to identify how it might perform in a range of market environments and how vulnerable consumers could be affected.

Consulting with consumers or representative groups when seeking to alter or withdraw a product or service.

Employing third-sector organisations who can review products and services from the perspective of vulnerable consumers.

Launch

- 4.22** When the product or service is ready to launch, firms should consider how to launch it appropriately so that vulnerable consumers are aware of the product and understand it. They should take steps to avoid selling products or services to vulnerable consumers if they may not be appropriate. This should also include ensuring all frontline staff are aware of the product and its features, as well as who it might be most (or least) appropriate for.

Review

- 4.23** All firms should periodically review their products and services to check whether they are continuing to meet the needs of vulnerable consumers in their target market and customer base, and do not unintentionally disadvantage them. Such systems and controls to review products and services will help firms comply with Principle 3 (see chapter 5 on monitoring and evaluation).
- 4.24** When a firm alters or withdraws a product or service, for example closing an access channel such as telephone banking or ceasing to provide paper statements or correspondence, they should seek to understand whether, and how, this will impact vulnerable groups in their customer base. Firms should communicate any changes brought about by the withdrawal of products or services in a timely, clear and sensitive manner, setting out what it means for the consumer, communicating alternative solutions, and the consequences to any consumers of not acting. Firms should take particular care in how they can proactively manage the change where a consumer is very vulnerable or the potential for harm is serious.

Case study: Good practice – Product features supporting the needs of vulnerable consumers

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

These banks have considered the needs of vulnerable consumers in their target market and worked to support them through their product design. They have empowered consumers who may have an addiction to gambling to take control. This is also an example of inclusive design.

Case study: Good practice – Product features supporting the needs of vulnerable consumers

One firm serving older consumers encourages consumers to provide a designated second contact (e.g. spouse, carer or family member) at the start of the customer journey. This puts a process in place from the start that would provide a support system to a consumer if they were to become unable to manage their own financial affairs, for example, because they experience a loss of capacity, or a period in hospital.

This firm has taken a proactive step, through product design, to help prevent harm. This is an example of inclusive design which can potentially benefit all consumers.

Case study: Poor practice – Failing to understand a customer’s needs and being inflexible

A consumer with complex post-traumatic stress disorder who cannot work contacted her bank to advise them of her situation and asked if they could limit her cash withdrawal limit. Her bank told her they were unable to help with this. An episode of poor mental health resulted in the consumer spending all her Universal Credit benefit in one go. She subsequently reported to a local charity for two consecutive weeks requesting food bank vouchers as she did not have enough money to eat.

This firm was inflexible in their approach to vulnerability, failing to understand and respond to a customer’s needs leading to consumer harm.

Products sold through intermediaries in distribution chains

- 4.25** Financial services products are often distributed through complex chains, for example lenders, insurers, master-brokers, brokers, and financial advisors. All firms in the chain must ensure consumers are treated fairly, irrespective of whether they design the product and service they distribute.
- 4.26** Where products are sold through a broker or other intermediary, firms should ensure products are clearly explained and understood by the consumer, for example by following up directly with consumers.
- 4.27** Where there is a chain of regulated firms they should each consider how effective their own approach to vulnerability and associated procedures is. During initial and ongoing due diligence, firms should ensure that firms they work with treat vulnerable consumers fairly.
- 4.28** Where firms rely on third party providers and outsourcers, they must effectively manage these providers to ensure that their customers are treated fairly.

Customer service

- 4.29** Vulnerable consumers are more likely to have different service needs, for example they may find certain channels of communication challenging or stressful or need more time to understand information and make decisions. If firms do not ensure their customer service provision meets the needs of vulnerable consumers, they can exacerbate the risk of harm associated with being vulnerable. For example, unresponsive or inflexible customer service can increase the stress and confusion a consumer may experience when already dealing with unexpected or challenging life events.
- 4.30** Failure to recognise when consumers are struggling to make decisions or act in their own interests and provide the right support, can result in harm. For example, cognitive impairments, mental health problems or addiction can lead to harmful financial decisions, vulnerability to scams and purchasing unsuitable products.
- 4.31** In this section, we set out that firms should:

- a. set up systems and processes in ways that will support and enable vulnerable consumers to disclose their needs. Firms should be able to spot signs of vulnerability.
- b. deliver appropriate customer service that responds flexibly to the needs of vulnerable consumers.
- c. tell consumers about the support available to them including relevant options for third party representation and specialist support services.
- d. put in place systems and processes that support the delivery of good customer service, including systems to note and retrieve information about consumers' needs.

