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Treatment of vulnerable customers tells FCA much about culture, whether firms are meeting its standards

Sep 16 2019 Rachel Wolcott, Regulatory Intelligence

The way banks treat vulnerable customers tells the Financial Conduct Authority (FCA) much about their cultures and overall compliance with its standards for regulated firms.

The FCA recently published Guidance Consultation 19/3 (GC 19/3) covering the fair treatment of vulnerable customers, which makes the connection between vulnerable customers' treatment and firms' culture. Andrew Bailey, the FCA's chief executive, is said to view this workstream as a top priority.

"It's one of those character tests that's a real test of culture. How you treat those people in difficulty is a real acid test for culture," said Frank Brown, a managing consultant and consumer credit specialist at Bovill in London.

Banks routinely mishandle vulnerable customers, often making their situations worse. Whether that entails bombarding them with calls from collection agencies or failing to help customers manage their finances more effectively when they fall ill, some banks' failure to train and support staff about customer vulnerability and to align their business models with regulatory expectations about customer treatment can exacerbate customer harm.

"A lot of lip service is paid to vulnerable customers, but it is not articulated in the real world. Fair treatment of vulnerable customers should be part and parcel of what firms do. It should be a central part of treating customers fairly," Brown said.

The guidance consultation notes the FCA's awareness that some firms are failing to consider the needs of vulnerable consumers, leading to harm. It sets out expectations for customer treatment and guidance on how positive outcomes can be achieved.

"There is lots in the FCA paper that we've been calling for — product design, being able to get in touch when things go wrong, making sure people have access to telephones — that we're delighted about. It's a clear push from the FCA that there a lot of things firms can do that aren't complicated that can make a big difference," said Katie Alpin, head of research and policy at the Money and Mental Health Policy Institute.

FCA judges banks in part on how vulnerable customers are treated

Some vulnerable customers told Thomson Reuters Regulatory Intelligence (TRRI) they had been intimidated and harassed by banks and their agents. Others said they had fallen into arrears after becoming ill, only to find themselves on the brink of losing their homes and being charged tens of thousands of pounds for the bank's legal fees.

Hubert Armstrong, a Danske Bank small to medium enterprise (SME) customer who suffers from a heart condition and post-traumatic stress and his wife, Marjorie, went on hunger strike outside Dankse's main office in Belfast last month to push for a resolution to a long-standing dispute.

Bailey wrote a letter to Jim Shannon MP (DUP) regarding the Armstrongs, who are his constituents, noting that small SMEs potentially can be considered as vulnerable customers. Banks' treatment of SME customers is something the FCA considers when assessing firms' culture and whether they are meeting FCA standards.

"Those firms at the smallest end of the SME market may therefore not have easy access to legal or other professional advisors to assist them in making complex legal and financial decisions and can therefore be at a disadvantage, and potentially vulnerable, when dealing with large financial institutions," Bailey wrote.

Bailey said despite SME lending being unregulated, "unregulated activities that cause harm to businesses like the Armstrongs' can still affect our objectives and provide valuable information about an authorised firm's conduct. As such, the information received from Mr Armstrong is used as part of our day to day supervision of firms. We use this information to help us understand how firms are running their businesses, and whether they are meeting our standards".

Bailey questioned the FCA's treatment of the Armstrongs. "I note that Mr Armstrong, from his contact with us, shows clear signs of vulnerability. It is clear to me that this case raises wider questions about the way that the FCA handles consumers who are vulnerable, either due to physical or mental health conditions, when they get in touch with our Contact Centre," Bailey said.

"We all need to learn to adjust our style and conduct in engaging with vulnerable people to really help them. I am therefore delighted to see this FCA consultation on vulnerability. I first met the FCA chief executive Andrew Bailey in July 2018 after some extensive correspondence for almost a year. I was impressed when he admitted within the first few minutes that the FCA staff could have handled their interaction with my constituent Mr Armstrong much better. I am delighted to see progress here in the last year with the issue of this consultation and a recognition at the FCA and the Treasury Select Committee that more thought and progress needs to be made in banks and other financial services' service to vulnerable customers," Shannon told TRRI.

Danske declined to comment.

FCA consultation connects culture and vulnerable customers

The FCA guidance consultation is clear: fair treatment of vulnerable consumers is to be embedded in firms' culture.

"Core to achieving this aim is adapting firm culture in a way that focuses the people, products, services and processes toward the fair treatment of vulnerable consumers. It is the responsibility of everyone in financial services to focus on culture, and we expect leaders in firms to manage the drivers of behaviour in their firms to create and maintain cultures which reduce the potential for harm, particularly with respect to vulnerable consumers," the FCA wrote.

Progress on promoting better treatment for vulnerable customers has been slow, but firms do seem keen to engage and many will welcome the FCA guidance, Alpin said. The way the guidance is filtered down to staff and therefore culture poses great challenges, however.

"We spend a lot of time talking to banks, building societies and other creditors. They do understand [the concept of treating vulnerable customers fairly], but I think the problem is one of consistency. There are some organisations out there that do behave in horrible ways and there is some creditor behaviour that is truly horrific. A lot of it stems from ignorance. Part of the problem we've got is that a third of people with mental health problems are undiagnosed. What we've got [is] an enormous number of people that are potentially vulnerable. They might be fine today, but tomorrow will be a different story. The challenge firms face is what does treating customers fairly mean when human needs are so diverse and vary over time?" Alpin said.

Firms need to reset their baseline for customer treatment in such a way that acknowledges potential customer vulnerability. That means designing products from that baseline, ensuring communication lines are open and thinking about how vulnerability is recorded. Firms should add vulnerable customers' treatment to their risk registers and invest in training to help them gain a better understanding of the issue.

"What we're thinking about is the next step in this conversation, which is how do we make sure banks are making the investment that's needed to make the changes to the way they work. The conversation will turn from this consultation and guidance toward enforcement. As much as this should be a cultural change, ultimately what will get this issue more attention and a place on firms' risk registers is enforcement action. It shouldn't be a nice-to-have. It's a core part of firms' risk and responsibility structures," Alpin said.

High-credit recovery targets produce customer harm, poor culture

Debt collection and recovery targets are good examples of how banks need to adapt to improve their treatment of vulnerable customers. Banks and other lenders should have adjusted their debt recovery models to anticipate lower recovery rates following the implementation of the Consumer Credit Rules. That has not happened across the board.

"You do find aggressive collection practices, which are operationally ineffective. What does it say about firms' business models when five years into the consumer credit rules organisations are still using the old bad debt model with recovery targets that are unsustainable? The whole point around the collection rules is to recognise that some customers will run into trouble through no fault of their own," Brown said.

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