The LSB's Information for Practitioners

The Standards of Lending Practice for business customers

Customers in vulnerable circumstances

May 2021

This document has been produced by the LSB and provides non-exhaustive examples of the approach Registered Firms (Firms) may wish to take into consideration when seeking to adhere to the Standards of Lending Practice for business customers (the Standards) on vulnerability.

Registered Firms must be able to demonstrate to the LSB that they are adhering to the Standards of Lending Practice; however the LSB does not monitor compliance with the content of this document and as such, it is not intended to be prescriptive nor binding on Registered Firms. The LSB acknowledges that each Firm will have its own way of demonstrating that it is adhering to the Standards without the need to refer to, or take account of, the content of this document.

Where a reference to made to the Consumer Credit Act 1974, as amended (the CCA), the Consumer Credit Sourcebook (CONC), other Financial Conduct Authority (FCA) requirement or wider legislation, the examples or suggestions which follow represents the LSB's view on how the Standard could be achieved.

This document will be kept under review and updated to reflect examples of good practice being undertaken across the industry in this area.

Customer outcome: inclusive products and services take into account the broad range of business customers to which they may apply and contain appropriate flexibility to meet the needs of customers who may be, or are in, a vulnerable situation. Where customers are identified as, or the firm has reason to believe that they may be, vulnerable, appropriate adjustments are made to ensure that their individual circumstances are accommodated to enable the customer, or their authorised third party, to manage their account(s)

Firms will achieve this: with systems and controls that are capable of assisting in the identification of customers who are, or may be, in a vulnerable situation, and having appropriate measures, training, referral points and skilled staff to deal appropriately with the customer once identified

The following Standards have been drafted to support firms in identifying and addressing situations where an individual within a business either is, or the firm has reason to suspect that they may be, vulnerable.

These Standards can be applied to a sole trader, partnership or to an individual within a limited company. The impact of the individual's vulnerability on the business customer's relationship with their registered firm will depend on a number of non-exhaustive factors such as: the legal structure of the business, its sophistication, the role and level of responsibility of the individual within it and the extent of the individual's vulnerability. Firms will be at different stages of developing an approach to business customers and vulnerability and the applicability of the following standards will depend on the individual circumstances of the person.

- Reference to an *individual* means a person who, when taking into account information available to the firm about the how the business is structured and operates, is able to exert significant control over the way in which it is run.
- Reference to *vulnerability* is in relation to the individual rather than the business itself, for example, a business in financial difficulty would not necessarily be considered to be vulnerable for the purposes of these Standards.

Update to take account of measures introduced by the Government to support lending to SMEs impacted by the Covid-19 pandemic.

HM Government has established the Coronavirus Business Interruption Loan Scheme (CBILS) and Bounce Back Loan Scheme (BBLS) to support the continued provision of finance to SMEs throughout the Covid-19 pandemic. It is recognised that registered firms are prepared to support business customers experiencing disruption caused by the coronavirus pandemic, and in doing so may be prepared to offer products under CBILS and BBLS in reliance on the Government guarantee under each scheme.

The Covid-19 pandemic has driven the need to develop products to facilitate fast and efficient lending to impacted businesses with responsibility for the design and application of the products sitting outside of firms' control. The terms of lending for the schemes requires firms to make lending decisions outside of their normal processes and with access to a limited amount/no information on the performance of the business. Similarly, firms are unlikely to have information on the business owner's personal circumstances which may impact on the running of the business. The LSB recognises that firms' ability to apply particular elements of the Standards may be reduced. This is particularly relevant in relation to the application of the Standards on customers in vulnerable circumstances. As set out in the Standards, the impact of the individual's vulnerability on the business customer's relationship with their registered firm will depend on a number of non-exhaustive factors such as: the legal structure of the business, its sophistication, the role and level of responsibility of the individual within it and the extent of the individual's vulnerability.

