



Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Guidance on Protecting Consumers in Vulnerable Circumstances

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Consumers in vulnerable circumstances require additional support when engaging with financial services. Firms need to understand vulnerability, and to ensure that their culture, policies and processes take account of the needs of consumers in vulnerable circumstances.



Section 1 - Introduction

1.1. Background

- 1.1.1 Consumers in vulnerable circumstances are more likely to suffer financial detriment or harm. They may make poor financial decisions and it is important, therefore, that firms consider the needs of consumers in vulnerable circumstances and provide additional supports as appropriate.
- 1.1.2 The purpose of this Guidance is to set out the background to the definition and approach to vulnerability under the Consumer Protection Code (the Code), and to describe the Central Bank's expectations of firms in meeting their obligations under the Code.
- 1.1.3 This Guidance can support firms in adopting the right mindset and culture to effectively support consumers in vulnerable circumstances. We are seeking to embed an understanding of vulnerability within the culture of a firm, and to ensure that the needs of consumers in vulnerable circumstances, and a commitment to addressing these needs, is an integral part of a firm's customer focus. This will allow firms to be prepared and able to assist when they engage with consumers in vulnerable circumstances.

1.2. OECD High-Level Principles on Financial Consumer Protection

- 1.2.1 The [OECD/G20 High-Level Principles on Financial Consumer Protection](https://www.oecd.org/finance/high-level-principles-on-financial-consumer-protection.htm)¹ set out that firms have a responsibility to treat all financial customers 'equitably, honestly

¹ <https://www.oecd.org/finance/high-level-principles-on-financial-consumer-protection.htm>.

and fairly at all stages of their relationship with financial services providers', and to ensure that 'special attention should be paid to the treatment of customers who may be experiencing vulnerability'. Under Principle 6, the OECD sets out that 'approaches may take into account that consumer vulnerability can manifest differently in different circumstances and may be due to a combination of personal characteristics, economic situations and market conditions'.

1.2.2 The definition of 'consumers in vulnerable circumstances' in the Code reflects the OECD's approach to vulnerability under the High-Level Principles.

1.3. Securing Customers' Interests

1.3.1 The Code's Standards for Business² include a Standard that requires firms to secure the interests of their customers. This Standard is elaborated by Supporting Standards for Business, and is further explained in Guidance on Securing Customers' Interests, exploring what this means in practice.

1.3.2 The overarching duty on firms to secure the interests of customers requires firms to secure the interests of all customers, including consumers in vulnerable circumstances. Securing the interests of consumers in vulnerable circumstances requires firms to understand vulnerability, to anticipate that some consumers may be in vulnerable circumstances, and to ensure that the culture, strategy, business model, decision-making, systems, controls, policies, processes and procedure of firms take account of their reasonable needs.

1.3.3 The specific Code requirements³ and guidance on protecting consumers in vulnerable circumstances⁴ complement and build on the Standard for Business and our Guidance on Securing Customers' Interests, recognising that consumers in vulnerable circumstances will require additional protection and support when engaging with financial services. Some of these requirements do not require that a customer be categorised in advance by a firm as a consumer in vulnerable circumstances.

² Standards for Business - Central Bank Reform Act (Section 17A) Regulations.

³ The Code requirements on protecting consumers in vulnerable circumstances are set out in Central Bank (Supervision and Enforcement) Act 2013 (Section.48) (Conduct of Business) Regulations.

⁴ 'consumer in vulnerable circumstances' means a consumer that is a natural person and whose individual circumstances make that consumer especially susceptible to harm, particularly where a regulated entity is not acting with the appropriate levels of care and 'vulnerable circumstances' shall be construed accordingly. (S.48 Conduct of Business Regulations – Regulation 2(1)).

