



Strategi
Compliance

Handling vulnerable clients fairly

BEST PRACTICE

GUIDANCE NOTE

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Introduction

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 customers 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. Many financial products are complex and require long term commitment and therefore, it is critical to ensure that policies, processes and controls to deal with vulnerable clients are robust.

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); and
- who are elderly (ie, 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.

Practical steps

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. Therefore, 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. 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 enable a client to:

- Change product
- Switch provider
- Submit a claim
- Make a complaint

Care must be taken to comply with the Privacy Act 1993 and, where applicable, the Health Information Privacy Code 1994 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 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 customers 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.

- Have a “tell us once” style process where clients can notify you of a vulnerability once.
- 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.
- Offer a range of communication channels which could include telephone, email, in branch, text, written, web-chat, and video calls.

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 incase 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

	<ul style="list-style-type: none"> • 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.

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 canceling 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.

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, you are able to reduce the stress in relation to:

- Communication gaps
- Slow responses
- Lack of respect
- Lack of co-ordination

- Lack of empathy

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.

For more information contact:

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