

# Vulnerable persons policy

March 2023

## 1. Consumer Duty

The way in which we deal with customers, including those who may be vulnerable, is fundamental to the way in which we do business. We will be judged on how we treat our customers both by the customers themselves and by the regulator.

The FCA's Principle for Businesses 12 (Principle 12: Consumer Duty) states that:

*A firm must act to deliver good outcomes for retail customers.*

The FCA considers it is appropriate to require a high level of protection for retail customers for the following reasons:

- they typically face a weak bargaining position in their relationships with firms;
- that they are susceptible to cognitive and behavioural biases;
- that they may lack experience or expertise in relation to products offered through retail market business; and
- that there are frequently information asymmetries involved in retail market business.

A retail customer is a customer who is not a professional client, as set out in the Conduct of Business Sourcebook (COBS).

The FCA has also set out its expected standards under Principle 12 and the corresponding obligations in the FCA Handbook PRIN2A. We are expected to appropriately consider the needs and characteristics of retail customers in the relevant target market. Such characteristics include the retail customers' resources, degree of financial capability or sophistication and characteristics of vulnerability.

This policy explains how we will treat our customers and describes the procedures we have in place for identifying and handling those customers we identify as being vulnerable. Note that in this policy the term customer may also be taken to mean client or investor in the Services managed by Ingenious.

We will review this policy annually, or as frequently as required by changes in relevant legislation, rules or guidance.

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## 1.1 Protected characteristics and characteristics of vulnerability

In relation to the needs and characteristics of retail customers, we should, among other things:

- pay appropriate regard to the nature and scale of characteristics of vulnerability that exist in any relevant target market;
- pay appropriate regard to the impact of characteristics of vulnerability on the needs of retail customers in any relevant target market;
- when dealing with a particular retail customer pay appropriate regard to the needs and characteristics of that retail customer, such as characteristics of vulnerability;
- assist frontline staff to understand how to actively identify information that could indicate vulnerability and, where relevant, seek information from vulnerable customers that will allow staff to respond to their needs; and
- set up systems and processes in a way that supports and enables vulnerable customers to disclose their needs.

Groups of retail customers with specific protected characteristics may have, or be more likely to have, characteristics of vulnerability, for example older customers. In addition, where health is a driver of vulnerability it will likely have substantial overlap with the protected characteristic of “disability” under the Equality Act 2010. We should keep ourselves apprised of any evidence that may emerge that retail customers with specific protected characteristics have characteristics of vulnerability.

## 1.2 Vulnerability under the cross-cutting obligations of Consumer Duty

Here are some examples of how the cross-cutting obligations apply in the context of dealing with customers, especially those who may be vulnerable:

Cross-cutting obligations	Examples
Act in good faith	Not taking advantage of a retail customer or their vulnerabilities, in a manner which is likely to cause detriment.
Avoid causing foreseeable harm	Ensuring that no aspect of our business involves unfairly exploiting behavioural biases displayed or vulnerabilities held by retail customers.
Enable and support retail customers	Ensuring that no behavioural biases or characteristics of vulnerability are unfairly exploited.

The FCA’s guidance (PRIN 2A.2.25) sets out that under the cross-cutting obligations we are required to understand and take account of cognitive and behavioural biases and the impact of characteristics of vulnerability and/or lack of knowledge on retail customers’ needs and decisions.

### 1.3 Vulnerability under the four retail customer outcomes of Consumer Duty

Here are some examples of what we need to do to ensure we achieve the retail customer outcomes, especially when dealing with those who may be vulnerable:

Cross-cutting obligations	Examples
Products and services	<ul style="list-style-type: none"> <li>• Consider any particular additional or different needs, characteristics and objectives that might be relevant to vulnerable customers in the target market in our product approval process.</li> <li>• Ensure that all relevant risks to vulnerable customers in the target market are assessed.</li> <li>• Ensure that the design of the product (including the closed products) does not adversely affect groups of vulnerable customers in the target market.</li> <li>• Regularly review and test our products to assess whether they meet the identified needs, characteristics and objectives of vulnerable customers in the target market. If the results of the testing are negative, we must not bring the new product to the market, cease marketing or distribution of the product until necessary changes are made to meet the needs of our vulnerable customers.</li> </ul>
Price and value	<ul style="list-style-type: none"> <li>• In our value assessment process, consider any characteristics of vulnerabilities that the retail customers in the target market display and the impact these characteristics have on the likelihood the retail customers may not receive fair value from the product.</li> </ul>
Consumer understanding	<ul style="list-style-type: none"> <li>• Consider any characteristics of vulnerabilities when tailoring communications (including one-to-one interactions) provided to retail customers.</li> <li>• Consider any characteristics of vulnerabilities when testing communications provided to retail customers and adapt our communications if we identify that vulnerable customers are not experiencing good outcomes.</li> </ul>
Consumer support	<ul style="list-style-type: none"> <li>• Design and deliver support to meet the needs of vulnerable customers.</li> </ul>

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## 2. Application and responsibility

### 2.1 Application

This policy applies to all directors, employees, contractors, temporary staff, outsourced consultants and outsourced agents (collectively referred to as 'staff' or 'employees' for the remainder of this document), who are involved in engaging with customers directly. Where in-scope business functions or services are outsourced to a third party, that third party must comply with this policy. Any queries regarding the application of this policy should be referred to the Head of Compliance.