Setting up systems and processes in ways that support and enable vulnerable consumers to disclose their needs

- 4.32** Consumers in vulnerable circumstances are more likely to have different needs when dealing with a firm than the average consumer. If these needs are not recognised or met, vulnerable consumers are more likely to experience harm from poor service.
- 4.33** Firms should recognise vulnerability and respond to individual consumer needs where the consumer has shared a need or where there are clear indicators of vulnerability.
- 4.34** Firms should be proactive in offering support, and should enable consumers to discuss any additional needs they have so they can deliver appropriate customer service. The box on page 88 suggests ways firms may do this, including in digital or paper based customer journeys where there may not be direct interaction with frontline staff.
- 4.35** As discussed in chapter 3 (para 3.14), if staff believe a consumer may be in vulnerable circumstances, they should ask open questions about the consumer's needs, communicating information about the support and adaptations the firm offers.
- 4.36** Firms should ensure that staff focus on understanding and responding to the consumer's needs in relation to financial services. For example, if a consumer in arrears mentions that their mental health condition means they find opening letters distressing, firms should focus on how they can meet their communications needs using other channels.
- 4.37** Firms should seek to recognise the needs of consumers regardless of the channel they use. Firms that use face-to-face interaction or speak to customers on the phone can support staff to recognise observable signs of vulnerability and encourage the customer to discuss their needs. Firms with digital customer journeys could introduce tools, such as text boxes or chatbots, to allow consumers to share information about their needs.
- 4.38** Vulnerability is often transient and can arise at different times in a consumer's life or at different stages in the product life cycle. It may not occur to a consumer to share needs when purchasing a product, for example a consumer who holds an insurance product may have additional needs when making a claim that did not seem relevant when purchasing the product. The consumer's circumstances may change over time such as a change in health or relationship status. This is relevant to all products but particularly to low contact products such as insurance. Firms should consider whether there are touchpoints in the customer journey that can be used to gather information on customer needs, for example insurers could build in relevant questions, or prompts to contact the insurer, at renewal.

Examples of how firms can put this into practice

Firms can encourage consumers to talk to them about their needs by promoting their support services.

Providing easy to understand information on the services that can be offered to vulnerable consumers, for example via a website link if the customer is interacting online. This can give consumers confidence that telling firms about their needs will benefit them.

Supporting vulnerable consumers to articulate their needs and what support 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.

Using targeted online questions and FAQs or open text boxes that encourage customers to volunteer any relevant additional information.

Building in online tools that 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.

- 4.39** If a consumer conceals information so that it is not clear they may have additional needs, staff or customer service systems may not be able to respond.

Case study: Good practice – Responding to transient vulnerability in the target market and customer base

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

The firm has implemented a script for staff to help them recognise and review vulnerability at key points in the customer journey such as switching to the provider, moving to a new house, or taking out a different or additional product. Where a vulnerability is expected to be short lived, agents agree a review date with the consumer, and place reminder flags on the account.

This firm has identified touchpoints in the customer journey that can be used to gather and update information on consumer needs.

Case study: Poor practice – Recognising a consumer's needs and considering if a product is appropriate

An elderly consumer who lived alone had been sold credit by a broker during a sale that took place in her home. The consumer was phoned by the lender as part of its follow-up process before the loan was released, and initially told the firm that she wanted to go ahead with the sale.

The lender was aware that the consumer was vulnerable, and arranged another call to confirm her decision. Despite the consumer changing her mind over several phone calls, she then agreed to proceed and the loan was processed. After this, it transpired that the customer had dementia, and with the intervention of the consumer's daughter and a lawyer the loan was written off.

This broker and lender were both responsible for recognising the consumer's vulnerability, and whether the product was suitable for the consumer's needs and circumstances. Neither the broker or the lender gave sufficient consideration to the consumer's vulnerability as the loan was granted despite the consumer's confusion.

Case study: Poor practice – Recognising vulnerability and taking needs into account

A consumer who could not read or write, and had a significant speech impediment, could not work as he was also the main carer for his disabled wife. Trading Standards identified that he had purchased expensive goods on credit (that had been sold via a credit broker) that he did not need or want. He was making the credit payments as he thought he had to, although he found this financially difficult.

Trading Standards supported the consumer to raise a complaint. However, the lender refused to put the consumer back in the position he was in before he took out the loan unless they were able to speak to the customer directly. The vulnerable consumer did not feel comfortable having such direct contact with the lender.

The broker had poor processes in place to recognise whether the loan was unsuitable for the consumer. The lender should have considered the communication needs of the consumer and dealt with the third party.

