



*Association of Mortgage Intermediaries' response to FCA GC19/3:
The fair treatment of vulnerable customers*

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI) and the Association of Finance Brokers (AFB). AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage, insurance mediation and consumer credit activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

Response

We welcome the FCA's decision to publish guidance for firms on the fair treatment of vulnerable customers. We support the initiative to provide a structure for firms to follow and the opportunity to discuss this in open forum. We would encourage the FCA to continue this debate through firms and their trade bodies.

AMI considers that the separation that intermediation allows between consumer and product provider allows better opportunity to identify vulnerability and assess the needs and challenges facing consumers. Intermediaries are able to look at a broader range of products than a single product provider, which mitigates some of the more obvious risks facing the vulnerable.

We feel that mortgage brokers are in a very good position to both be able to recognise actual or potential vulnerability in a customer but also to ensure that their needs are fully met as they offer individual advice. The advice process allows brokers time to build a relationship with their customers therefore it's more likely that any vulnerability will be disclosed or identified and any appropriate measures can be taken.

The value of advice and the process to deliver advice for all consumers, particularly those who are vulnerable, should not be underestimated. Advisers consider not only a consumer's current position but take into account potential events in the future. A customer suffering from stress or anxiety could potentially benefit from a more flexible product, yet may not have the base knowledge to know that this is a possibility or to be able to research this themselves. Additionally, brokers advise on protection needs and will be in a position to have discussions with and advise vulnerable customers who may have otherwise believed that they would not be eligible for cover.

Consequently, any initiative to drive mortgage borrowers away from the advice process and towards an execution-only mortgage application is of great consternation to us. We were disappointed to read in consultation paper 19/17 that the FCA is considering adding guidance to its rule preventing a consumer to opt out of advice to make clear that this does not prevent firms from pricing execution-only and advised sales differently. In our view any incentivisation away from advice could lead to considerable detriment, particularly for vulnerable and potentially vulnerable customers.

Questions

Q1: Do you have any comments on the aims of the draft Guidance?

Whilst we're supportive of the general direction, we consider that more granularity is required. This consultation needs deeper consideration of the types of transactions that a consumer may be entering into at a point of vulnerability: those which are short term and transactional, capable of being transferred quickly, such as easy access savings, current accounts and credit cards have different characteristics to longer term contract such as mortgages, annuities and pension drawdown. Such segregation may assist firms in thinking about their product design and distribution; their advice processes; and any limitations they may want to impose on their distribution channels or partners.

We are fully supportive of the FCA's view that doing the right thing for vulnerable customers should be embedded into a firm's culture. We believe that all customers should be treated fairly and welcome the thought provoking examples that the FCA has provided. It's an important reminder to all firms to regularly review the impacts of their decisions on all customers, including those who are vulnerable, to ensure that they are all treated fairly.

Q2: Do you have any comments on the application of the Guidance or its status as non-Handbook guidance?

We welcome the FCA's recognition that guidance needs to be flexible to allow for the diversity of sectors and firms within sectors.

We welcome the FCA's commitment to apply the Guidance in a proportionate manner and the assertion that firms should take a sensible approach to their interpretation of the Guidance.

Q3: Do you have any comments on the distinction between actual and potential vulnerability (Annex 1, Section 1)? (Please note we are not seeking views on the meaning of vulnerable consumer because we have consulted on that previously).

We agree with the FCA's distinction between actual and potential vulnerability and with the recognition of transient vulnerability. We feel that it is important to consider potential vulnerability when considering risk but would be concerned if potential vulnerability was considered by the regulator and Ombudsman on an individual level. Potential vulnerability is harder to gauge and we are concerned that it could be used in hindsight in enforcement or with FOS where there had not been any or sufficient evidence to the firm. We would not wish to adopt onerous conditions around potential vulnerability that exclude consumers from achieving the correct or good outcomes.

Mortgage advisers are in good position to be able to establish any real customer vulnerabilities and communicate this to a lender but a common-sense approach needs to be taken by supervision, particularly in the areas of potentially vulnerable.

Q4: Do you have any comments on our view of what firms should do to understand the needs of vulnerable consumers (Annex 1, Section 2)?