The LSB recognises that when lending under BBLS, firms may not have the ability to identify an individual in vulnerable circumstances, especially where customers primarily engage through digital or automated channels. However, where a customer has shared information that enables the firm to identify that a customer may be experiencing vulnerability, appropriate support should be offered.

To enable customers who may be in vulnerable circumstances to speak to staff and to get the support that they need, firms should ensure that when customers do engage, for instance if they look to make use of the PAYG support options, that there is the possibility of manual intervention at any point in the customer journey, to enable customers who may be in vulnerable circumstances to opt-out of a digital journey, to access information and support and, where necessary, to engage with an appropriate member of staff.

It is recognised certain aspects of the products are determined by the Government, and as such firms will have a limited role in the design and review process. Given this, the LSB accepts that firms cannot reasonably be expected to give full consideration to the design or review of products offered under CBILS and BBLS.

1. **Firms should have a vulnerability strategy, which defines its approach to the identification and treatment of individuals considered to be vulnerable, through whichever channel the customer chooses the engage**

The treatment of customers in vulnerable circumstances, at all stages of the product lifecycle, is critical – starting with the culture and business model of a firm, the design and targeting of a product or service and its promotion and sale, through to the ongoing product and account servicing relationship with the customer, taking account of any change in circumstance, including any debt collection or debt sale activity. The LSB recognises that inclusive financial services are, in general, good for all consumers and that a consistent approach to vulnerability across the firm is critical to ensuring the delivery of fair outcomes.

The FCA definition of vulnerability refers to customers who, due to their personal circumstances, are especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care. The definition acknowledges the strong interplay between the individual circumstance, situation and the actions and processes of firms, with the expectation that firms establish policies, processes and controls which ensure the fair treatment of customers in vulnerable circumstances, at every stage of the customer journey. It is widely accepted that vulnerability is not a static state limited to a certain group of people and that anyone can encounter a situation that might make them more susceptible to detriment, particularly where this affects a person's ability to make or communicate an informed decision, or maintain existing financial commitments. This experience is no different for an individual consuming products and services in a business capacity or ultimately the business, where the individual is integral to its successful running. In our view, whether engaging as a personal customer or a business, firms should seek to support all customers to ensure they are given the helping hand they need to cope with a difficult circumstance, through whichever channel they choose to engage.

Factors such as mental and physical health, caring responsibilities and life changing events can put anyone in a vulnerable situation. This is supported by an understanding that whatever the vulnerability, the impact, or the way in which a person might handle or respond to a situation can vary.

The LSB acknowledges that not all businesses have the same needs, resources and capabilities, with some more sophisticated than others, this can vary based on factors such as borrower type and size. Practically this means that the impact of a change in circumstance for one director or partner in a business can vary depending on the size and structure of the business, their day to day management responsibilities (in particular, their position in the context of the business' core operations), the impact that the vulnerability may have on the business' operation, its workforce its income and cash flow and the overall availability of resource.

Firms must ensure, that when they become aware of a vulnerability, the impact on the individual is fully considered, and where applicable, the impact this has on the day to day running of a business, and the ability to meet and maintain ongoing financial commitments. Firms should remain alert to the fact, that, whatever the vulnerability, the way in which a person might handle or respond to a situation can vary, based on personal circumstance, and the size and structure of the business, relative to the individual's day to day responsibilities and the nature and permanence of the situation.

2. Firms should undertake monitoring and assurance work to ensure that the vulnerability policies, processes and controls are designed and operating effectively and delivering fair outcomes

As firms document and develop their vulnerability strategies, consideration should also be given to their ongoing evaluation, to ensure that they continue to operate in a manner that is conducive to the delivery of fair outcomes. This may be achieved through the: ongoing review and assessment of the design and operational effectiveness of policies, processes and training, along with an assessment of the internal control framework, including the quality of first line quality assurance checks; testing the full customer journey, through using case reviews to form a view on the overall effectiveness of the firm's strategy, response to a situation and appropriateness of the solution offered and the development of customer feedback mechanisms to explore the practical impact of the current structures in place.