Delivering appropriate customer service that responds flexibly to the needs of vulnerable consumers

- 4.40** The needs of some vulnerable consumers may be met by building flexibility into existing customer services. Frontline staff should be able to adapt their approach to deliver a service that meets the individual needs of vulnerable consumers.
- 4.41** Firms should support staff to do this by ensuring that their culture, and systems, do not discourage staff from taking extra time or flexible steps to respond to vulnerable consumers' needs. For example, staff should be able to 'stop the clock' on a case if they feel the consumer needs more time or support to understand information and make a decision. Consequently, the pay and reward structures should not just look at volumes or speed of consumers served, but the quality of service and outcomes.
- 4.42** Firms should ensure that customer service processes can be altered to assist consumers with additional needs. For example, changing 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 for written communications.
- 4.43** In relation to consumers with protected characteristics such as physical or mental health disabilities, firms may also need to make such changes to comply with the [Equality Act 2010](#).
- 4.44** Where firms offer self-service options (e.g., through apps, automated phone line or online channels) they should consider how to build in flexibility to the system to allow consumers to pause or exit the process and get more time or receive a more personalised service. For example, offering an "exit lane" to an automated phone service so the consumer can access more help or advice, or using chatbots or providing a contact number to help consumers in online journeys who may have additional questions or whose needs are not met by standard service options.

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

A consumer was on long-term sickness absence from work and could no longer afford their credit card payments. The consumer wrote to their providers for help. One firm called back to let the consumer 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 was placed with their specialist support team so that the debt would not be sold on.

This firm had flexible systems and processes in place, allowing them to adapt to the needs of the vulnerable consumer.

Case study: Poor practice – Poor processes and inflexible staff

A consumer 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."

The firm, rather than the staff member, was at fault here due to its inflexible processes and inadequate training for dealing with vulnerable consumers experiencing distressing life events. Even if specialist staff are not available, all frontline staff should have been trained to advise consumers on how processes such as registering a bereavement work, and been able to sensitively advise the consumer of their options. Lack of sensitive frontline support can lead to disengagement and harm to the consumer.

Telling consumers about the support available to them

- 4.45** Firms should proactively tell consumers about the options of help and support they offer to meet the needs of vulnerable consumers. This should happen where the firm recognises that an individual consumer has a specific need. Firms should also use their communications and websites to proactively tell consumers about the support available. Making this information available may encourage consumers to share information about their needs with firms.
- 4.46** Firms should ensure the help and support they offer is easy to access and use.
- Supporting decision-making and third-party representation**
- 4.47** Some consumers, as a result of low capability or reduced cognitive ability (eg, dementia, cognitive disabilities or brain injuries) will struggle to safeguard their own interests. Other consumers may suffer from temporarily impaired capacity or decision-making ability, for example fluctuating mental health conditions or addictions can lead to harmful or reckless financial behaviour. These consumers can be more at risk from buying inappropriate products, fraud or financial abuse.
- 4.48** Firms should consider how they can empower consumers to take actions that will support them to manage their finances or protect themselves from scams in times of low capacity or impaired decision-making. Examples of actions that firms may take are provided in the box to the right.
- 4.49** Firms should consider the vulnerability and capacity of consumers to make decisions when considering how to treat consumers who have been victims of scams or fraud. Firms should note that the provisions of the [Contingent Reimbursement Model](#) (CRM) code state how firms should take into account vulnerability in cases of push payment fraud.

- 4.50** Firms should also consider the needs of vulnerable consumers when designing their complaints processes. They should consider how they can support vulnerable consumers to complain, if services are not meeting their needs, and access redress.

Examples of how firms can put this into practice

Firms may wish to consider how digital services and information technology can provide helpful tools to support vulnerable consumers. For example, some payment accounts allow consumers to place blockers for certain types of expenditure, for example gambling, or large amounts.

Some banks offer third party mandates or authorities. These allow consumers to nominate a third party to carry out every day transactions, such as paying bills or withdrawing money, on their behalf. These can be useful if a consumer is unable to access their banking services for a short period of time, for example a long trip abroad or a hospital stay.

