



The Consumer Council for Northern Ireland response to the Financial Conduct Authority's consultation on GC20/3 - Guidance for firms on the fair treatment of vulnerable customers

The Consumer Council

1. The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.
2. The Consumer Council for Northern Ireland welcomes the invitation to respond to the FCA's Guidance Consultation and welcomes the work that the FCA is doing in this area. Alongside responding to the specific questions posed by the FCA, The Consumer Council have highlighted some unique considerations about Northern Ireland below.

Regional Differences Pre COVID-19

3. Of the devolved UK nations, Northern Ireland has the lowest median wage with median weekly earnings for 2019 at £535¹ compared to the UK average of £585². A recent report released from Which? shows that only half (49%³) of those in Northern Ireland were content with their income. The Consumer Council's Consumer insight Survey from February 2019 reports that over a quarter (26%⁴) do not have money saved for a "rainy day", and 50% of consumers have less than £300⁵ left after mortgage/rent and essential bills are paid in a typical month.
4. Which? research⁶ would indicate that Northern Ireland consumers continue to display low levels of optimism in regards to their financial position. When assessing their financial situation, a fifth (19%) of consumers believed it to be poor. According to the FCA's Financial Lives Survey⁷, 24% of Northern Ireland consumers cited a low understanding of financial issues compared to a UK average of 17%. Not as many describe themselves as a

¹ <https://www.nisra.gov.uk/statistics/labour-market-and-social-welfare/annual-survey-hours-and-earnings>

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2019>

³ <https://consumerinsight.which.co.uk/reports/consumer-insight-report-2019-northern-ireland>

⁴ https://www.consumer council.org.uk/sites/default/files/2019-05/Consumer_Insight_Survey_2019_Summary_Report.pdf

⁵ https://www.consumer council.org.uk/sites/default/files/2019-05/Consumer_Insight_Survey_2019_Summary_Report.pdf

⁶ <https://consumerinsight.which.co.uk/reports/consumer-insight-report-2019-northern-ireland>

⁷ FCA Financial Lives Survey <https://www.fca.org.uk/publications/research/understanding-financial-lives-uk-adults>

confident and savvy consumer (43% vs. 52%), or as highly confident managing their money (26% vs. 37%). Fewer consider themselves to be highly knowledgeable in financial matters (10% vs. 16%). The comparisons set out in Figure 1 further highlight how Northern Ireland compares to the UK average in a number of key areas.

Figure 1: Issues – Northern Ireland vs UK

<u>Issue</u>	<u>NI</u>	<u>UK</u>	<u>Difference</u>	<u>Source</u>
Disability claimants (DLA or PIP)	11.9%	5.7%	+108%	Calculated using DFC ONS and NISRA Statistics published in 2019
No cash savings or savings under £5,000	67%	57%	+18%	FCA 2017 – Financial Lives Survey (published 2018)
No cash savings	16%	13%	+23%	FCA 2017 – Financial Lives Survey
Over-indebtedness	20%	15%	+33%	FCA 2017 – Financial Lives Survey
Low understanding of financial issues	24%	17%	+41%	FCA 2017 – Financial Lives Survey

5. The Money and Pension Service listening document⁸ lists key aspects of financial capability measured in 2018. Of the 14 areas measured, Northern Ireland is listed as the worst performer for 11 indicators.

Consultation Response

6. The Consumer Council welcomes the guidance issued and the opportunity to respond to the consultation.

Question 1: Do you have any comments on our assessment of equality and diversity considerations of our proposed Guidance??

7. The Equality Act 2010 does not apply to Northern Ireland, only in Great Britain. The main anti-discrimination law in Northern Ireland is the Disability Discrimination Act 1995 (DDA), but there is also the provisions of Section 75 of The Northern Ireland Act 1998. Therefore, as Northern Ireland has financial service providers that do not have a presence in GB, has the FCA considered how its guidance meets the specific legislative requirements for Northern Ireland?
8. Section 4.68 of Annex 4 refers to the use of British Sign Language. The Consumer Council understands that in Northern Ireland there are approximately 5,000 sign language users, which includes 3,500 British Sign language users and 1,500 Irish sign language users. Therefore, the guidance should reflect this for products and services available to consumers in Northern Ireland.