3. Firms should have policies and processes governing the identification and fair treatment of individuals in vulnerable circumstances. These should take into account the channel, where the individual is within the customer journey and the varying nature and degrees of permanence of different vulnerabilities

Vulnerability can manifest itself in a number of different ways, such as an inability to work for a period of time, a reduced understanding of alternative products, or an inability to make informed financing decisions, where the capacity to evaluate products and services is impaired. Businesses are people led and run, and are therefore they are critical to a business ongoing success, and it is in this context that an individual's vulnerable circumstance and the impact that it may have on a business, should be simultaneously explored and understood.

Whilst the Standards reference vulnerability in the context of an individual, and not a business, the impact that a business in difficulty may have on an individual involved in the day to day running and management of a business, should not be overlooked. This could include: loss of a key contract or a customer, poor business performance, or loss of key staff. Firms should be able to identify customers who are, or it suspects are in a vulnerable situation, irrespective of whether this derives from an individual circumstance or the business.

When considering the impact vulnerability can have on a business, firms should fully explore the impact of the personal vulnerability on the individual, this should be considered along with their role and their importance in the context of the day to day management of the business and the degree to which the individual is able to exert significant control over the way in which it is run. For the purposes of this assessment, consideration should be given to:

- The customer's state of mind: how does the vulnerability impact their ability to understand or make informed financing decisions in relation to new applications for finance or reviewing the suitability of existing products held. Consideration should also be given to the extent to which the vulnerability might compromise the individual's ability to make informed business decisions and how this might impact the business' financial obligations with the firm. Particularly where the situation limits the individual's ability to continue meeting its key strategic and operational objectives.
- The customer's finances: focusing on their ability to manage existing commitments, and the impact the situation may have on current and future business income and expenditure, and the business' ability to maintain contractual and financial repayments.

These should be reviewed in the context of the individual and their role and significance in relation to the business and the legal structure of the business and its level of sophistication. This should be underpinned by a firm understanding of the type of vulnerability, the degree of impact and its permanence and presentation.

4. a. **Firms should ensure that their employees and their agents are sufficiently trained to help them to identify vulnerability and deal with the individual in accordance with their policies and processes, with appropriate escalation points, where the circumstances require this**

   b. **When an individual is identified as potentially vulnerable, a Firm should ensure that its employees or its agents have appropriate referral and escalation points and are aware of how to access them**

Staff training is integral to embedding a firm's vulnerability strategy, to ensure policies and procedures are implemented and drive a consistent approach to the identification of customers in vulnerable circumstances, and the support and guidance that is offered. Firms should consider the appropriate mechanism and approach to delivering training in the most effective way to ensure that the key messages from the training are firmly rooted and can be evidenced in practice.

The fair treatment of customers should be at the forefront and conscience of everyone's minds, and the training should be conducive to achieving this. This may be achieved in some instances through a dedicated induction programme, with a specific module on vulnerability, supported by real-life examples of business related customer encounters, covering a broad range of vulnerabilities. The training should highlight the support that is available to business customers, with an understanding of how the firm would expect staff to respond to these situations, with reference to policy and procedural guidance.

Training could take the form of a bespoke online based training module on vulnerability, using scenarios to increase understanding of the different types of vulnerability and the corresponding needs of customers to ensure that vulnerability remains an active consideration in the execution of everyone's role and at all stages of the customer journey. This could be supported by role specific training to help bring the concept of vulnerability to life, using practical examples and the different types of situations staff may come across in the execution of their day to day role.

