

AG FS UPDATE

Fair Treatment of
Vulnerable Customers
Final FCA Guidance
February 2021



FAIR TREATMENT OF VULNERABLE CUSTOMERS – ACTION FOR FIRMS

The Financial Conduct Authority (**FCA**) has published final guidance (**the Guidance**) clarifying its expectations of firms on the fair treatment of vulnerable customers, as well as a Feedback Statement to its July 2020 consultation on the guidance ([Guidance for firms on the fair treatment of vulnerable customers \(FG21/1\)](#)).

The Guidance sets out the FCA definition of vulnerability as:

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

The FCA wants to encourage improvements in the way firms treat vulnerable consumers and to change firms' actions and behaviour by ensuring that the understanding of the needs of vulnerable customers are central to the firms' design of products, processes, and ongoing monitoring and evaluation. The FCA sees vulnerability as a spectrum, on which customers can move up and down, dependent on their circumstances and expects firms to be flexible in its approach to vulnerable customers as they move through the stages of vulnerability rather than having a catch-all approach for any customer categorised as "vulnerable".

BACKGROUND

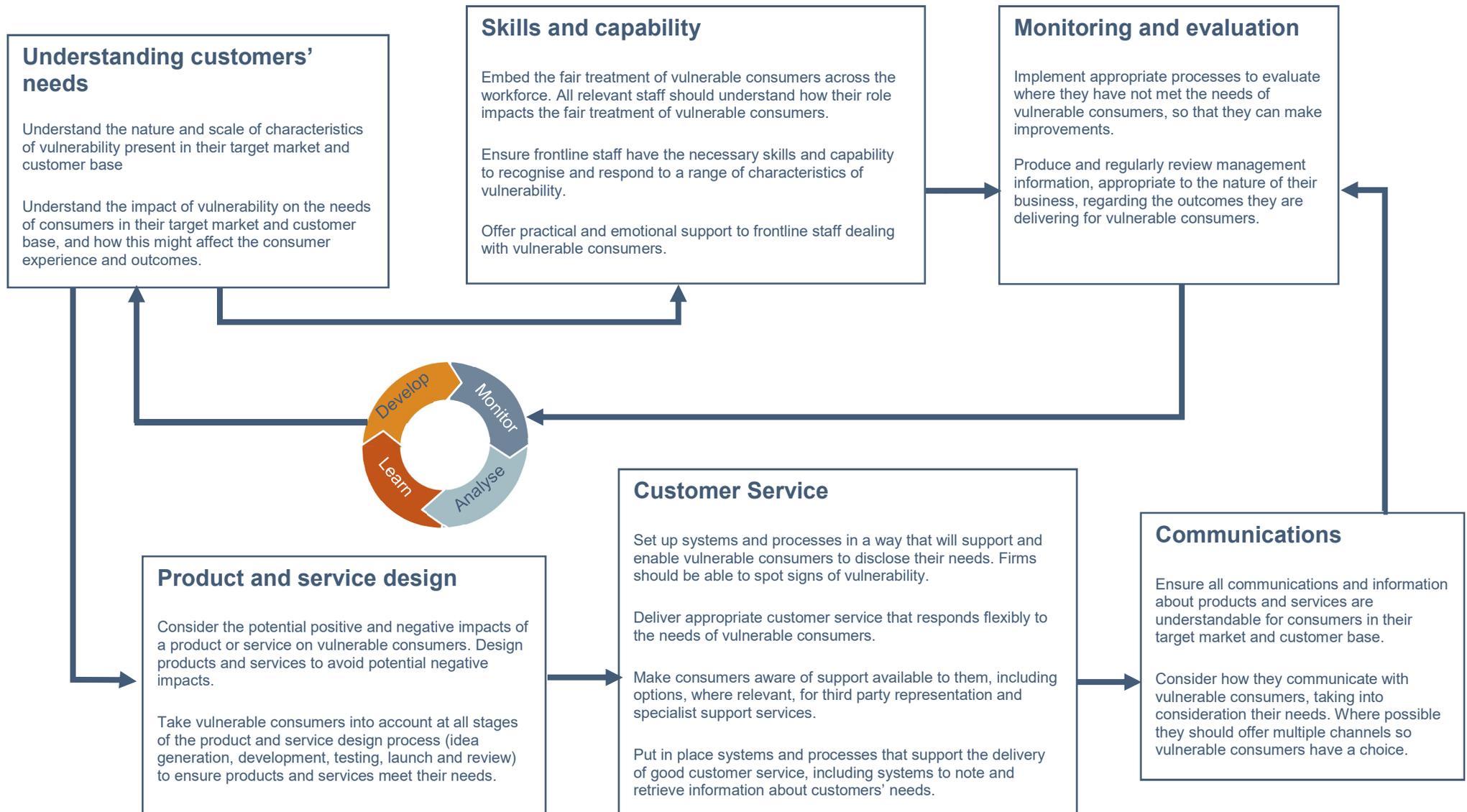
The FCA has been working on improving the industry's treatment of vulnerable customers. It published Occasional Paper 8 in 2015 and has continued to move the dial in this space over the past six years. The second consultation on the guidance was published in July 2020 and the finalised guidance was only delayed to enable the FCA to understand better the impact of the COVID pandemic.

