The LSB's Information for Practitioners

The Standards of Lending Practice for business customers – Asset Finance

Vulnerability

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 information for practitioners has 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. For the purposes of the Standards, vulnerability is referred to in relation to an individual.

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. An effective vulnerability strategy should be underpinned by a culture of care, which promises to do the right thing for the customer. The achievement of this goes beyond adherence to policy; firms should lead by example and ensure employees feel empowered in making the right decisions, with performance management frameworks that support and promote the values of mutual trust, care, and respect.

The FCA's 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/s are 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 particularly the case where it affects a customer's ability to make, or communicate an informed decision, or engage with the market.

While the Standards refer to vulnerability in respect of the individual, rather than a business itself, the LSB recognises that the causes of a vulnerable situation can be multiple and complex. For the purpose of the Standards, a business in difficulty is not, in and of itself, deemed vulnerable, however in practice, a vulnerable situation is not always clear cut. Vulnerability may not always derive from personal circumstance alone but from a number of sources, including the business itself, or external environmental and economic factors. Firms may find that there is often a direct link between a business in, or at risk of financial difficulty and the personal susceptibility of the owner/s to vulnerability, factors which may sometimes stem from outside of their control. Firms should be alert to these factors, to ensure that where they become aware of a vulnerability the customer is adequately supported.

The LSB recognises 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 nature and permanence of the situation and the overall availability of resource. Firms must ensure, that when they become aware of a vulnerability, the impact on the business and individual is fully considered including their ongoing ability to meet and maintain ongoing business and financial commitments.

2. Firms should undertake appropriate monitoring and assurance work to ensure that the vulnerability policies, processes and controls are designed and operating effectively and delivering fair customer 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 running a business, and not the business itself, 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 is because vulnerability can be driven by a number of factors to do with the business itself or broader economic factors, not just personal circumstance. In practice, this could include: a personal bereavement or illness, loss of a key contract or a customer, poor business performance due to broader economic factors, or loss of key staff.

The LSB recognises that the complexities of running a business, coupled with external market conditions, mean that these drivers may not exist in isolation. The interaction between personal, business and external market conditions may cause or exacerbate a vulnerable situation and limit the owner's ability to engage with the market or increase their risk of harm. Firms should have processes in place 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.

The LSB encourages firms to use a broad range of data to support the identification of customers in vulnerable circumstances. This may include proactively monitoring external indicators such as economic and market conditions, which may enable firms to pre-emptively step in and offer timely intervention.

When considering the impact vulnerability can have on a business, firms should have regard 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.
- The nature and longevity of the vulnerability: how the vulnerably impacts the customer day-to-day and their ability to engage with the market or interact with the firm, including where the situation limits the individual's ability to enable the business to continue meeting its key strategic and operational objectives.
- The sustainability of the business: 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 sales or service volumes and contractual and financial repayments as they fall due.

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. Our expectation is that firms should consider every situation on its own merit.

4. **Firms should seek to ensure that where an intermediary identifies an individual as potentially vulnerable, this information is passed to the Firm, with the customer's consent, and it is taken into account during interactions with the individual**

This Standard seeks to ensure that a customer in a vulnerable situation is identified and supported by the firm, irrespective of where the customer relationship originated. The LSB would expect firms to treat information they receive about a customer in a vulnerable circumstance from an intermediary as if they would if the customer had a direct relationship with the firm, subject to satisfying the requirements of the data protection legislation. Firms should satisfy themselves that, at a minimum, intermediaries are able to identify customers in vulnerable situations, and with the customers consent, are referred to the firm for further support and assistance. Firms may achieve this through dedicated vulnerability training or a due diligence framework which ensures the intermediary has processes in place to identify, seek and record explicit consent in line with the GDPR with a sensitive referral process. Firms may consider this requirement as part of ongoing oversight to ensure it is fully embedded across all third parties including intermediaries. These controls should be documented in a firm's policy and process, to ensure consistency in application.

5. **a. Firms should ensure that their employees 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 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. 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.