1.4. Reasonableness, Proportionality and Appropriate Levels of Care

- 1.4.1 The Code's vulnerability requirements are grounded in proportionality, and an expectation that firms will take reasonable steps to provide consumers in vulnerable circumstances with appropriate levels of care. The requirements and guidance apply when firms are doing business with consumers who are natural persons.
- 1.4.2 As there are different degrees of vulnerability, the steps firms need to take in specific circumstances will take different forms. A firm's approach to vulnerability also needs to reflect the nature and complexity of the products or services that are being offered to consumers.
- 1.4.3 Considering the broad understanding of what makes consumers vulnerable, firms are not expected to be able to identify all consumers in vulnerable circumstances. What firms are expected to do is to understand and take account of the drivers of vulnerability that are relevant to the business of the firm, and to design their systems, processes and procedures so that consumers in vulnerable circumstances are reasonably protected from poor outcomes when the firm is otherwise acting properly. These systems, processes and procedures should include the reasonably expected due diligence that firms would undertake when on-boarding any customer, and ensuring that staff can identify those circumstances that present themselves that might indicate that a customer is a consumer in vulnerable circumstances.
- 1.4.4 Our expectation is that firms will arrange their business and train their staff so that when consumers in vulnerable circumstances are identified, the firm is in a position to take reasonable steps to support those consumers.
- 1.4.5 By understanding vulnerability, meeting the requirements of the Code, and reflecting a customer focus across its business, a firm will improve the outcomes for consumers in vulnerable circumstances overall, and thereby meet the standard required by the Code.

1.5. Structure of Guidance

- 1.5.1 Guidance is set out in Section 2, which outlines what the definition of consumers in vulnerable circumstances means, how firms should approach this definition, and how firms' should implement specific Code requirements relating to consumers in vulnerable circumstances. These requirements include:

- Providing assistance in individual circumstances;
- Providing appropriate training to staff so that they can identify and respond to consumers in vulnerable circumstances;
- Reporting concerns on financial abuse;
- Recording sensitive information; and
- Facilitating the nomination of a Trusted Contact Person.

1.5.2 Section 3 of the Guidance examines how the approach to consumers in vulnerable circumstances aligns with other relevant domestic and EU requirements.

Section 2 - Guidance

2.1. Defining Consumers in Vulnerable Circumstances

- 2.1.1 What do we mean by consumers in vulnerable circumstances? When we consider our consumer protection objective, we have regard to the principle that consumers should take responsibility for their choices and decisions. However, we know that there are very real factors that might limit their ability to do so.
- 2.1.2 Circumstances and characteristics of vulnerability may result in consumers having additional or different needs, and may limit their ability or willingness to make decisions and choices or to represent their own interests. These consumers may be at greater risk of financial harm, particularly if things go wrong.
- 2.1.3 Vulnerability is not a static, innate or permanent characteristic of a person. It is any condition, characteristic or circumstance that makes a person more likely to suffer poor outcomes, particularly if firms do not act with the appropriate degree of care. These conditions can arise as a result of health issues, life events or lack of capability. Any circumstance that makes a consumer more prone to experiencing worse outcomes, makes that person vulnerable. Moreover, individuals can move in and out of vulnerable circumstances (e.g. as a result of a bereavement, a job loss or ill health).
- 2.1.4 As noted above, firms are required to secure the interests of all customers. However, some customers will require additional support when engaging with financial services. These will include those experiencing long-term vulnerability resulting from an inherent characteristic or those experiencing temporary vulnerability resulting from a specific trigger, such as a bereavement.

- 2.1.5 The approach to consumers in vulnerable circumstances should not be to label some customers as vulnerable, and therefore, by extension others as not vulnerable. While there are clearly persons who have innate and permanent qualities that will mean that they need additional assistance, only focussing on these customers does not take adequate account of all of those customers whose challenges across a broader risk spectrum need to be considered.
- 2.1.6 The definition of consumer in vulnerable circumstances in the Code reflects this broader concept and approach to vulnerability:

‘consumer in vulnerable circumstances’ means a consumer that is a natural person and whose individual circumstances make that consumer especially susceptible to harm, particularly where a regulated entity is not acting with the appropriate levels of care, and ‘vulnerable circumstances’ shall be construed accordingly.

