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Compliance

BEST PRACTICE

GUIDANCE NOTE

Handling vulnerable clients fairly

This Guidance Note was first published in January 2021 and was updated in September 2021 to reflect further guidance from the Financial Markets Authority.

Introduction

On 2 September 2021 the Financial Markets Authority (FMA) published an updated information sheet on its expectations for providers of financial services in relation to client vulnerability practices. In doing so, the FMA acknowledges that there is no ‘one-size-fits-all’ approach to developing and embedding processes and practices related to client vulnerability. Instead, firms should tailor their responses to reflect their scale, size and complexity and consider the likelihood of their clients experiencing vulnerability. The updated information from the FMA provides practical guidance and has been included in this Guidance Note.

The Financial Markets Conduct Act 2013 imposes statutory duties on those persons who give regulated financial advice to clients, including, to comply with the standards of ethical behaviour, conduct and client care. Businesses need to consider how they can adapt services and adequately cater to vulnerable clients’ needs.

Why is it important to understand vulnerable clients?

- The Financial Markets Authority (FMA) Strategic Risk Outlook (SRO) for 2019, identified demographic change as likely to increase the number of vulnerable clients, due to an aging population and increase in ethnic diversity as a result of immigration.
- The impact of COVID-19 on individuals and the economy may lead to a rise in the number of vulnerable clients, e.g. job losses.
- The Code of Professional Conduct for Financial Advice Services (The Code) specifically mentions client vulnerabilities.

The Code of Professional Conduct for Financial Advice Services (The Code), **Part 1, Standard 1**, requires “A person who gives financial advice must always treat clients fairly.” The commentary refers to the fact that clients’ lack of knowledge or other vulnerabilities must not be taken advantage of.

Part 1, Standard 4 of the Code, states, “ A person who gives financial advice must take reasonable steps to ensure that the client understands the financial advice”... “What amounts to reasonable steps by the person who gives the financial advice will depend on the circumstances, such as the nature and scope of the financial advice, and the skills, experience and vulnerabilities of the client.”

The Code, **Part 2**, focuses on the competence, knowledge and skill of a person who provides financial advice. By implication, this means the person needs the ability to deliver good outcomes for vulnerable clients.

In addition, the FMA's Annual Corporate Plan 2019/20 identified treating clients fairly in all interactions as a priority and highlights the need for consumer trust in financial services/markets/products. The way you operate your business must have appropriate safeguards in place to handle vulnerable clients fairly.

Who is a vulnerable client?

The definition of a vulnerable client is *"a person, that due to personal circumstances, is especially susceptible to detriment, particularly when the adviser/business is not acting with the appropriate level of care"*, according to the Financial Conduct Authority. It is important to note that vulnerability cannot be defined as being specific to a 'type' of person. Rather, it may arise in the form of different circumstances and characteristics that are not always obvious.

The personal circumstances that can cause vulnerability can be wide-ranging but often fall into one of the following categories:

- Communication difficulties (including learning difficulties, dyslexia and English not being their first language).
- Physical or mental disabilities or impairments.
- Serious or chronic illness or health issues (including those who are dependent on a carer).
- Have suffered traumatic events (including bereavement, serious illness diagnosis, natural disaster and violent crime).
- Challenging personal circumstances (including financial hardship, redundancy and caring responsibilities).
- Who are elderly (i.e. aged 65 or over).

There can be challenges in identifying vulnerable clients for several reasons, for example the person may not consider themselves vulnerable or not know how to disclose they are vulnerable. This is all the more reason to ensure you have robust systems in place to identify vulnerable clients. You should also be mindful of the fact that vulnerabilities can be fluid, for example a client may not be

vulnerable when you have initial contact, but circumstances may change throughout your relationship. It is crucial you have appropriate systems in place to identify this and mitigate the risk of failing to meet the client's needs.

TIP: You should look to understand the cause, nature and extent of different vulnerabilities in your own customer base. This will allow you to develop responses that tackle your specific customers' needs. As a starting point, you may consider the [Consumer Vulnerability Framework](#) by the Council of Financial Regulators to understand different characteristics of vulnerability and how they may apply to your business.

Appropriate policies and procedures

Treatment of vulnerable clients must be embedded throughout the whole client journey and the FMA expects firms to demonstrate that appropriate policies and procedures are in place for this. Consider assigning accountability for vulnerability policies to executive-level leadership, including how successes will be measured and at what level it should be reported.

TIP: An example of good practice is constant reflection on policy implementation. This could be achieved through a working group that regularly tracks progress against vulnerability framework objectives, areas for improvement and reporting these at an executive level.

Staff capability

Make sure your staff have the capability to deal with vulnerable clients. Do this by providing guidance and training on how to identify different client vulnerability circumstances (for example, red flags such as certain words or tone of voice could be implemented into your systems). And once a client has been identified as vulnerable, make sure your staff know how to adapt their service so that it is appropriate.

TIP: An example of good practice is ensuring all frontline staff are equipped with the skills and confidence to service the needs of vulnerable clients. For example, giving them access to practical and emotional support mechanisms as well as making sure there is general organisation wide awareness of potential client vulnerabilities. This could be provided via a company-wide training module.

Practical steps for frontline staff

It is important to remember that the reasons people may be vulnerable are varied and therefore, those interacting with clients need to be trained to spot the signs. There is not an exhaustive list of vulnerabilities and similar circumstances may give rise to one person being vulnerable and another person not being vulnerable.