Our overall goal is to ensure good customer outcomes at all stages in the customer journey. All (customer-facing) staff are expected to understand and appreciate the individual's personal situation when interacting with customers.

All employees with customer facing / handling responsibilities must comply with this policy. We recognise that identifying and dealing with potentially vulnerable customers can be a difficult and sensitive topic. Training and guidance will be delivered for all staff with such responsibilities. If a member of staff requires help or advice with handling a particular situation, we encourage our staff to consult and seek guidance from the Head of Client Services or Head of Compliance.

### 2.2 Responsibility

It is the responsibility of all employees with customer facing / handling responsibilities, to adhere to the vulnerable persons policy.

The Board is responsible for the ongoing development of this policy, which will be reviewed, as a minimum, on an annual basis. The Board will also ensure that we have the necessary resources, systems and controls in place to deliver this policy in practice. In addition, the Board will take action as necessary where deficiencies are noted as a result of any compliance monitoring activity undertaken or through other sources of management information.

## 3. Dealing with vulnerable persons

To ensure fair treatment for all, we must take steps to identify and address the particular needs of customers who may be vulnerable.

### 3.1 Identifying vulnerable persons

The FCA's definition of vulnerability found in its Finalised Guidance [FG21/1 Guidance for firms on the fair treatment of vulnerable customers](#) is as follows:

*customers who, due to their personal circumstances, are especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care. Firms should think about vulnerability as a spectrum of risk*

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This guidance sets out that all customers are at risk of becoming vulnerable and this risk is increased by characteristics of vulnerability related to 4 key drivers.

- Health – health conditions or illnesses that affect ability to carry out day-to-day tasks.
- Life events – 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.

Vulnerability can take different forms which can be obvious, hidden, permanent or temporary. Individual customers may accept and acknowledge or disagree and not recognise that they are experiencing vulnerability. It can also apply to both new and existing customers. This therefore makes identifying vulnerable customers difficult and the category of vulnerable customers is potentially large.

The FCA suggests that it is helpful to use risk factors in developing strategies to deal with vulnerable customers. Risk factors are useful in that they capture not only the varied and fluctuating nature of vulnerability, but they also cover interaction between the firm and the customer. Identifying risk factors also reduces the need to categorise or stereotype groups.

### **3.2 Risk factors**

The FCA has identified a non-exhaustive list of risk factors for consumers of financial services:

- low literacy, numeracy and financial capability skills;
- physical disability;
- severe or long-term illness;
- mental health problems;
- low income and/or debt;
- caring responsibilities (including operating a power of attorney);
- being 'older old' for example over 80, although this is not absolute (may be associated with cognitive or dexterity impairment, sensory impairments such as hearing or sight, onset of ill-health, not being comfortable with new technology);
- being young (associated with less experience);
- change in circumstances (e.g. job loss, bereavement, divorce);
- lack of English language skills;
- non-standard requirements or credit history (e.g. armed forces personnel returning from abroad, ex-offenders; care-home leavers, recent immigrants).

The FCA has also developed a list of potential triggers which may indicate a potential vulnerability. Potential triggers for the Firm are as follows:

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Staff should be aware of:

- shortness of breath or signs of agitation;
- asking for repetition (a sign that the customer is not retaining information);
- signs that the consumer has not understood or signs of confusion;
- mention of medication.

### **3.3 Mental capacity**

Identifying when a customer may have limited mental capacity to make their own decisions is a particularly sensitive and challenging task.

Mental capacity refers to a person's ability to make a decision. In relation to financial matters this commonly refers to a person's ability to understand, remember and weigh up relevant information such that they are able to make an informed decision.

We will always assume that a customer has the mental capacity to make a decision unless we are advised otherwise, either directly by the customer or by their financial adviser or another reliable source, or we reasonably believe or suspect that the customer lacks capacity. Even where we suspect that the customer lacks capacity, we will not assume that they lack the capacity to make decisions unless we have taken reasonable steps, without success, to assist them and their advisers.