Question 2: Do you have any feedback on the updated draft Guidance?

9. The Consumer Council welcomes the guidance and believes it provides practical examples of the actions firms could take to improve practices and help reduce the risk of harm for consumers in vulnerable circumstances. There are examples of good and poor practice across different services that further illustrate how firms can ensure they treat consumers fairly.
10. The Consumer Council supports the aim of the consultation that consumers in vulnerable circumstances experience outcomes as good as those for other consumers. We also support the six high level outcomes listed on page 60 of the consultation document. However, it could be argued that the aim should be to provide vulnerable consumers with more appropriate outcomes given the level of support may be higher and, therefore, require a different outcome than would be available to other consumers.

⁸ <https://maps.org.uk/wp-content/uploads/2019/04/Listening-Document.pdf> - located on page 66

11. Section 2.9 of Annex 4 gives examples of how firms can use data / research to identify vulnerabilities in their client bases. The FCA is more likely to have a greater knowledge of the relevant sources of data on this issue and could do more to signpost firms to the specific sources of data. This would be helpful to smaller firms that may be less familiar with the type of data the FCA is referring to.
12. The guidance provides some positive examples of interventions firms have developed that have helped consumers. These examples include training staff as dementia specialists, developing sign posting relationships with consumer support organisations and the availability of sign language via video services in branch.
13. The FCA should establish a network of firms and consumer representatives to become thought leaders or 'champion' firms that other businesses can contact to learn more about how specific interventions were delivered, and share best practice.
14. In addition, The Consumer Council we would like to see a strengthening of the arrangements for signposting and signposting agreements that are in place. There are some good examples of signposting arrangements in the guidance, the FCA should go further to suggest firms should establish signposting agreements with consumer support organisations.
15. The Consumer Council supports the use of technology to benefit all consumers (including those who are vulnerable). There has been ongoing work in other sectors, such as critical care⁹ in utilities, whereby suppliers of gas, water and electricity keep a Customer Care Register with the details and special needs of customers who are of pensionable age, disabled, or chronically sick. Suppliers can provide free assistance and services to customers who register their details with them. The FCA may want to liaise with other organisations to see what other sectors are doing.
16. Even though innovation through the increased sharing of information can at times be beneficial for consumers, it is for the industry and the FCA to ensure everything is being done to ensure that any data being held digitally is not being used to discriminate consumers.
17. The Consumer Council supports the inclusive design approach outlined in section 4.19 in Annex 4, as well as testing the performance of a product or service, as outlined in section 4.20. The learning from this design and testing approach should be shared across the industry either through the FCA or the learning network noted at paragraph 13.
18. The Consumer Council believes that firms should be engaging with their customers directly in order to better understand their needs. Engagement should be on a wide scale to understand the needs of consumers throughout the design process. In the FCA

⁹ <https://www.consumercouncil.org.uk/consumers/rights-and-advice/energy/critical-care-registers>

consultation on vulnerability in 2019, respondents were asked for examples of where this has been effective. We include, again, the example of the development and roll out of a public transport project in Northern Ireland.