Firms could develop triggers to assist staff in the identification of business customers who may be vulnerable. This could be underpinned by targeted and role specific staff training to bring the concept of vulnerability to life, illustrated through the use of practical examples and the types of situations staff may come across. Training should be based on information volunteered by the customer during conversations such as, references to life or work events which appear to have had a significant impact on the customer's ability to cope and softer behavioural triggers, which, whilst not obvious, may indicate that the customer requires further support. This includes: signs of agitation, little to no communication despite previous regularity in contact, tone of voice, questions which indicate the customer does not understand what is being explained and placing reliance on a third party for support, where there are no existing mandates or authorities in place. Whilst we recognise that not every trigger may result in a customer being identified as vulnerable, they are clues which should be probed and explored further to encourage a complete understanding of the customer's situation, based on a 'tell us once' approach.

Whilst training on the different types of vulnerability is key, the importance of softer skills such as the ability to listen, empathise and question is integral to a well-functioning vulnerability strategy. This is reinforced by the fact that not all customers will be forthcoming with information, particularly at the point of borrowing, as there is a fear that this may adversely impact the customer's ability to apply for finance, or for fear that this information may be shared more widely, with a perceived consequence on the individual or on the reputation of the business. The answer is by no means definitive and should be considered on a case by case basis, but listening and questioning skills are critical in determining the impact of personal vulnerabilities on the individual, and their business to ensure the right level support is offered, at the right time.

Firms should seek to build structures and processes to allow staff to investigate situations fully, and equip them with the knowledge, confidence and skills to question and explore circumstances appropriately, with a view to identifying impact and likely support needs. However, a successful approach to identifying triggers also hinges on the frequency and quality of interaction with the business, the level of trust and the firm's knowledge of them, and the regularity and depth of monitoring undertaken by the firm.

For businesses that are relationship managed, the model provides a sound basis to identify customers in vulnerable circumstances. The hallmarks of an effective relationship are built on trust and customer knowledge, which enable the regular exchange of information between the business and the relationship manager. The frequency of information exchange and the type of interaction can vary based on factors such as the size of the business and a firm's own criteria and method of customer segmentation, but at a minimum this is likely to take place on annual basis. This means that in most cases, the relationship manager is well placed to identify a change in circumstance and question or pre-empt the impact a change may have on the business in the normal course of the relationship, without exacerbating the situation or causing the business any alarm.

Most businesses will have an annual review date which is fixed from the date of sanction. This usually provides the relationship manager with an opportunity to identify changes to the business profile from a financial and non-financial perspective and will typically focus on assessing historic financial performance against current performance; whilst assessing product utilisation against expected use. Relationship managers may also have responsibility for pro-actively managing arrears within their portfolio, where there are indications of a declining financial position. Triggers or indicators may include: persistent losses, missed or delayed payments, excesses and over-limits. Firms could use this opportunity to understand whether any changes may be attributed to a vulnerable situation.

Whilst there are clear benefits in training all staff to identify, manage and deal with vulnerability, some firms may wish to explore the availability of a dedicated specialist team, with greater levels of training, knowledge and the flexibility to make decisions. The Standards do not require firms to establish a specialist team to deal with vulnerability, but where there are specialist teams in place, firms should ensure appropriate mechanisms exist to refer the customer to appropriate support. We consider this decision to be a commercial one; but the outcome should be that customers have easy access to support. As firms develop their approach, there is merit in evaluating the benefits of both approaches to ensure that there are fair and efficient structures in place, designed to suit the firm's business model (taking account of resourcing, capacity and driven by the need to achieve a consistent customer experience), to manage those customers identified as requiring further support. In all cases, staff should be encouraged to exercise discretion, thinking practically about the implications of their actions, being guided by their determination to resolve a situation, and deliver a fair outcome. This could then be reflected in the firm's recruitment strategy and balanced by appropriate targets and measurement systems, which support the fair treatment of business customers in vulnerable circumstances.