Third party representation

- 4.51** Some vulnerable consumers rely on others to make some decisions on their behalf because their ability to manage their money or represent their own interests is permanently or temporarily impaired (for example, due to dementia or mental health conditions). Where appropriate, firms should provide straightforward options to facilitate legitimate and legal delegated access or support, while maintaining robust safeguards to reduce the risk of abuse.
- 4.52** There are a range of legal mechanisms to support customers who do not make their own decisions. 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)
 - There are also variants in Scotland and Northern Ireland.
- 4.53** Firms may wish to take account of a [Guide on Power of Attorney](#) produced for regulated firms by the Office of the Public Guardian (OPG) and The UK Regulators Network (UKRN).
- 4.54** Firms should also consider how to meet the needs of consumers who need a third party to access their account or to support them on a short or medium-term basis. 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 consumer from going into debt or to freeze accounts where there are concerns over fraudulent activity.
- 4.55** If a firm has serious doubts about the ability of a consumer to understand a product or service, or suspects a consumer does not have capacity to make decisions, or that they are acting as a result of fraud or coercion, it should assess whether the consumer should be allowed to proceed. It may be appropriate for firms to contact or act on the instructions of a family member, friend or other third party. This may even be appropriate in circumstances where formal third-party access mechanisms are not set up. Firms and staff must ensure that they comply with all applicable data protection requirements; Appendix 1 discusses data protection considerations that firms should take into account when interpreting the Guidance.

Case study: 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 consumer's account on a short-term basis, with the consumer's consent. The policy clearly outlines the different levels of access that a consumer 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 consumers to nominate a third-party who can manage their account in the short-term if they suffer temporary capacity loss. The policy also offers consumer home and hospital visits in emergency situations if they require this.

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

Specialist Support

4.56 Some vulnerable consumers will have complex needs or be in situations that will be difficult for firms to address within their standard processes even if they were designed inclusively. These consumers may need more targeted support or referral to specialist services.

4.57 Larger firms or those with many vulnerable consumers may consider introducing specialist teams or staff who are trained to provide specialist support to vulnerable consumers. For example, some larger firms may want to have dedicated bereavement services where staff have the training and time to deal sensitively with the needs of bereaved consumers. If specialist support is available internally, firms should ensure frontline staff are aware and make it easy for vulnerable consumers to access that support. For example, firms may enable 'warm handovers' where a vulnerable consumer is transferred directly and introduced to a specialist team.

4.58 If a firm believes that consumers may benefit from support or assistance from a third-party organisation or charity they should provide clear information to signpost the consumer to the third party. Large firms or those with many vulnerable consumers could explore formal partnerships with specialist organisations, such as through enabling the 'warm referral' routes mentioned above to give consumers benefits advice or support for mental health problems.

Examples of how firms can put this into practice

Creating dedicated vulnerability units that have the skills, knowledge and time to support consumers with complex or specialist needs as well as offer advice and support to frontline staff.

Nominating individuals to become vulnerability champions or "super-users" to provide support and expertise to colleagues.

4.59 Some vulnerable consumers may be in difficult or crisis situations and it is not appropriate for the firm to resolve them. Where there is immediate or serious risk to the health or life of the consumer or their family members, firms may consider it appropriate or necessary to inform the relevant authorities.

Case study: Good practice – Helping vulnerable consumers access specialist services

A mortgage company was approached by a consumer who wanted to release the equity in his property because he believed he was ineligible for a state pension and needed some income. Research by the company revealed the consumer was misinformed and was in fact eligible for a state pension and had a significant amount of unclaimed state pension due.

The product application did not proceed as the consumer no longer needed to release money from their property to provide the income they needed.

This firm has taken extra steps to ensure that a consumer in a vulnerable situation and under financial pressure is buying the right product for their needs. When the firm found there was no need for the product the consumer sought they did not proceed with the application.

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

One insurer has created a partnership with a voluntary organisation where it can refer consumers 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.

This firm helps consumers 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.

Putting in place systems and processes that support the delivery of good customer service

- 4.60** Vulnerable consumers can be exposed to harm if firms have incorrect information or are not aware of information that has already been shared with another part of the organisation. For example, if a consumer in debt informs one part of the business that they are experiencing financial difficulties due to illness but the system does not allow this to be shared with the collections department, the firm could fail to alter their collection process to the consumer's new circumstances, making their situation worse.
- 4.61** Firms should ensure that they have systems and processes that allow customer service staff to record and access information that will be required in the future to respond to vulnerable consumers' needs. Consumers should not have to repeat information.
- 4.62** In designing such systems, firms should consider what consumers would reasonably expect when they share information about their needs with the firm. For example, where a consumer holds multiple products within a single brand they may expect staff within that brand to be aware of their needs. Where a consumer holds products across different brands they may not know they are part of the same group and may expect to contact the brands separately to discuss their needs. Firms should ensure they record and process data in line with requirements of data protection legislation, see Appendix 1.

Examples of how firms can put this into practice

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.

Adding free-text box on systems or notes on a customer file that allows staff to describe the customer’s needs.