2.2. Implementing a Broader Concept of Consumers in Vulnerable Circumstances

- 2.2.1 The following sections outline what is expected of firms in order to properly secure the interests of consumers in vulnerable circumstances.

Governance and Culture

- 2.2.2 A firm’s directors and senior management should ensure that securing the fair treatment of consumers in vulnerable circumstances is embedded as part of a consumer-focused culture throughout the firm’s operations and processes, not just in customer facing areas of the firm but also in areas such as product and service design.
- 2.2.3 Staff, from senior management through to frontline and relevant back-office staff, can influence outcomes for consumers in vulnerable circumstances. Firms need to understand vulnerability, and the ways in which consumers in certain circumstances can be vulnerable.
- 2.2.4 Staff should be enabled and encouraged to identify how they can reduce the potential for harm to consumers in vulnerable circumstances. This requires firms to ensure staff are sufficiently aware of the drivers of vulnerability. Firms should

ensure that all relevant staff have the appropriate skills and capabilities, as well as support from appropriate systems and processes, to understand and take into account the needs of consumers in vulnerable circumstances in their work (see section on training below).

- 2.2.5 Overall, firms should understand the types and characteristics of vulnerability that may exist in their target market and customer base, and the impact of these vulnerabilities on the financial needs of their customers, by identifying what types of risk to which their customers may be vulnerable. If firms do not understand the characteristics of vulnerability within their target market and customer base, and so fail to ensure products and services take account of these needs, those customers are at increased risk of experiencing poor or inconsistent outcomes.
- 2.2.6 Consideration of vulnerability should influence the design of a firm's products, policies and processes and should be reflected in all aspects of the customer journey. Firms should anticipate that a proportion of consumers in their target market/customer base are likely to be vulnerable and to build this into product design, and into their policies and procedures for delivering financial services.

Process and Product Design

- 2.2.7 Firms should seek to proactively address potential consumer vulnerability in their general process and product design. They need to design their products and processes so that specific predictable vulnerabilities do not adversely impact on some customers, resulting in less favourable outcomes.
- 2.2.8 For example, distributing products via a digital platform requires consideration of the potential differences in consumers' understanding and capability to use such digital platforms. This consideration will inform general product and process design choices, and the provision of supports for consumers.
- 2.2.9 The introduction of a block or limitation on payments to new payees (as a brake on potential frauds), or the facility for customers themselves to opt-in, for blocks on payments related to gambling, provide good examples of product and service design features that may protect consumers in vulnerable circumstances.
- 2.2.10 Proper product and process design should also involve firms testing and reviewing them, to ensure that the firm has appropriate supports in place.

2.3. Implementing Specific Requirements

Assistance to individual customers

- 2.3.1 The requirements of the Code⁵ oblige firms, where they identify that a customer is a consumer in vulnerable circumstances, to provide that customer with reasonable assistance in order to facilitate the customer in their dealings with the firm. Under the definition of vulnerable circumstances in the Code, this extends beyond customers that are considered innately vulnerable, and captures circumstances of vulnerability across a broader spectrum of risk.
- 2.3.2 Importantly, this approach does not require individual customers to be considered as ‘vulnerable’ for firms to provide support, in line with the broader requirements of the Code including the requirement to secure customers’ interests. For example, if a customer states that they do not understand something, or they need assistance, then a firm should take appropriate steps to support that customer’s understanding, regardless of whether an assessment of that customer would reveal circumstances to suggest that they may be in vulnerable circumstances.
- 2.3.3 We have seen examples where firms have provided assistance to customers to address vulnerabilities associated with specific situations. In some cases, this assistance has been provided by individual firms, and in other cases by firms working in conjunction with industry bodies and consumer representative bodies to ensure the appropriate supports are made available to consumers.
- For consumers dealing with financial hardship, the Banking and Payments Federation Ireland (BPF) and Money Advice and Budgeting Service (MABS) protocol is an agreement between the BPF and MABS which outlines how borrowers in financial hardship are to be treated, and provides a framework for BPF members and MABS clients to communicate with each other about debts.
 - The Irish Banking Culture Board has developed a Common Commitment of Care for Bereaved Customers,⁶ which provides details of dedicated resources available from banks for their customers. Some firms operate specialist units to