19. The Department for Infrastructure has a responsibility for public transport in Northern Ireland. In 2018, Belfast Rapid Transit (BRT) (The Glider) was introduced to Belfast. In order to deliver a service that meets the needs of everyone who lives, works and visits the city, the BRT Team worked collaboratively with a range of key stakeholders representing future users, and potential users, of BRT. This is best illustrated through the Team's work with IMTAC (Inclusive Mobility Transport Advisory Committee) to ensure that BRT met the specific accessibility needs of older people and people with disabilities. The BRT team arranged, through Translink (the public transport provider), for the construction of a full size model of a section of the vehicle, including the proposed wheelchair space, priority seating and ramp access. It also constructed a prototype BRT halt. IMTAC members visited these facilities and commented on them from an accessibility point of view. As a result of the feedback, several aspects of the designs were amended to improve accessibility. This work proved invaluable as BRT is accessible and is being used by significantly greater numbers of people.
20. Some of the design changes which were made to reflect specific identified customer needs, included:
 - increase in the size of the wheelchair space on the vehicle to make it more easily accessible for wheelchair users;
 - introduction of flip-down seats on the vehicle which are preferred by customers with assistance dogs;
 - relocation of the validators at the BRT halts to make them more accessible for people with a visual impairment;
 - extension of the BRT bus lane loading/unloading window from 2 to 4 hours to assist with deliveries to businesses and homes along the routes;
 - provision of a 10 minute drop-off/pick-up facility for blue badge holders within bus lane legislation;
 - improvements to the access arrangements for specific businesses along the routes;
 - relocation of several BRT halts along the routes to better meet the needs of the local communities; and
 - resurfacing of the carriageway and footways along the routes, and the introduction of side entry drainage systems to improve the smoothness of the Glider journeys.
21. In addition, following the introduction of BRT the team continued to work with both Translink and stakeholders to identify and, where possible, rectify specific operational issues to make the service as attractive as possible.
22. As BRT was designed with the needs of users in mind, it has been well received and extremely well used by the travelling public. Patronage has increased significantly, with over 45,000 additional journeys per week – an increase of some 30% - when compared

with the previous year. Importantly, given the work in conjunction with IMTAC and Translink on the accessibility of Glider, patronage by older people and people with disabilities has increased by some 25%.

23. BRT has also resulted in bus journey time savings of up to 20%, increased cross-city travel, fuel efficiency savings of up to 40% and up to 90% improvement in emissions¹⁰.
24. It is important to note that although the service was introduced in 2018, engagement with specific consumer groups began at the start of the design process, years before final vehicles and halts were actually built.
25. Within the guidance the FCA state that “firms should be continuously monitoring and learning to ensure they are striving towards meeting the needs of vulnerable customers”¹¹. The BRT case study is a good example of how this can be delivered and measured.

Question 3: Do you have any feedback on our cost benefit analysis?

26. The Consumer Council is concerned that the main focus of the guidance appears to be costs firms may incur as a result of implementing the guidance. Section 31 estimates a total one off cost of the guidance of £709.6 million and a total ongoing cost of £448.1 million per year. The Consumer Council is of the belief that a cost benefit analysis (CBA) is not a fair basis for deciding on whether to implement initiatives to support vulnerable consumers.
27. Section 49 and 50 of the CBA estimate that for firms to break even on the costs of implementing the guidance, there needs to be a saving of £50 - £180 per vulnerable consumer. However, section 44 states that firms faced with increased compliance costs could increase prices for consumers.
28. Therefore, the CBA illustrates the significant potential costs to industry for complying with the guidance and the necessary savings firms would need to make to break even. However, it does not sufficiently illustrate the potential savings to firms from reduced complaints, better customer service, increased consumer satisfaction, improved customer retention and improved business transactions. It also makes no reference to the improved wellbeing of the consumer.
29. In a post Covid environment, firms will be under pressure to make savings and reduce operating costs. The development of new technology and innovations will benefit some consumers and potentially exclude some, which is something the FCA will have to monitor closely. However, it will require trust from consumers whilst business practices change

¹⁰ Statistics on the performance of the BRT system are copied from our original tender response in 2019.

¹¹ Bullet point 21, page 26 of FCA issued guidance

and the way firms treat consumers in vulnerable circumstances will build trust which is a very important benefit.

30. There is little reference in the guidance on how the actions of firms can be the cause of the vulnerability. Where a firm acts in such a way as to push a consumer into a vulnerable situation it is the action of the firm that has resulted in the increased cost, rather than the needs of the customer placing an increased cost on the firm.
31. The CBA only quantifies the costs, and the savings required, it does not quantify the benefits nor the cost of the potential harm to the consumer. It is recognised that it can be difficult to fully quantify these issues however, there are examples of how this can be done. A recent report from the Centre for Responsible Credit¹² found “Fair for You generated *at least* £50.5 million of social value since starting its operation in 2015, and through to 30 June this year. This comprises £48.3 million in financial savings for customers, and over £2 million in savings for the NHS”. The Consumer Council believes further information is required for the CBA on how the potential harm caused to a consumer can be quantified, as well as potential benefits which can then be measured against the potential costs incurred by a firm. Without this balance the CBA could potentially be a catalyst for firms to do the bare minimum in order to reduce the level of savings they need to make in order to break even from dealing with consumers in vulnerable circumstances, which is not the approach we believe the FCA is trying to achieve.