In our area of expertise, mortgages with related sales and protection, the detailed fact-finding process leading to advice will usually lead to those consumers who have vulnerable characteristics being identified. As set out elsewhere, the move towards execution-only where no fact finding is required, or

other product areas which only require limited assessments of affordability which may be as little as a credit score check, are unlikely to assist in protecting vulnerable consumers.

Q5: Do you have any comments on our view of what firms should do to ensure staff have the necessary skills and capabilities when engaging with vulnerable consumers (Annex 1, Section 3)?

We consider that the disciplines required in the mortgage and protection sectors based on initial and on-going assessments of competence, combined with structured fact-finding and suitability provide a positive framework to protect consumers.

Q6: Do you have any comments on our view of what firms should do to translate their understanding of the needs of vulnerable consumers into practical action on product and service design, good customer service and communications (Annex 1, Section 4)?

This is covered in our responses to other questions.

Q7: Do you have any other comments on the draft Guidance?

We are fully supportive of the Guidance and agree that vulnerability and potential vulnerability should be considered in all areas of financial services: products and pricing, advice and regulation. Decisions made can inadvertently impact vulnerable consumers, particularly in areas such as the advancement of technology which in the future could potentially enable differential and individual pricing to the advantage of some and the potential harm of many. We consider that technology should be applied to assist the advice journey and to complete some of the process issues and detailed “heavy-lifting”. Firms should be using technology to support the advice process, not looking to use it to apply an execution-only or non-advised approach to avoid their responsibility to the consumer.

Q8: Do you have any comments on how firms are expected to use and apply the Guidance?

No comment.

Q9: Do you have any views on the extent to which the Guidance will enable firms to comply with their obligations under the Principles and achieve better outcomes for vulnerable consumers?

We support the introduction of this and consider that it will provide a structure for firms to follow and the opportunity to discuss this in open forum. We would encourage the FCA to continue this debate through firms and their trade bodies.

Q10: To inform our cost-benefit analysis, do you have any comments on what costs firms may incur as a result of this Guidance?

No comment.

Q11: Do you have any examples of activities or processes that are in place, or could be established, to ensure the fair treatment of vulnerable consumers?

Some areas of technological advancement could be very beneficial to vulnerable consumers such as full advice on-line. We are however concerned by the FCA’s recent directional change on the value of advice and the assertion in CP19/17 that differential pricing is allowed could be detrimental to vulnerable consumers who often need full advice and recommendation when choosing a mortgage. This can be one of the biggest financial decisions of their lives. We worry that vulnerable customers transacting online and using decision trees may be less likely to realise they are not receiving advice and therefore forgoing the protections that advice benefits from.

In addition, a potentially vulnerable consumer choosing to arrange their mortgage on an execution-only basis may have transitioned to actual vulnerability at end of any preferential term. Personal contact from a mortgage consultant might help to guide them through either a product transfer or remortgage but they will be unlikely to receive this. If they receive either no contact or a letter or an email, they could much less likely to consider their options, potentially leading to substantial harm.

Q12: Do you have any analysis you could share with us of the positive outcomes for vulnerable customers resulting from the implementation of activities or processes in place aimed at achieving better outcomes for vulnerable consumers?

No comment.

Q13: Do you have any comments on the role of the Guidance in holding firms to account about how they comply with their obligations under the Principles in treating vulnerable consumers fairly?

No comment.

Q14: Do you have any comments on our intention to monitor the effectiveness of the Guidance?

We agree that the effectiveness of this Guidance should be monitored and would welcome more detail from the FCA as to how it intends to undertake this. Will the FCA prescribe MI that firms need to keep? Will firms be expected to specifically flag cases of consumers who are vulnerable or potentially vulnerable?

Q15: Do you have any comments on the potential additional policy options?

We do not feel that the further additional policy options should be considered until the efficacy of this Guidance has been established.

Q16: Should we consider any further additional policy options?

We do not feel that the further additional policy options should be considered until the efficacy of this Guidance has been established.

Q17: Do you agree that proposing to issue guidance is the most effective means of achieving our aim at this stage?

We agree.

Q18: What are your views on whether proposing new rules or guidance at this stage would add to the effectiveness of our intervention? Where possible, please provide supporting evidence for your answer.

No comment.