Building staff capability, along with staff training, is critical in empowering staff to handle difficult conversations with confidence knowing that they are fully supported in making the right decisions. Firms should seek to build on the work carried out in the personal space, whilst considering ways in which this material might be adapted to develop vulnerability training in the area of business lending. This can be achieved through:

- The development of a bespoke computer-based training module on vulnerability, using scenarios to increase understanding of the different types of vulnerability and the corresponding needs of business customers highlighting the importance of considering vulnerability in the execution of everyone's role. Material should be regularly refreshed with controls in place to monitor completion;
- Training on conversation models, to support the implementation of the TEXAS and IDEA models, to assist staff in handling vulnerability disclosures and to probe situations fully, whilst documenting the customer's support needs;
- Delivering role-specific training using practical examples and the different types of situations staff may come across day to day. The use of role play may help to bring the concept of vulnerability to life. Staff are encouraged to break the conversation down, to identify areas where they could have probed further, or asked a question in a different way.
- Building case studies based on 'real life' customer encounters to illustrate, and bring to life, the support that is available through the firm, with reference to policy and procedural guidance. Case studies may be a positive way in breaking down some of the perceived barriers in implementing the policy, empowering staff to make the right decision based on the customer's needs;
- Creating a centralised repository of information to assist staff in identifying and supporting customers in their day-to-day role, for e.g. this may be achieved through a dedicated vulnerability hub. This hub may operate as a one-stop-shop, where the information is accessible through the firm's intranet site, enabling staff to retrieve and recall useful material to support their interactions with customers.

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.

6. 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 proactive and reactive triggers can support front line and back office staff in identifying signs of potential vulnerability. This could be underpinned by targeted, role specific training which involves educating staff on potential vulnerability triggers and customer impact illustrated through the use of practical examples and the types of situations staff may come across. 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 or business events such as the breakdown of a relationship or bereavement which may affect their ability to meet their commitments or even the ability just to cope with the day to day living which may have a direct impact on their business.

The LSB acknowledges that 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, the product is transactional only, or where the customer is not forthcoming with this information particularly during early interactions. This may stem from a fear that volunteering information could adversely impact the customer's ability to apply for finance, or the perception that the information may be construed negatively. 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. In some cases this might be exacerbated by the denial of a personal or financial situation, in the hope that if the customer perseveres there may be light at the end of the tunnel for their business. 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. Firms should delve deeper to improve their understanding of key reasons why customers may be reticent in volunteering information. Customer engagement activity could provide firms with this insight including the use of customer case reviews, or engaging with customers already identified by the firm as being in a vulnerable situation to understand if there is anything more the firm could have done to support early disclosure. Findings can be used to support timely customer disclosure and provide opportunity to engage and probe further.

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.

Enhancing digital and branch literature to raise awareness of the support that is available to small businesses and how that information may be used might also help encourage self-disclosure, along with firms branding and marketing strategies, which may help tackle some of the perceived stigmas around divulging sensitive information.

Statistics show that more and more customers are transacting digitally and in the case of some asset finance providers operating models, through an intermediary - limiting opportunities for firms to engage in face to face or telephone contact with the customer. 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 seek to change the dialogue by re-articulating the challenge presented by digital channels as an opportunity and think of innovative ways in which digitalisation can support proactive identification of customers in vulnerable circumstance. Firms should ensure a consistent approach to identifying and managing vulnerability, irrespective of the channel through which the business customer chooses to engage. Given these limitations firms should consider the benefits of supplementing a reactive approach with a data driven activity, to support the proactive identification of business customers that may be vulnerable and therefore at an increased risk of harm.

In the case of an asset finance product, these anomalies may relate to a missed payment or where internal and external data sources show potential signs of financial stress, where the underlying cause may be attributed to vulnerability. Monitoring external indicators such as political, economic or market conditions may be a useful mechanism for the firm to pre-empt the risk of adverse impact on their business customer base. Where relevant, the LSB would encourage firms to use this information to offer timely intervention and support.

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. Firms should have pre-delinquency triggers in place to identify customers at risk of financial harm. This could be supported by a proactive contact strategy to encourage early intervention and the timely provision of help and assistance. In these circumstances, where available, 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.