Question 4: Do you have feedback on what we should prioritise when monitoring firms’ treatment of vulnerable consumers?

32. Section 1.31 of Annex 4 states that where the word ‘Should’ is used, these are actions the FCA thinks firms should consider, but do not necessarily need to follow a detailed or prescribed course of action. Much of the guidance then describes what firms ‘should’ do to ensure the fair treatment of vulnerable consumers.
33. The Consumer Council recognises that this allows flexibility to enable firms to tailor their interventions, policies and procedures to meet the needs of their specific client base. However, it may also be ambiguous enough for firms to do the minimum to meet compliance, rather than meeting the needs of their vulnerable consumers.
34. The FCA has acknowledged that whilst some firms are working to the interest of vulnerable consumers, some are not. All regulated firms are already bound by the Principles stipulated in the Handbook, which details how firms should be treating all their consumers (vulnerable ones included). Section 3.5 of the consultation states that respondents (to the previous consultation) asked how the proposed Guidance interacts

¹² <https://responsible-credit.org.uk/wp-content/uploads/2020/09/CfRC-Social-Impact-of-Fair-for-you-report-final.pdf>

with our work exploring options relating to a Duty of Care. Some respondents thought that a Duty of Care, in addition to the Guidance, would be the best way to protect vulnerable consumers. Some respondents felt that the Guidance should be linked to the Senior Managers and Certification Regime (SMCR) to ensure that Senior Managers are accountable for the fair treatment of vulnerable consumers.

35. Although the FCA explains why it is not proceeding with other suggestions, such as prescribing cross-sector minimum standards, it does not explain why, or whether it is not linking the guidance to the SMCR framework.
36. A report¹³ published by UK Finance, that evaluated the Senior Managers Certification Regime (SMCR), found that the rules introduced over three years ago to improve governance and culture at banks post the financial crisis have led to a “meaningful and tangible change in culture, behaviour and attitudes”. 93% of respondents agreed that the SMCR had induced change for the better.
37. Therefore, The Consumer Council would welcome further information from the FCA on whether this guidance will be included as part of the SMCR regulatory framework, and if not, why this opportunity has been missed.
38. In our response to the initial FCA consultation in September 2019, we highlighted that a potential cause of vulnerability that has not been considered by the FCA, and that is potentially unique to Northern Ireland, is the implementation of UK wide policies that are not suitable for consumers in all regions. Policy changes can be a cause of vulnerability or can exacerbate existing vulnerabilities for consumers.
39. An example of this can be seen in The Payment Accounts Regulations (PAR) 2015 which required the nine largest personal current account (PCA) providers to offer basic bank accounts that are fee-free¹⁴. The nine institutions designated by HM Treasury (HMT) were the largest PCA providers in GB, however some of them do not operate in Northern Ireland.
40. The intention of this legislation was to ensure that over 90% PCA users would have access to a basic bank account with their current provider. Whilst the legislation achieved this on a UK wide scale, due to the differences in the market in Northern Ireland, it was not achieved here.
41. Due to the nature of the banking market in Northern Ireland, more consumers bank with Northern Ireland specific banks. According to research conducted on behalf of The Consumer Council, Danske Bank and AIB (formerly First Trust Bank) collectively hold

¹³ <https://www.ukfinance.org.uk/system/files/SMCR%20-%20Evolution%20and%20Reform.pdf>

¹⁴ <https://www.gov.uk/government/collections/basic-bank-accounts>

almost a third of the market share (19% and 10%)¹⁵ respectively. These banks do not operate in GB.