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

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

This firm had a process in place for recording consumer vulnerability and third-party representation, as well as being able to help the consumer deal with their arrears. This holds true for future interactions, when having information recorded about a consumer’s circumstances available will enable other staff members to understand their needs.

Case study: Good practice – Offering specialist and flexible services

A digital firm allows consumers 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.

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

Communications

- 4.63** Communication is particularly important when considering the needs of vulnerable consumers, as they may have different or additional information needs.
- 4.64** Some characteristics of vulnerability, including sensory impairments, disabilities, learning difficulties, or poor literacy may result in particular communication needs. Others may mean consumers struggle to understand or take in information or find certain communication channels stressful. For example, stressful life events like divorce or bereavement may make consumers more susceptible to harm where communications are unclear. Mental health crises can lead to anxiety and avoidance of certain communication channels like the telephone.
- 4.65** In this section, we set out how firms should:
- a.** ensure all communications and information about products and services are presented in ways that are understandable for these consumers.

- b. consider how they communicate with vulnerable consumers, taking account of their needs. Where possible, firms should offer multiple channels so vulnerable consumers have a choice.

Ensuring all communications and information about products and services are presented in ways that are understandable for consumers

4.66 Firms should ensure communications throughout the life-cycle of a product or service are clear and provided to vulnerable consumers in a way that they can understand, this includes:

- marketing
- point of sale
- post-contractual information
- information changes to the product or service
- complaints processes

4.67 Firms should consider the needs of vulnerable consumers in their target market and customer base when designing communications.

4.68 If needs cannot be accommodated within standard communications, firms should provide different formats where it is proportionate to do so, particularly for key documents. The box below provides examples of accessible formats that firms may wish to consider. Firms should proactively offer to consumers communications that can meet their needs.

Examples of how firms can put this into practice

Providing a means of communicating using British Sign Language such through video services

Simplified versions of communications, e.g. using infographics

Colour schemes friendly to people with conditions such as dyslexia

Large print

Accessible websites

Next Generation Text

Easy grip pens in branch

Audio options

4.69 Where disclosures are standardised by rules, firms must ensure they comply with mandatory disclosure requirements. However, this should not prevent them from additionally providing information in a form that meets the communication needs of vulnerable consumers. For example, a staff member could explain the information that has been provided to the consumer.

- 4.70** In addition to this guidance, firms should consider the requirements of the [Equality Act 2010](#).

Case study: Poor practice – Not meeting specific communication needs

One consumer was unable to read large print and did not know braille. He wanted his bank to communicate by email as he can turn emails into speech, but the bank did not offer this option. The bank continued to send the consumer communications on paper.

This firm does not have processes that can flex and adapt to deal with non-standard situations to provide the consumer with a solution that meets their needs. The firm should consider solutions to fill this gap in their service provision.

Case study: Poor practice – Engaging with consumers and recognising when a consumer 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 and consider alternative information formats where possible. He suggests that firms offer alternative ways of engaging with key information and processes, and use technology, such as videos, where it can help.

These firms and their staff have not understood the needs of the consumer, assuming that physical disability also means low mental capacity or financial capability. The firms haven't taken into account that the format of information can cause the challenge rather than the information itself. As a result, firms are increasing the likelihood of harm by preventing people from being able to interact with their services.

Case study: Good practice – Meeting specific communication needs

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

This service increases accessibility and effectively meets the communication needs of certain consumer groups in the firm's target market.

- 4.71** Firms should consider the challenges vulnerable consumers may face in understanding features of a product or service. In addition to how they present information, firms should also consider how vulnerable consumers process that information and the potential effect of behavioural biases.
- 4.72** Some vulnerable consumers 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 make a decision quickly. Firms should ensure customers do not feel rushed into making decisions and ensure that complex terms and concepts are communicated clearly.
- 4.73** Firms can support customers in this by ensuring that frontline staff have the time to talk customers through information and respond to any questions. Firms with online offers could consider building in easy to read FAQs, pop ups that explain complex terms through

the journey or chatbots that can help customers who may have more questions. Firms could also make customers aware of sources of independent help and guidance.

- 4.74** Firms should proactively check that consumers with characteristics of vulnerability that may impact their comprehension, understand information provided about a product or service. The section above on customer service discusses further how firms can support customer decision making, including where third-party representation is needed.

Case study: Good practice – Checking understanding

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

These firms use proactive communication to check the understanding of vulnerable consumers and identify any other needs the consumer may have.

Case study: Poor practice – Failing to ensure understanding of all consumers involved in a transaction

A consumer organisation reports a client being unaware she was agreeing to be a guarantor for a loan for her son. Her son took out a loan of £3000 with a guarantor lender. She is an older woman with a disability and caring responsibilities and it is unlikely she was ever going to be able to take on payments. The client's son is now unemployed and the client is being pursued by the lender for £6300.