Depending on the customer relationship, other indicators may include but are not limited to:

- 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 agreement and is in breach of the terms;
- A winding up petition or other legal action is taken against the customer.

Irrespective of the indicator, getting to the root cause of the decline in business performance is key and if there is any additional support or guidance that the firm can provide this should be forthcoming.

This could include:

- proactively engage with the business;
- undertake a business review with a view to questioning and deciphering the root cause of the financial situation;
- comprehend the factors contributing to this position to ensure the provision of timely support;

- understand whether there is any evidence of a vulnerable situation, whilst considering the impact this has on the individual running the business and their ability to continue trading in the foreseeable future;
- consider if there is any support that can be offered to minimise the impact of any detriment; and
- identify opportunities to sign-post the business customer to external sources of support where relevant. This may include information on relevant third sector organisations;
- exploring the option to refinance a product, provided this does not exacerbate the customer's difficulties or indebtedness.

Whilst asset finance products tend to be transactional in nature, the LSB acknowledges that some customers may have a broader product holding with a firm, and depending on the firm's method of customer segmentation, more likely to be relationship managed. For those 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 a number of factors such as the size of the business and a firm's own criteria and method of customer segmentation, but at a minimum was 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. 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 and in some cases is supported by a visit to the business premises. 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.

Firms should continue working with their frontline teams to offer guidance on recording explicit consent and dealing with disclosures from a customer or a third party. This guidance has typically included:

- Acknowledging the courage it takes for a customer or a third party to call a firm notifying them of a customer's vulnerability;
- Adopting a 'can do' attitude, recognising that a sensitive approach to handling the call is key, and that by proceeding with the call the firm may help alleviate some stress;
- Preventing disclosure of account information or transactional data, but noting down any unverified disclosures from a third party in a factual manner so that this information is visible, where possible, at a single customer level;
- If systems do not allow for a single customer view, ensuring there is a manual work-around to allow staff to identify each account the customer holds, to coordinate account activity and correspondence, and prevent conversations from having to be repeated;

- Giving full consideration to any action that needs to be taken by the firm to prevent the account from deteriorating. This should be supported by an explanation of any appropriate action taken. This may include an explanation on how the account will operate; for example, 'the account will be placed on hold; this will mean that during this time no interest and fees will apply.'
- Recognising that evidence is not a prerequisite and is only requested where it is felt that this information will assist the firm in understanding the customer's situation better and to help the customer. Where evidence is requested, firms ensure they do not follow a rigid process, giving consideration to alternative forms of evidence.

Vulnerability may occur at any point in the customer product lifecycle and is not something that is confined to financial difficulty. There is merit in firms undertaking deep dives on cases where vulnerability has been identified. Tracing the case back through the customer journey will help firms to understand if there is anything that it could have done earlier on and so inform the firms understanding of vulnerability in the context of small businesses including the key factors that can give rise to vulnerable situations and whether there have been missed opportunities to encourage early identification.

7. 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. The targeting and design of a product is integral to providing an inclusive service, whilst building appropriate protections to minimise the risk of customer harm. 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.

Firms should ask themselves the following:

- What are the needs of a business customer in vulnerable circumstances, how can we factor these in, and does the product meet these needs?
- Are there features and risks with the product that a customer may have difficulty in comprehending?
- How might this impact the sales and distribution of the product acquired through a direct or intermediary model, and are there any enhancements that need to be made to the process or the customer journey?
- Is there enough flexibility in the process?
- What are the information needs for customers identified as being in a vulnerable situation?
- Is there a need for enhanced training for staff to ensure the product is sold appropriately?

- What mechanisms are in place to ensure the product is targeted in the right way?
- What happens if a customer's situation changes, and how would these circumstances be factored into the servicing of a product and the support that the firm is able to offer?

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 for customers who may be vulnerable.

8. 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, (whilst considering ways in which these measures could extend to third party intermediaries) 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.
- Where an asset finance product is offered through an intermediary, where possible, firms should seek to ensure that intermediaries have processes in place to identify and support customers in vulnerable situations.