42. PAR places no requirement on many banks to offer a basic bank account that is fee free, and as a result, many consumers in Northern Ireland are unable to obtain such an account with their current provider.
43. A similar situation has also arisen in relation to rule surrounding Confirmation of Payee, in which a UK wide approach will be taken resulting in a lower level of coverage for Northern Ireland consumers.
44. Therefore, in addition to monitoring the policies and providers of firms regarding vulnerable consumers, The FCA should also consider whether the implementation of UK wide policies designed to protect consumers actually results in a lower level of protection or coverage in practice across all UK regions.

Question 5: What types of information do you envisage it would be necessary for firms to collect, to assess the effectiveness of their policies and processes in respect of vulnerable consumers?

45. All vulnerability is not the same. Therefore, firms should be able to identify how likely it is that vulnerability will crystallise into harm for a vulnerable consumer, as vulnerability does not strictly always result in harm, or the same levels of harm for each consumer.
46. Included in our response to the 2019 consultation, The Consumer Council listed a range of other trade bodies and organisations' initiatives in this area, which we include again at point 47 below. Firms should be looking to industry itself to come up with different and innovative ideas on how to mitigate harms faced by vulnerable consumers. The FCA should consider how they can ensure firms are sharing best practices.
47. The issue of consumer vulnerability is being explored across a range of sectors. The Consumer Council would recommend that the FCA are aware of, and liaising with, organisations working in this area. To assist in this, The Consumer Council has outline the following information:
 - Ofgem's draft Consumer Vulnerability Strategy 2025¹⁶, with particular reference to Citizens Advice's response¹⁷.

¹⁵ Lending, Savings and Debt Research: Northern Ireland Consumers - Cognisense March 2019

¹⁶ https://www.ofgem.gov.uk/system/files/docs/2019/06/draft_consumer_vulnerability_strategy_2025_0.pdf

¹⁷

https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Energy%20Consultation%20responses/CitizensAdvice%20consultation%20response_%20Ofgem's%20draft%20Consumer%20Vulnerability%20Strategy%202025.pdf

- Citizen's Advice Future for all report¹⁸ – which focuses on barriers in the energy market, future of supply models and recommendations.
- Utility Regulator's Consumer Insight research¹⁹ – page 72 and onwards focuses on special services that energy companies have implemented to support vulnerable customers. These may act as a good starting point for firms in financial services. The report also contains useful insights about affordability, availability and supply of energy in Northern Ireland.
- Ofwat has set targets for English and Welsh water companies on numbers of customers on their care registers and contact with these customers²⁰.
- Citizens Advice have identified that in instances where poor mental health reduces someone's ability to carry out daily activities, they can incur costs of £1,100-£1.550²¹ each year as a result of inaccessible services, inadequate regulatory protections and lack of tailored support. As a result they have published a report²² entitled 'Counting on it' which explores the idea of cross-sector minimum standards of support for people with mental health problems.
- Ofcom also recently consulted on its framework²³ for assessing fairness in broadband, mobile, home phone and pay-TV.
- The British Standards Institute (BSI) have been working in this area and produced the British Standard for inclusive provision, whereby they are identifying and responding to consumer vulnerability²⁴.

48. The Civil Aviation Authority (CAA) introduced guidance to airports for the provision of special assistance. The CAA periodically visit the airports and assess the support that is being provided. An annual report²⁵ is then published by CAA, their report details their framework and processes.

¹⁸ <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/future-for-all-making-a-future-retail-energy-market-work-for-everyone/>

¹⁹ <https://www.uregni.gov.uk/sites/uregni/files/media-files/CEPA%20Impact%20Consumer%20Research%20Final%20Report.pdf>

²⁰ <https://www.ofwat.gov.uk/regulated-companies/company-obligations/engaging-with-customers/>

²¹ <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/counting-on-it-cross-sector-minimum-standards-of-support-for-people-with-mental-health-problems/>

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<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Minimum%20standards%20report%20-%20final%20version.pdf>