The FCA concluded that whilst the essential nature of vulnerability has not altered during the crisis, the scale and causes of vulnerability have. It is estimated that between March and October 2020 consumers displaying characteristics of vulnerability rose by 3.7 million driven by negative life events such as job loss, reduced working hours and low financial resilience.

The guidance explains that the FCA expects the fair treatment of vulnerable customers to be taken seriously by firms and embedded into business models and processes throughout the whole customer journey. Firms not able to demonstrate this during any FCA engagement will almost certainly face supervisory action.

In terms of a timetable the Guidance applies from February 2021 and by being positioned as in support of Principles it automatically applies to all firms. The Guidance applies to firms' dealings with retail customers who are natural persons, although firms should remember that its Principles of Businesses, including the obligation to treat customers fairly, extend to all customers. The FCA states that the key basis underpinning the requirement for firms to take particular care in the treatment of vulnerable consumers is Principle 6 of the FCA's Principles for Businesses (Customers' interests: A firm must pay due regard to the interests of its customers and treat them fairly).

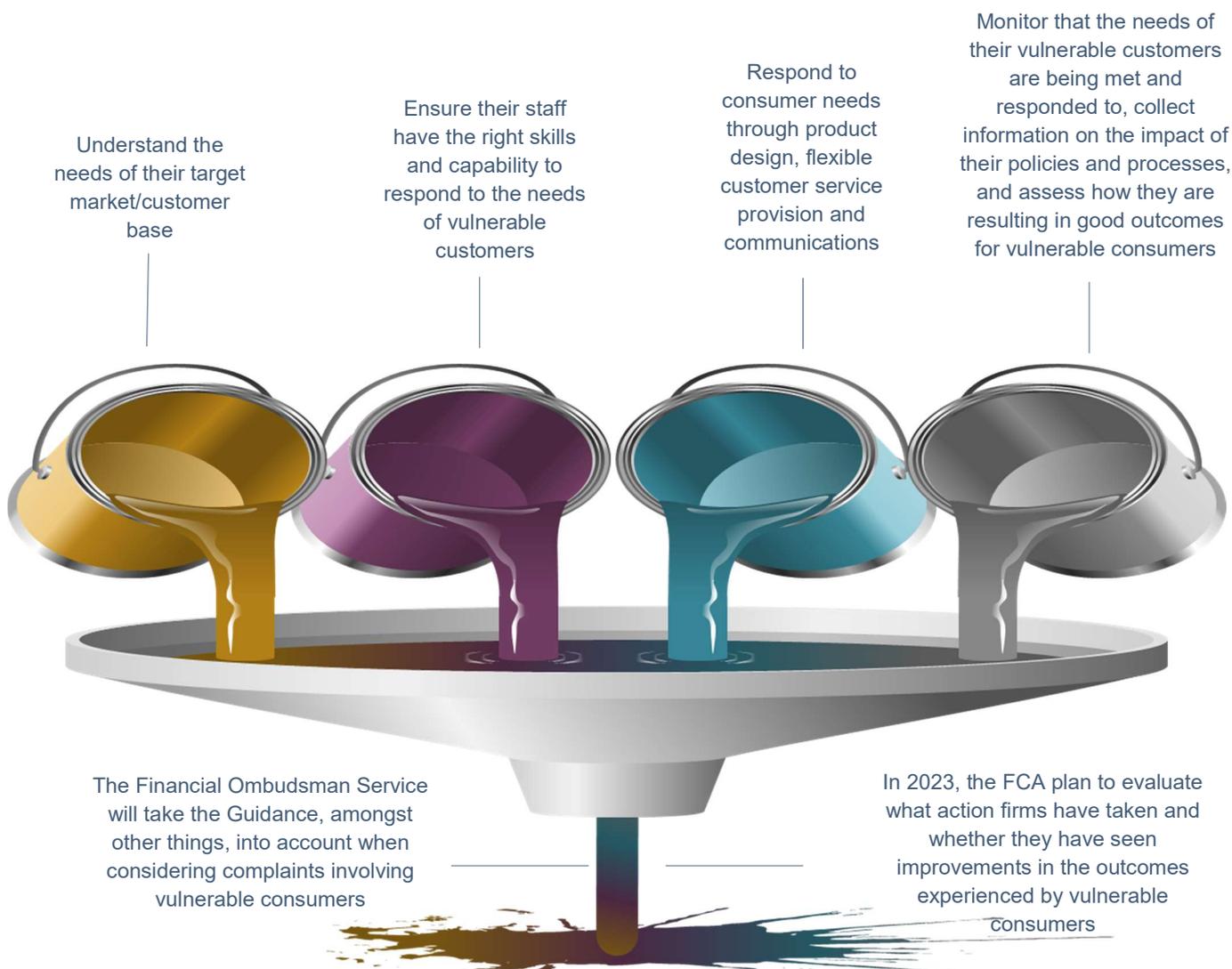
SUMMARY OF FCA'S GUIDANCE



POSSIBLE ACTION FROM THIS GUIDANCE

- The publication of the Guidance is an excellent prompt for firms to review their existing policies and procedures in relation to vulnerable customers.
- The FCA has entered into a Memorandum of Understanding with the Equalities and Human Rights Commission (EHRC) as it believes that breaches of the finalised guidance are likely to lead to breaches of the Equalities Act. So clearly signposting possible action it would consider. Firms should ensure that they understand the guidance in the context of the Equalities Act and how the two align.
- Firms should understand the vulnerabilities that exist in their target market and portfolio and amend products, services and communications to deliver appropriate support for vulnerable customers.
- Firms should understand the needs of their staff in dealing with vulnerable customers. Staff need appropriate skills and processes to enable them to recognise vulnerable customers and offer the necessary support. Staff should also be given practical and emotional support to enable them to deal with vulnerable customers or know where they can turn for help.