Having well-trained employees who can gather information throughout the client relationship is essential. In addition, having well-drafted documentation that helps collect information on clients' circumstances and changes to circumstances would be of benefit to all frontline staff. The fact a client is considered vulnerable – whether they have identified themselves as vulnerable or you have – should be recorded and communicated to relevant employees, usually through a CRM system. Having this data enables the advice process to be modified, if necessary, and for the client to be treated with the appropriate level of care. There should not be unreasonable barriers that prevent a client from:

- Changing product.
- Switching provider.
- Submitting a claim.
- Making a complaint.

Care must be taken to comply with the Privacy Act 2020 and, where applicable, the Health Information Privacy Code 2020 with respect to information about a client's vulnerable circumstances that you may collect.

Below are a number of suggestions that may help improve the outcomes for vulnerable clients, when accessing financial products and services:

- Give frontline staff the ability, within limits, to adjust service standards to suit the needs or situation of a vulnerable client.

- Give frontline staff clear boundaries on areas where they have the discretion to adjust or change processes and when they need to seek permission from more senior or experienced staff.
- Support vulnerable clients to articulate their needs and what adjustments would help them, for example by asking questions about needs and preferences across key points of the client journey, such as when taking out a new product or service.
- Consider the language you use, phrases such as ‘extra help’ or ‘additional support’, rather than the term ‘vulnerable’, may encourage clients’ to disclose needs.
- Early in the client relationship allowing a client to nominate a designated third-party who can support the client in their interactions and be contacted if there are concerns.
- Agree on a ‘check-in’ date to discuss whether there have been any changes to the client’s circumstances.
- Make sure your process is set up so that a client only needs to notify you of a vulnerability once rather than being passed around to different areas of the business.
- Assess the complexity and readability of key documents and web pages and make changes to make them more appropriate.
- Ask clients if they understand key product details and address situations where they do not.
- Be proactive with multiple communication channels to contact and assist vulnerable and potentially vulnerable clients (e.g. non-English speakers), as well as the provision of support services as part of a firm’s offering.

TIPS: Some examples of good practice include:

- Use softer language to define vulnerable clients, for example you may want to change your definition to ‘extra care clients’ or similar. Softer language, whether written or verbal, shows empathy which is important in all aspects of customer service.
- Communicate using plain English and provide information in a way that vulnerable clients can understand and engage with (e.g. through different channels that suit them).
- Make it easier for clients to disclose their needs through online platforms. Use data analytics or software to identify drivers of vulnerability which you can then use in communication campaigns.

It is important to consider how severely the vulnerability impacts on the client so you can modify your client interactions. Below are some of the ways you may wish to alter your dealing with clients that are considered vulnerable:

Vulnerability	How you could support the client
Visual impairment	<ul style="list-style-type: none"> • We use a larger font in our advice documents. • We provide a range of reading glasses in our interview room in case clients forgot to bring in their glasses. • We read out key points. • We may ask for a support person to be present in the meeting. • We may send copies of documents to the support person
Auditory impairment	<ul style="list-style-type: none"> • In an interview, we sit on the side where the client has better hearing. • If the client needs to lip-read, then we sit opposite the client and speak clearly. • We put more detail into our advice documents so the client can read rather than rely upon talking.
Age-related issues	<ul style="list-style-type: none"> • Talk slower. • Have more client interviews and each is of a shorter duration. • Repeat key points. • Schedule meetings for a time of day when the client is most alert (normally 0930-1230hr). • Request a support person to be present. • Send copies of documents to the support person or a trusted third party.
Clients where English is not their first language	<ul style="list-style-type: none"> • May engage a translator. • Have key documents in dual languages. • Explain key concepts and recommendations several times. • Written advice to contain more supporting information so they can have a trusted friend translate for them. • Speak slower. • Use simple verbal and written language.
Clients in stressful situations	<ul style="list-style-type: none"> • Spend more time with the client. • Give clients longer to make a decision. • Ask if they would like a copy of any recommendations and rationale sent to a trusted third party. • Recommend a support person attends all meetings.
Other vulnerabilities	The approach will vary depending upon the situation and the

support will be a combination of the items listed above.
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Other considerations

Depending on the size of your business, you may wish to consider having a specialist team that deals with vulnerable clients.

Consider the data you have in relation to clients cancelling products or calling with questions about a product after purchase. This may give you an insight into whether vulnerable clients are being identified early enough in the advice process.

If a vulnerable client asks for another person to deal with you on their behalf, then care should be taken to ensure that the appointed person is authorised to do so.

As face-to-face contact points are removed in the Covid-19 environment, consider having (and then promoting) the availability of specialist support for the vulnerable clients either internally, or externally through charities or third-party providers.

If you cannot satisfy yourself that the client has the capacity to understand the product/service they are purchasing, then you should not sell them the product.

Consider which aspects of your process has inherent stress and where you can reduce the factors that may give rise to stress. For example, a client claiming under an income protection policy has the unavoidable stress of loss of income. However, there are things you can do to alleviate stress, for example:

- Take time to listen to the client to ensure there are no communication gaps.
- Don't rush the process.
- Show respect and empathy by listening and responding to the client.
- Make sure there is co-ordination between different departments so the client doesn't have to repeat anything.

Having systems in place to serve vulnerable clients, not only has a positive outcome for the client but leads to greater levels of staff satisfaction and client retention.

Next steps

Strategi can assist with:

- Training staff to identify and deal appropriately with vulnerable clients.
- Draft your vulnerable client policy.

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