There are many causes of mental capacity limitations including a mental health condition, dementia, a neurological disability, a brain injury and alcohol or drug intoxication. Examples of some behavioural indications include:

- Where the customer makes a decision which is unexpected or appears to be out of character;
- Where a relative, close friend, carer or clinician raises a concern with us;
- Where we know, or have reason to believe, the customer has been diagnosed with an impairment which led to the customer not having mental capacity for similar decisions in the past;
- Where we know, or have reason to believe, the customer does not understand the information and explanations we provide;
- Where we know, or have reason to believe, the customer is unable to retain the information and explanations we provide;
- Where we know, or have reason to believe, the customer is unable to weigh up the information and explanations we provide to make an informed decision on the best solution for them;
- Where the customer is unable to communicate with us by a reasonable means; or
- Where the customer is confused about the personal information which we require to provide our services.

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### **3.4 Professional verification**

There are recognised professionals who are qualified to provide supporting evidence on behalf of customers with mental health problems and those who are vulnerable or terminally ill. The Money Advice Liaison Group sets out a list of practitioners who are able to provide evidence of vulnerability.

This list includes (but is not limited to) the following:

- Care Co-ordinators;
- Community Psychiatric Nurses;
- General Practitioners;
- Psychiatrists;
- Clinical Psychologists; and
- Approved Social Workers.

We will work with such parties, with the customer's consent, as required to ensure an appropriate level of support is provided.

## **4 How we identify vulnerable customers**

In some cases, such as where we receive information from a professional third party confirming the customer's vulnerability, it will be clear that the customer is in fact vulnerable and we will tailor our services to meet with their specific needs.

In other cases, we may not have specific knowledge of a customer's vulnerability. Our staff are trained to identify any indicators of vulnerability, such as those risk factors listed above, during their interaction with customers so that where we believe a customer may be vulnerable we can tailor our approach to meet with their specific needs.

Assessing potential vulnerability is inevitably a subjective judgement, and often there will be a mixture of other issues which the customer will be dealing with. We aim to take a holistic approach and to treat all of our customers with an appropriate level of skill and sensitivity.

### **4.1 Adapting the way we deal with vulnerable customers**

Once we have identified that a customer may be vulnerable, we need to consider how best to take this into account in the way we deal with that person. Every situation is different, and our staff need the flexibility to adopt an approach that is best suited to helping each individual so we have deliberately not set out a prescriptive list that maps each type of vulnerability to a particular type of treatment.

In many cases, our approach may simply be to take particular care to explain everything the customer needs to know clearly and fully, to check their understanding as we go along, and to give them enough time and space to make a decision without feeling under pressure.

In some cases, it may be helpful to talk customers through the key points of important documents for example, when we know a customer has poor eyesight or is very frail.

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In other cases, for example where we have reason to believe the customer has limited capacity to make their own decisions, we are likely to need to consider additional steps such as involving family members (with the consent of the customer), or to propose that a trusted third party should act for the customer (e.g. through a Power of Attorney).

## **5 Record keeping**

In cases where we have identified an actual or possible vulnerability, we can make a note in our CRM system to indicate that a tailored approach should be taken. We will also record the decisions we make about how best to take this potential vulnerability into account when dealing with this customer, and our reasons for those decisions. This will ensure that staff, when interacting with the customer, are aware that the customer is potentially or actually vulnerable, and account is taken of the guidance in this policy when dealing with matters relating to that customer.

The Firm will ensure that all records are kept in line with our data protection policy and where relevant explicit consent is obtained before making a record of special category data.

Care must be taken not to discriminate against vulnerable persons – it is recommended that if in doubt, any queries or concerns relating to vulnerable persons are discussed with Client Services Director and or Head of Compliance.

## **6 Our skills and capability**

All our staff members understand how their role can affect vulnerable consumers. For example, staff working in product and service design or transformation programmes should take vulnerable customers' needs into account as part of the design process or transformation agenda. If these staff do not have a sufficient understanding of the needs of vulnerable consumers in our target market, products, customer service systems and operations may not meet consumers' needs.

We are required by the FCA to improve the skills and capability of staff members in a way that is proportionate. For example, smaller firms may choose to share existing materials on vulnerabilities with their staff, such as those from professional bodies and trade associations or charity and consumer organisation websites.

As part of our Training and Competence we have specific training for our Client Services Centre staff which provides instructions on how to identify vulnerable persons and the procedure for dealing with vulnerable persons, once identified as such. This training is provided during the on-boarding process and is repeated frequently as required but at least annually.



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## **7 Monitoring and review**

As part of our regular monitoring of customer files for suitability assessment purposes, we will assess whether there is any evidence from the information on file that the customer should have been identified as potentially vulnerable and, if so, whether appropriate steps have been taken to ensure fair treatment and positive outcomes for that customer. When we review customer files, we will also look out for any evidence of unusual or irrational behaviour or instructions from the customer which might be indicators of vulnerability.