Depending on the frequency and type of interaction and the distribution channels by which the business is serviced, the opportunities to identify vulnerability early on may be limited, particularly where the customer does not have regular contact or where they are not forthcoming with this information. Statistics show that more and more customers are transacting digitally, limiting opportunities for firms to engage in face to face or telephone contact. This generally sits at odds with most firms' strategies for identifying and dealing with vulnerability, which place a reliance on face to face or telephone contact with their front-line teams. Whilst there are clear challenges to identifying vulnerability digitally, the benefits of maintaining a digital platform mean that in most instances firms have access to an array of transactional information on customers, which, with the correct data analytic tools, can help decipher trends and flag up anomalies and drive a pro-active contact strategy. Firms should ensure a consistent approach to identifying and managing vulnerability, irrespective of the channel through which the business customer chooses to engage.

In the case of a business current account, these anomalies may relate to a significant change in transactional activity, excessive use of an overdraft facility which sits outside the business' expected usage which may indicate that there has been a change in circumstance, or where internal and external data sources show potential signs of financial stress, where the underlying cause may be attributed to vulnerability.

Whilst early identification of vulnerability is key to managing a detrimental impact on a business, firms may encounter some situations where the impact of an individual vulnerability has already had a financial bearing on the business. In these circumstances, declining business performance, evident through a review of financial accounts or missed repayments may be a useful indicator of a change in situation, where further probing is required. Irrespective of the indicator, getting to the root cause of the decline in business performance is key here and if there is any additional support or guidance that the firm can provide this should be forthcoming.

Other indicators may include:

- Regular increased borrowing requests coupled with a sense of urgency which may indicate that the business is in distress, or an indication that the business is poorly managed;
- Regularly exceeding credit card/overdraft limits;
- Large increases or decreases in the business's turnover;
- The business is trading at a loss;
- The business suddenly loses a key customer or employee
- The customer does not keep to the conditions set out in the loan agreement and is in breach of covenant;
- Following regular submission of financial information, the customer suddenly stops providing information; or
- A winding up petition or other legal action is taken against the customer.

The shift in employment dynamics is undoubtedly a positive one, reflecting a peak in entrepreneurial drive as people choose to set up their own business, but for others, it is the outcome of the social and economic environment in which we live, where factors such as high unemployment and increased redundancies offer no other viable alternative. Whilst many will go on to run successful businesses, for some, factors such as limited financial capability, can make them more susceptible to detriment particularly where this impacts their ability to make informed business decisions. In some cases, it may be a combination of a number of factors, exacerbated by limited financial capability and the lack of business and strategic knowledge, stemming from the absence of expert or professional advice for business specific information and support. These factors may make it difficult to decide on business financing needs, resulting, in some instances, in poor and costly choice of product. Firms should seek to simplify product information to aid comparison, to enable the customer to make an informed borrowing decision – could firms be doing more to help create a level playing field?

Firms should also ensure there is a read-across for business customers, by sharing areas of best practice, based on lessons learnt in the personal space, to drive firm-wide improvements and deliver consistencies in the treatment of both personal and business customers – offering a firm-led strategic response to vulnerability.

5. Where appropriate, Firms should develop triggers and management information to assist employees in the identification and subsequent monitoring of individuals who may be vulnerable

Developing triggers can support front line staff in identifying signs of potential vulnerability. This could be underpinned by targeted training which involves educating staff on potential vulnerability triggers and customer impact. Customers or third parties may volunteer information, whether consciously or not, when interacting with a firm and these opportunities should not be lost.

Each customer is different as is their ability to cope, therefore it isn't possible to list all of the examples of information which the customer may provide or which could have a detrimental effect upon the customer. However, such examples could include life events such as the breakdown of a relationship or bereavement which may affect their ability to meet their housing costs/other commitments or even the ability just to cope with the day to day living.

Training on identifying and exploring information volunteered by the customer during conversations could take account of the more overt, situation such as: being in receipt of a disability allowance, being off work for a period of time, or a drop in income. The customer may also use phrases such as: 'I cannot cope', 'I'm having difficulties managing at the moment', 'I'm struggling to get back on my feet'.