⁵ Where a regulated entity has identified that a consumer that is a natural person is in vulnerable circumstances, the regulated entity shall provide that consumer with such reasonable assistance as may be necessary to facilitate that consumer in their dealings with the regulated entity. (S.48 Conduct of Business Regulations - Regulation 33, Consumers in vulnerable circumstances to be assisted).

⁶ <https://www.irishbankingcultureboard.ie/wp-content/uploads/2022/05/Common-Commitment-of-Care-tagged.pdf>.

assist bereaved consumers, recognising that managing financial affairs after a death may be challenging.

- For consumers who may have suffered financial loss and find themselves in financial hardship, some insurance companies will provide interim payments to the customer during the claims process.

Training

- 2.3.4 Under the Code,⁷ a firm must provide staff with appropriate training to allow them to recognise and support consumers in vulnerable circumstances. Staff, from senior management through to frontline and relevant back-office staff, can influence outcomes for consumers in vulnerable circumstances. Firms should ensure that all relevant staff have the appropriate skills and capabilities, supported by systems and processes, to understand and take into account the needs of consumers in vulnerable circumstances in their roles.
- 2.3.5 Staff of firms need to be able to recognise and respond to vulnerability. They need to know when it is appropriate to seek additional support within the firm for customers, depending on their circumstances. They should be empowered to seek that support and appropriately record information, while respecting the privacy and autonomy of individuals, to ensure future engagement with the customer takes account of their particular circumstances.
- 2.3.6 Training should apply to all relevant staff⁸ and should not be limited to those involved in customer-facing roles; it should apply to staff employed in product development; product testing; marketing; advertising; and any other positions that influence the customer journey. Training should also extend to those responsible for supervising and managing staff in such roles.

⁷ A regulated entity shall ensure that the persons specified in paragraph (2) receive appropriate training in relation to vulnerable circumstances with the objective that the persons specified in paragraph (2) have –
 (a) the knowledge and awareness to understand and recognise consumers in vulnerable circumstances, and the regulated entity and persons acting on behalf of the regulated entity can respond to the needs of those consumers, and
 (b) knowledge and awareness of the policies, procedures, systems and controls within the regulated entity for responding to the needs of consumers in vulnerable circumstances. (S.48 Conduct of Business Regulations - Regulation 34(1)).

⁸ The persons referred to in paragraph (1) are persons performing the following functions on behalf of the regulated entity:
 (a) consumer-facing functions in respect of consumers that are natural persons;
 (b) functions concerned in the design and development of financial services for consumers that are natural persons;
 (c) functions concerned in the sale or marketing of financial services to consumers that are natural persons;
 (d) functions involving the oversight of and responsibility for the roles referred to in subparagraphs (a), (b) and (c);
 (e) any other function that may have cause to deal with consumers in vulnerable circumstances at any time. (S.48 Conduct of Business Regulations - Regulation 34(2)).

2.3.7 The training obligation is intended to apply proportionately. It is not intended that formal external training need be procured at a cost to the firm, although larger firms may opt for such solutions. Smaller firms may utilise materials available from organisations that represent various vulnerable sectors or that might be available from professional or representative bodies. It is for the firm itself to identify what staff training solutions are appropriate considering its customer base, business model and the number and experience of its staff.

2.3.8 The table below sets out what should be covered by staff training. Training on vulnerability need not be limited to the areas listed, certain sector specific areas may require more tailored and focused topics. However, any proposed training programme should include these key aspects at a minimum.