The firm did not ensure sufficient understanding of all parties involved in the transaction, failing to communicate appropriately with the guarantor and safeguard their interests.

Considering how to communicate with vulnerable consumers, taking account of needs

- 4.75** Some vulnerable consumers, 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. They may prefer the option to communicate with the firm in writing, for example by post, webchat or secure email.
- 4.76** Other consumers who find writing or typing difficult could suffer detriment if they are unable to speak to the firm in person or by phone.
- 4.77** Firms with a predominantly single channel strategy should also think about the possible communication needs that consumers with characteristics of vulnerability may have and consider providing another channel or channels. Firms should proactively raise awareness of the different channels available. This will allow vulnerable consumers to communicate through a channel that they can use effectively.

Examples of how firms can put this into practice

Offering a choice of channels which could include telephone, email, in branch, text, written, web-chat, and video calls.

Making staff aware of the different channels that can be offered.

Offering tailored communications where necessary.

4.78 Firms should ensure that consumers are made aware of the different communication channels available so they are able to access them.

Case study: Poor practice – Inflexible communication options

A consumer had severe social anxiety disorder and had difficulty using a phone. When the consumer's husband tried to get a block on a transfer removed, their new bank refused to speak to him, or suggest alternative ways of contacting them. The consumer was forced into a long phone call leaving them quite distressed, and fearing 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.

Case study: Good practice – Ensuring vulnerable consumers have a method of communication they are able to use effectively

A consumer with mental health issues had recently moved their bank account but lost control of their finances. She was able to communicate easily with her bank through their online web chat. The web chat advisor talked things through with the consumer, making them feel genuinely understood and supported, and refunded the bank charges.

The firm had staff appropriately trained to communicate with vulnerable consumers using modern communication methods.

5 Monitoring and evaluation

- 5.1** In the preceding chapters of the Guidance, we have set out our view on what firms should do to ensure the fair treatment of vulnerable consumers.
- 5.2** To achieve this, firms should not consider that a one-off process would meet their obligations under the Principles. They should regularly monitor whether their understanding of vulnerable consumers is embedded across their business, and monitor how their actions affect the outcomes vulnerable consumers experience.
- 5.3** Monitoring in this way will allow firms to determine whether they are achieving the right outcomes for vulnerable consumers and understand which activities and processes work well, and which ones need to be adapted to improve the outcomes for vulnerable consumers. For example, for some larger firms with a diverse customer base, this may entail an ongoing process. While for smaller firms it may involve a regular review.
- 5.4** In this chapter, we set out how firms should:
- a.** implement appropriate processes to evaluate where they have not met the needs of vulnerable consumers, so that they can make improvements.
 - b.** produce and regularly review management information, appropriate to the nature of their business, for the outcomes they are delivering for vulnerable consumers.

Implementing appropriate processes to evaluate where the needs of vulnerable consumers are not met

- 5.5** Lack of effective quality assurance on services and products along the customer journey may result in firms failing to spot where the needs of vulnerable consumers are not being met and what needs to be changed as a result.
- 5.6** 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 unintentionally cause harm to vulnerable consumers
 - customer service processes are not meeting vulnerable consumers' needs.
- 5.7** Some firms, especially larger firms or those with a target market that 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.

Examples of how firms can put this into practice

Using feedback that may not be sent to the firm directly, including online reviews and social media complaints.

Testing experiences of vulnerable customers through processes such as mystery shopping, auditing, focus groups and deep dives.

Allowing staff to feedback honestly when they think processes for vulnerable consumers could be improved.

Reviewing whether processes and policies are effective in the fair treatment of vulnerable customers.

Ensuring it is easy for vulnerable consumers to make complaints, and through multiple channels.

Case study: 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. This is likely to be effective as a component of a firm's strategy for the fair treatment of vulnerable consumers, provided that it takes account of a range of elements such as external feedback.

Management information

- 5.8** To understand if vulnerable consumers are being fairly treated, firms should understand how their customer journey affects their vulnerable consumers and the outcomes they experience.
- 5.9** Consumer needs and circumstances can change, as can the ways different consumers 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.
- 5.10** Firms should therefore ensure they collect management information at different points in the customer journey, including key points of interaction with consumers. Firms should also ensure that the management information is useful and will allow them to understand both the experience and outcomes of vulnerable consumers.
- 5.11** 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 depend on the firm type, their products and target market.

Examples of how firms can put this into practice

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.