²³ https://www.ofcom.org.uk/data/assets/pdf_file/0022/152482/discussion-paper-making-communications-markets-work-well-for-customers.pdf

²⁴ <https://www.bsigroup.com/LocalFiles/en-GB/consumer-guides/resources/BSI-Consumer-Brochure-Inclusive-Services-UK-EN.pdf>

<https://www.bsigroup.com/LocalFiles/en-GB/customer-service/BSI-Providing-fair-flexible-and-inclusive-services-a-business-perspective-EN-UK.pdf>

²⁵ <http://publicapps.caa.co.uk/docs/33/CAP1821.pdf>

Question 6: Do you have any other feedback on our proposals?

49. In relation to staff training, the FCA should consider if there should be a recognised standard of training that each provider in each sector would need to undertake as a minimum. This would ensure consistency in training and, therefore, the treatment of vulnerable consumers in all sectors. Whilst it is understood that the guidance should not be overly prescriptive, allowing firms to source and undertake their own training may lead to a difference in outcomes for vulnerable consumers, missing the aim of the guidance.
50. Whilst firms should ensure all their staff undertake relevant training, and achieve the necessary qualifications to ensure that they can do their job effectively and ensure good outcomes for vulnerable consumers, emphasis should be put on ensuring that these policies are genuinely embedded into the culture of the firm, as opposed to purely just documented within a plan.
51. Sectors such as sales, or roles where staff members are working to a target (for example a sales target or phone call duration target), will need to pay particular attention to ensure that policies are effective and do not make staff feel like they hinder their performance. We appreciate that this issue has been touched on within the draft guidance and would ask for clarity on how the FCA is going to ensure that these sectors are properly considered.
52. Another area that the FCA could consider would be the compilation of a vulnerability league table. This could be done by either the FCA or industry, and can act as a minimum benchmark to help vulnerable consumers choose the best providers which would support consumer focused and transparent regulatory practice.
53. The inclusion of a top and bottom 3 could act as a nudge for firms and providers who are consistently at the bottom, encouraging them to do better. The league table could be compiled using vulnerable customer feedback in relation to all areas of service, this can potentially empower consumers about what is on offer from different providers and what level of service they can expect.
54. This is a similar concept to the annual report on disability access of the UK's largest airports conducted by the Civil Aviation Authority (CAA), whose framework²⁶ contains some useful processes and insights. Ofwat²⁷ have also compiled water company league tables that are widely respected.

²⁶ <https://www.internationalairportreview.com/news/97012/stansted-caa-rating/>
<https://www.internationalairportreview.com/article/69277/omniserv-hidden-disabilities/>

²⁷ <https://www.waterbriefing.org/home/regulation-and-legislation/item/12000-ofwat-more-work-needed-to-identify-and-help-vulnerable-customers>

Final Comments

55. The Consumer Council is supportive of the work being done by the FCA to ensure the needs of vulnerable consumers are being considered and addressed.
56. To achieve the FCA's goal of ensuring vulnerable consumers receive outcomes just as good as other consumers, it will be essential that customers are aware of and understand firms' vulnerable consumer policies. In order for consumers to be able to exercise their rights they must first be aware of them. A key step to achieving this will be ensuring firms are proactively informing consumers of their rights throughout the term of their relationship with the consumer, and in particular during periods when those rights may not have been met. There must be clear and easily accessible information on what support is available to vulnerable consumers.
57. In order to achieve the goals set out in this consultation, the FCA must understand how markets work for consumers. An important step the FCA can take to help vulnerability in Northern Ireland is to open a regional office here, so that there can be a direct understanding of the social differences and concerns here, and the significant structural differences that exist when compared the financial sector in Great Britain (England, Scotland and Wales).
58. The Consumer Council welcome the invitation to respond to the proposed guidance by the FCA and believe that this is an area where consumer advocacy organisations, such as The Consumer Council, could actively support the work of the FCA in relation to raising consumer awareness of the guidance and their rights as customers.

Consumer Council Contact: Scott Kennerley
Email: scott.kennerley@consumercouncil.org.uk
Telephone: 02890251653

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