There are also softer behavioural triggers, which, whilst not obvious, may indicate that the customer requires further support. These include: signs of agitation, tone of voice, questions or answers which indicate the customer does not understand what is being explained or placing reliance on a third party for support, where there are no existing mandates or authorities in place. Whilst the LSB recognises that not every trigger may result in a customer being identified as vulnerable, they are indicators that could be probed and explored further to encourage a complete understanding of the customer's situation. The information should be recorded, with the customer's consent, to facilitate a 'tell us once' approach, where appropriate.

Not all customers will be forthcoming with information, particularly during early interactions, as there may be a fear that this could adversely impact the customer's ability to apply for credit, or the perception that the information may be construed negatively when setting up a repayment plan at the collections stage. Alternatively, customers may simply believe that the firm does not need to know such personal information about them and lack understanding of how any information they provide will be used. Therefore, the importance of softer skills such as the ability to listen, empathise and question in a sensitive and patient manner is critical to a successful vulnerability strategy.

Customers should be provided with a clear explanation of how any sensitive information they wish to disclose might be used and the circumstances in which it might be shared across the firm, for example that it will be used to ensure that products and services offered to the customer take account of their circumstance and are appropriate for their needs.

6. Where a Firm is developing a new product, or reviewing an existing product, it should consider vulnerability as part of the design or review process, paying regard to target market, clarity, accessibility and the operation of the product

Firms are encouraged to ensure that vulnerability is integral to their processes and is not approached as a 'tick box exercise' and that this can be evidenced through the product design, development and launch processes/stages. Firms should ensure that product limitations and risks are drawn out clearly to assist a customer's understanding of a product. This could be accompanied by adequate staff training for customer facing channels and consideration of all content distributed via marketing channels, to assist customers in making a balanced and informed decision on a product, having regard to their contractual obligations. Where products are being reviewed, the LSB would encourage firms to assess how the product is performing in terms of accounting for vulnerability and whether any adjustments are required.

Where firms are offering products under a government backed lending scheme, firms may have a limited role in the design or review of it. However, where firms have flexibility over how they offer products under a scheme, firms should consider what design and review processes are appropriate, whether products and customer journeys are accounting for vulnerability, and whether any adjustments could be made to improve outcomes where customers may be vulnerable.

7. Firms' sales policies and processes should take account of the impact vulnerability may have on an individual's ability to make an informed decision about a product, and provide relevant support during the application process

Firms should have mechanisms in place to support customers identified as vulnerable, however, there is a challenge in ensuring that the customer is given sufficient information to help make a balanced and informed decision. Vulnerability can take many forms, and the needs of customers may also vary, which can make it extremely difficult for staff to manage, particularly where sales policies and processes do not account for vulnerability at the point of sale.

The stress associated with being in a vulnerable situation may have an adverse effect on a person's emotional state and cognitive ability. This may include general feelings of anxiety, the feeling of being unable to cope, being too upset to talk, finding it difficult to concentrate and assimilate information to help make and communicate an informed decision. Firms could provide further training and guidance to staff which may include:

- Educating staff on the types of support the firm can offer in cases where vulnerability is identified at acquisition; this may include: giving customers the time to reflect on the information they have received, encouraging the customer to bring an adviser or other third party to a face to face meeting, or defining referral points for a specialist team to engage with the customer;
- In cases where the firm has concerns over product suitability, and depending on the type of business and the way this relationship is managed by the firm, the customer insists they want that product, having escalation points for those decisions to be considered in greater detail including, for example, considering further avenues of support. Where there remain concerns over the customer's ability to understand, make or communicate an informed decision following the offer of further support, a decision not to lend may, in the circumstances, be considered an appropriate outcome.

- Strengthening quality assurance frameworks to ensure staff are assessed on the quality of their sales, on a non-advised basis, reflecting this requirement in staff objectives and targets;
- Increasing use of mystery shops and feeding the outputs of this into strengthening existing processes.