Types of management information firms may want to collect include:

- Business persistence: analysis of customer retention records – e.g. why customers leave, this may flag up where poor treatment is contributing to high turnover of customers.
- Training and competence records: analysis of records of staff training, including remedial actions where staff knowledge or actions were found to be below expectations.
- File reviews: reviewing customer files to check for errors and assess if customers were treated fairly (this is particularly useful for sales processes).
- Customer feedback: using formal and informal feedback from customers (e.g. complaints and comments made to the firm but also comments and complaints on social media) to identify trends and areas for improvement.
- Complaint root cause analysis: investigating complaints fully to understand the cause of customer complaints, not just dealing with the symptoms.
- Compliance reports: review compliance reports to check if standards are being met in terms of treating customers fairly.

Firms may want to refer to [Guidance](#) issued by the FSA that was designed to help firms develop management information (MI) to demonstrate that they are treating their consumers fairly.

Case study: 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 common 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.

Appendix 1

GDPR and DPA 2018 considerations when interpreting the Guidance

1. We recognise that several elements of the Guidance may involve obtaining, using, storing and sharing personal data.
 - In **chapter 3** we set out how firms should ensure staff are able to utilise, record and share this data where appropriate.
 - In **chapter 4** we set out how firms should have systems in place to record information on the needs of vulnerable consumers, and also to ensure relevant customer service staff have access to information they require in order to recognise and respond to customer needs.
2. 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 the Data Protection Act 2018 (the DPA 2018). This Appendix highlights some of the areas of the GDPR and the DPA 2018 that may be relevant for firms to consider when interpreting the Guidance.
3. The GDPR and DPA 2018 are regulated and enforced by the Information Commissioner's Office.
4. We have taken account of comments from the ICO in drafting the Appendix, but it should not be considered as a formal representation of the ICO's position.
5. This appendix does not constitute legal advice or suggest firms take particular approaches to interpreting the GDPR and DPA 2018. The content is based on publicly available ICO guidance that we have signposted to throughout the Appendix. 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. Firms could also consider the benefits of working with their trade associations to produce industry codes that address specific data protection issues or challenges within a sector in order to improve compliance. The ICO will provide advice and support to trade associations in understanding codes of conduct.

Key relevant definitions for this Appendix

6. *Personal data* is information that relates to an identified or identifiable living individual.
7. *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.
8. *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.

9. 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 condition under Article 9 needs to be identified.
10. *Consent* is a freely given, specific and informed statement or affirmative action, which indicates that an individual agrees to the processing of their personal data.

Bases on which firms can process data

11. 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 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.
12. 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. Firms should consider the [ICO guide](#) on valid consent when seeking to understand what determines consent.
 - Basis (b), *Contract*: the processing is necessary for a contract a firm has with the individual, or because they have asked the firm 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.
13. 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?
14. Firms could use a legitimate interests assessment to help determine whether they should use it as a basis for processing. The ICO provides more information on legitimate interests in their [guide to data protection](#).
15. Firms should be aware that, depending on the customer's circumstance, the Article relied on to process data under may differ. This is the case when processing personal data about criminal convictions or offences where firms must have both a lawful basis under Article 6 and either legal authority or official authority for the processing under

Article 10. The ICO provides further information on processing data about criminal convictions or offences here: Special Category Data

16. Some personal data that are processed about vulnerable consumers may be Special Category Data as defined by GDPR.
17. It may not always be immediately obvious that information about a consumer is Special Category Data. For example, information about changes made for a consumer because of their health may not specifically identify the health issue, but would be likely to constitute Special Category Data as their health issue could be inferred.
18. 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 the GDPR. This Article 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: explicit consent (Article 9(a)) and public interest (Article 9(g)). Firms should also note that there are additional requirements that must be met under the Schedule 1 DPA 2018.

Explicit Consent

19. 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. Explicit consent requires a very clear and specific statement of consent.

Substantial Public interest

20. 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, for example safeguarding economic wellbeing.

Safeguarding Economic well-being

21. 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.
22. 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; or
 - 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.

23. Firms should also be aware that they are required to have an Appropriate Policy Document (APD) in place under certain conditions.
24. The ICO provides more information on conditions for processing special category data and APD's.

Additional areas to consider

25. Firms will need to consider all further requirements of the GDPR, including but not exclusive to: individual rights and transparency, accountability, data protection impact assessments, data accuracy, data minimisation and storage limitation, and data sharing.