- The Guidance sets both good and bad practices and firms should analyse their existing systems and processes against the FCA's expectations. Where gaps exist firms should look at what measures need to be put in place to ensure that expectations are met with respect to the firms' approach to vulnerable customers.
- Products and services should be evaluated throughout the whole lifecycle including product design, development, testing, launch and review. Firms should examine whether their product approval processes encompass this full lifecycle approach.
- Communications should be reviewed to ensure that where necessary vulnerable customers have access to appropriate communication channels and material which they can understand.
- Firms should ensure that their oversight and governance processes including quality assurance processes can recognise the specific challenges of vulnerable customers and identify issues with first line performance around such customers.
- Measurement of the treatment of vulnerable customers against TCF outcomes and ensuring that the outcomes for vulnerable customers should be 'as good as those for other consumers' will require firms to specifically identify bespoke MI for the measurement of such outcomes. The FCA identifies the guidance issued in 2007 regarding TCF MI as a relevant source of additional guidance.
- The FCA has also stated that firms may want to publish their key management information to demonstrate transparency regarding vulnerable customers and the FCA is considering evaluating the action firms have taken in 2023/24 and possibly including such MI in any evaluation.
- Firms' adoption of and embedding of this guidance is likely to be a key focus for supervisors over the next few months, particularly in light of the effect of the pandemic.

WHAT YOU CAN EXPECT THE FCA TO ASK?



During the FCA's regular interactions assessing firms' senior managers, they will ask them about the actions their firms are taking to ensure they are treating vulnerable consumers fairly

HOW WE CAN HELP

- Regulatory change impact assessment
- Product Governance Review
- Regulatory Health Check
- Product Life Cycle Review
- Review of TCF MI and identification of specific outcomes based measurements for vulnerable customers

WHO TO CONTACT

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THE DIFFERENCE IS IMAGINATION.**

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