Training for staff on Vulnerability
 <ul style="list-style-type: none"> • Types of Vulnerabilities • Key signs and indicators of vulnerability • How to recognise a customer in vulnerable circumstances • Understanding how vulnerabilities impact customer behaviour and outcomes and why flexible and adaptable systems matter • Enabling and empowering customers to disclose a need • Practical assistance and supports available for customers • Digital journeys - what alternative options are available and what supports can be provided for customers to utilise digital options • Recognising and responding to exploitation and abuse and the procedure to be followed if there are concerns about a customer • The procedure to be followed when recording sensitive information (subject to customer consent) • The role of the Trusted Contact Person and the procedure to be followed to establish this arrangement • Compliance with obligations under the <u>ADMA</u>

Table 1 - Training for staff on recognising and supporting customers in vulnerable circumstances – Source: Central Bank of Ireland

Reporting of Concerns by Staff

- 2.3.9 Financial abuse, including frauds and scams, remains a perennial concern, in particular for consumers in vulnerable circumstances. Financial services firms cannot prevent all forms of frauds and scams from occurring, however firms are often in the frontline of fraudulent transactions or addressing the consequences of the actions that customers are defrauded into taking.
- 2.3.10 The Code includes a requirement on firms to have clear procedures for their employees to report concerns that a customer, who is a personal consumer, is the victim, or is at risk of being the victim, of a fraud or scam or other financial abuse.
- 2.3.11 When there are issues of concern with customers, front-line staff should be able to bring their concerns to the attention of those within the firm who are sufficiently expert and senior, and authorised to take whatever actions can be taken by the firm to seek to prevent detriment or harm to the customer.
- 2.3.12 Firms should have a dedicated person(s) to whom concerns can be raised in a confidential manner and an appropriate policy and procedure setting out how staff can raise concerns. As noted above, firms should provide training to staff to help them identify and respond appropriately to such circumstances if they arise.

Disclosure by Customers of Sensitive Information

- 2.3.13 Unless firms are aware of the circumstances that may give rise to a consumer being in vulnerable circumstances, the firm will not be able to respond to those circumstances appropriately or at all. However, as consumers in vulnerable circumstances will not always be willing or able, without discomfort or difficulty, to communicate those circumstances to a firm, it is important that they are assisted in doing so, and are not required to repeatedly explain their circumstances on multiple occasions.
- 2.3.14 The Code includes a requirement that all firms ensure that, with the consent of the customer, the information that they have been given by the customer, detailing circumstances of vulnerability, is recorded and is available to staff of the firm when the firm is dealing with that customer on a later occasion.
- 2.3.15 Firms should ensure that they have appropriate policies and procedures in place to enable staff to implement this requirement including how information should be provided to customers so that they understand that this option is available to

them, the purpose of recording the information, and that it is subject to the consent of the customer.

- 2.3.16 Firms should ensure that they process consumer information in compliance with data protection legislation.

Trusted Contact Person

- 2.3.17 The revised Code includes a requirement⁹ for firms to facilitate customers, who are personal consumers and who wish to do so, to provide the name and contact information of someone - a trusted contact - who a firm may communicate with where there may be difficulty in dealing with the customer, or where financial abuse, including fraud, is suspected. This requirement does not require that a customer be identified or categorised in advance by a firm as a consumer in vulnerable circumstances. Any customer may choose to nominate a Trusted Contact Person.
- 2.3.18 When nominated, firms should explain clearly to customers and the designated 'trusted contact' what the role of a Trusted Contact Person is and the circumstances under which they will be contacted in advance of this arrangement been put in place.

Section 3: Broader Domestic and EU frameworks

The Code requirements and this guidance are aligned to the wider EU Consumer Protection Framework and other domestic legislative protections for consumers in vulnerable circumstances. We highlight below two more recent developments in the broader EU and domestic consumer protection framework and consider their interaction with the Code.