Individual rights and transparency

26. Firms should ensure that they have appropriate policies and procedures in place to provide individuals with the information they are entitled to under Article 13 and 14 of the GDPR (Right to be Informed).
27. Firms should also ensure that they are able to meet individuals' rights requests under GDPR, for example the right of access (Article 15) and right to rectification (Article 16).
28. Firms must also ensure they are transparent, by acting in a way which is open and honest, and complying with the transparency obligations of the right to be informed.
29. The ICO provide further information on [individual rights](#).
30. Firms should also be aware that the lawful basis chosen may have an impact on the individual rights available to the data subject. For example, if organisations use safeguarding economic wellbeing as a condition under Article 9(g), this may allow the processing of health data without data subject consent. However, the data subject still has the right to object but not the right to data portability or the right to erasure.
31. The ICO provide further information on how rights may be affected depending on the lawful basis chosen.

Accountability

32. Article 5(1) of the GDPR sets out 6 key principles core to the GDPR, some of which have already been outlined. These include:
 - a. Lawfulness, fairness and transparency
 - b. Purpose limitation
 - c. Data minimisation
 - d. Accuracy
 - e. Storage limitation
 - f. Integrity and confidentiality

33. The ICO provides a guide to the GDPR principles.
34. Under Article 5(2), firms must take responsibility for complying with all Article 5(1) principles and the wider GDPR. These principles are interconnected and failure to comply with one may lead to non-compliance with others, therefore it's important they are considered together. They must also be able to demonstrate compliance.
35. Firms should maintain a record of their data processing activities, including the purpose for processing and data sharing in line with Article 30 of the GDPR. Documenting this information will help firms remain accountable.
36. The ICO suggests that developing a privacy management framework, raising awareness, training staff, monitoring and auditing could be useful in demonstrating successful implementation of data protection policies and ensuring accountability.
37. The ICO provides further information in their guide on accountability and governance.

Data protection impact assessments

38. 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 of the GDPR.
39. In certain circumstances under Article 35 of the 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. The ICO provides further information on DPIAs.
40. 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.
41. Information relating to a customer's vulnerability or needs should be recorded accurately to reflect the information as presented. This should help staff when interacting with such customers in the future.
42. Firms should consider how they ensure the data they hold remains accurate. For example, they could ask customers who have shared information relating to a vulnerability or need if or when they would like to be contacted again, or check that particular events relating to their circumstance, which 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 and help staff recognise where circumstances may have changed. The ICO provides further information on data accuracy.

Data minimisation and storage limitation

43. 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.'

44. Firms should ensure that the information they record about vulnerable customers is enough to understand their needs and translate that into action, but not more than that which is necessary.
45. Firms may choose to record the interventions or support requested by a customer rather than the vulnerability itself. However, if this information means that the vulnerability could be inferred then that would come under special category data, it has to be treated as such.
46. Firms should also take into account the principle of storage limitation. This states that personal data held for too long will become unnecessary.
47. The ICO have provided more information on the principle of storage limitation.
48. The ICO provides more information on [data minimisation](#).

Data Sharing

49. Sharing data with third party individuals or organisations may be important in achieving good outcomes for a vulnerable customer.
50. In order to comply with relevant data sharing obligations, firms should consider whether they are a controller, joint controller, or processor of personal data. According to the ICO:
 - The controller 'determines the purposes and means of the processing of personal data'.
 - The processor 'processes personal data on behalf of the controller'.
 - Joint controllers are 'two or more controllers that jointly determine the purposes and means of processing'.
51. Firms should understand that, where they are the controller, they are able to share data within their organisation provided that the data is processed for the same purpose as it was originally collected for and under the original lawful basis under Article 6 and, where applicable, condition under Article 9.
52. As with wider sharing, firms should assess whether they need to carry out a DPIA to share data with third party individuals or organisations. Firms should also consider what information needs to be shared, why they are sharing this, the risks associated with sharing, and how to share this information.
53. Firms must identify at least one lawful basis for sharing personal data. If the firm is sharing Special Category Data, firms must identify an additional condition under Article 9(2) and, if required, under Part 1 of Schedule 1 of the DPA 2018. Firms must also ensure they share information in compliance with the principles laid out in Article 5 of the GDPR.
54. The ICO recently published a [consultation paper](#) on their Data Sharing Code of Practice.

Annex 5

Abbreviations used in this paper

CBA	Cost Benefit Analysis
CFD	Contract for differences
CMC	Claims Management Company
EHRC	Equality and Human Rights Commission
FSMA	the Financial Services and Markets Act 2000
GC	Guidance Consultation
GDPR	the General Data Protection Regulation
ICO	Information Commissioner's Office
OPG	Office of the Public Guardian
PIN	Personal Identification Number
PSED	Public Sector Equality Duty
UKRN	UK Regulators Network



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