3.1. Assisted Decision-Making (Capacity) Act

Right of Consumers to Make their Own Decisions

- 3.1.1 The Assisted Decision-Making (Capacity) Act 2015¹⁰ (ADMA) came into effect on 26 April 2023. This legislation focuses on supporting decision making and maximising a customer's capacity to make decisions. It governs cases where there

⁹ S.48 Conduct of Business Regulations - Regulation 35-Trusted Contact Person.

¹⁰ <https://www.irishstatutebook.ie/eli/2015/act/64/enacted/en/html>.

is a concern that a customer cannot understand, remember, or use information relevant to the making of a decision, or the customer is unable to communicate his or her decision.

- 3.1.2 It is important to distinguish between lack of capacity and situations where there may be no concerns about a customer's decision-making capacity but whose circumstances may raise concerns about vulnerability.
- 3.1.3 Where firms are concerned about the decision-making capacity of an individual, the provisions of the ADMA must be complied with. Firms must consider the supporting Codes of Practice issued by the Decision Support Service,¹¹ including the Code of Practice for Financial Service Providers.¹²
- 3.1.4 The requirements and guidance under the Code relating to consumers in vulnerable circumstances are consistent with, and complement, the requirements under the ADMA. Under both the ADMA and the Code, staff of financial services firms must be able to assist consumers in vulnerable circumstances, with the ADMA focusing on vulnerability linked to decision-making capacity. The provisions of the Code respect an individual's decision-making discretion and autonomy while seeking to ensure that consumers in vulnerable circumstances are appropriately assisted and supported by firms. Where a customer may require assistance to make a decision, firms will need to comply with the provisions of the ADMA and the Code.
- 3.1.5 Consideration of capacity requires, among other matters, a consideration of what assistance a firm might give to enable a customer to make a decision for themselves, or to participate in the decision-making process to the fullest extent possible. Firms should seek a path of least resistance to facilitate a customer's ability to make a decision for themselves.
- 3.1.6 The obligation under the Code to secure the interests of customers in vulnerable circumstances requires firms to consider what reasonable steps might be taken to ensure that those customers receive a full and proper service from the firm. This includes customers who may be experiencing vulnerability due to diminished capacity and customers who are experiencing vulnerability for other reasons. For example, a customer who speaks another language and who does not have full command of English is not someone who lacks capacity. The customer is,

¹¹ <https://www.decisionsupportservice.ie/about-us>.

¹² <https://decisionsupportservice.ie/resources/codes-practice/code-practice-financial-service-providers>.

however, vulnerable to making decisions that they do not understand or on which they might be insufficiently informed. Firms should take reasonable steps in these circumstances to assist such customers, recognising that customers in such circumstances must also take responsibility for their own actions and decisions.

3.2. European Accessibility Act

- 3.2.1 The European Accessibility Act, implemented in Ireland by the European Union (Accessibility Requirements of Products and Services) Regulations 2023¹³ (S.I. No. 636 of 2023) will come into effect in June 2025. This Act introduces new requirements around accessibility of products and services, including financial products and services, in the EU.
- 3.2.2 The European Accessibility Act aims to improve standards across all sectors, aligning with the expectations of the Code for financial services firms. Persons with disabilities are not by their nature vulnerable. It is the circumstances that they may find themselves in that can make them vulnerable, and in some cases because others are not acting with an appropriate degree of care. So, for example, the way in which information is provided can make persons with a disability who are otherwise wholly competent and capable of conducting their own affairs, vulnerable to not having or being able to access the full information needed to inform their choices.
- 3.2.3 The requirement of the Code to secure customers' interest requires financial services firms to take reasonable steps to ensure that their processes and services are appropriately designed so as not to disadvantage persons with a disability when interacting with the firm.

¹³ <https://www.irishstatutebook.ie/eli/2023/si/636/made/en/print>.

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