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Consultation Response:

Ofwat Service for all-draft vulnerability guidance

Response by the Money Advice Trust

Date: October 2023

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2022, our National Debtline and Business Debtline advisers provided help to 140,980 people by phone, webchat and our digital advice tool with 1.87 million visits to our advice websites. In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2022 we delivered this free training to 2,780 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome the opportunity to comment on Ofwat's draft vulnerability guidance. As well as providing debt advice through National Debtline and Business Debtline, the Money Advice Trust also provides a training and consultancy service to help firms improve their identification and support of customers in vulnerable circumstances. Through this, we have worked with more than 370 firms and over 34,4800 staff.

In partnership with UK Finance, we run the Vulnerability Academy, which provides a training programme for senior managers, with a focus on embedding fair treatment of vulnerable customers within the specific circumstances and context of each organisation. In our response to this consultation, we therefore draw on our expertise of engaging with firms on the vulnerability agenda, as well as our experience as a frontline debt advice charity.

Responses to individual questions

Question 1: Do you agree that we should retain the vulnerability definition we set out in our 2016 Vulnerability Focus report?

We believe the definition – or the explanation accompanying it - could be improved.

Firstly, the current vulnerability definition does not – compared to other regulatory bodies – recognise the role that firms can play in creating harm or detriment for customers. For example, the Ofwat definition reads:

“A customer who due to personal characteristics, their overall life situation or due to broader market and economic factors, is not having reasonable opportunity to access and receive an inclusive service which may have a detrimental impact on their health, wellbeing or finances.” Ofwat, 2023

In contrast, the Financial Conduct Authority definition highlights the role of the firm:

*“A vulnerable customer is someone who, due to their personal circumstances, is especially susceptible to harm, **particularly when a firm is not acting with appropriate levels of care.**”* FCA, 2021 (bold added for emphasis).

We therefore believe that the role of firms (when not acting with appropriate care) should be highlighted by Ofwat in the definition or accompanying text.

Secondly, the Ofwat definition refers to customers not *“having reasonable opportunity to access and receive an **inclusive service**”* (bold added for emphasis).

Given that it is at the centre of Ofwat’s definition, we would like Ofwat to clarify what is practically meant by an ‘inclusive service’ (in the definition or accompanying text). While central to Ofwat’s conception of vulnerability, this phrase is not defined in the draft guidance, to its detriment and that of firms’ understanding.

Thirdly, we strongly believe the Ofwat guidance should explicitly recognise that definitions of ‘*what is vulnerability?*’ will not ultimately drive good firm behaviour or consumer outcomes. Instead, firms need to ask the more practical question: ‘*vulnerable to what?*’. Only through establishing what harm, detriment, difficulty and disadvantage their customers may be *vulnerable to* (at both the individual customer level and in terms of the wider aggregate customer base/segmentation), can firms take informed, effective, and practical action. For this reason, we would therefore welcome a much stronger emphasis in the Ofwat guidance on establishing ‘Vulnerable to what?’, as well as offering a definition of ‘What is vulnerability?’ (See Box 1 in Appendix for further details).

Question 2: Do you agree with our approach to nomenclature, particularly our use of the term 'extra help'?

Firstly, on one level, the use of 'extra help' is straightforward, understandable, and clear in defining the *expected response and level of care from customer-facing staff*.

However, on another level, 'extra help' does not equally stress the importance of firms thinking ahead, anticipating what range of needs consumers may have, and designing and delivering journeys, pathways, and working practices to meet these.

This is all about *foreseeing harm* – be it an access requirement or another type of support need – and working to either prevent this harm from occurring in the first place, or responding to that harm when it arises and minimising its impact.

Critically, this applies to frontline and customer-facing staff, but also those staff who are not facing or close to customers (e.g. operational, system, or data design roles). Furthermore, this is not just about thinking ahead to make customer communications more accessible, but considering a range of consumer needs across all activities.

We would therefore like Ofwat to explicitly emphasise this anticipatory approach (which, importantly, is also a key part of firm's 'anticipatory duty' responsibilities under the Equality Act 2010, as well as having relevance for the PSR).

Secondly, building on the above point, it is also important that Ofwat make distinctions between thinking about and taking action in relation to *individual customers* (and what is known about their individual/disclosed need), and building up a more detailed *aggregate picture* of the wider customer base and their profile, needs, and vulnerability to specific types of harm.

This distinction is not as clear in the Ofwat guidance as it might be. Having a good understanding of the needs of the wider customer base is vital in terms of identifying and meeting need. It is also key – where resources are limited, or initiatives will take time to be phased in – prioritising which needs will (and will not) be met in the short, medium, and long-term.

Thirdly, a needs-based appreciation of vulnerability is valuable – however, firms have to consider five key factors:

- a) *what relevant support needs should be met* – firms need to understand what extra help consumers might require both (i) during an interruption to supply (or other emergency situation) and (ii) to undertake everyday account tasks (e.g. account management, solving problems or queries, complaints, bill payment etc). These needs may not always be immediately apparent or familiar to water companies – therefore it is important firms undertake research to understand which needs their consumer base are likely to have, the prevalence of these needs in that population, and the respective likelihood, severity and impact of harm if these needs are not met. External resources made available by charities, research organisations, and other bodies will assist with this (such as the Money Advice Trust's podcast series with lived experience experts – Vulnerability Matters- and lived experience feedback websites on support needs such as

www.WhatWeNeed.Support). It is critical, however, that water firms do not only focus on support needs/service codes that are found within the Priority Service Register, but also identify support needs that (if not met) can affect the everyday ability of consumers to undertake common account tasks. To only meet PSR recordable codes/needs – which in our opinion require significant development and revision – will result in firms not meeting the objectives of the Ofwat draft vulnerability guidance.

- b) *how consumers can disclose these ‘extra help’ needs to a firm* – as discussed later in this response, individual water companies need to create ‘disclosure environments’ that encourage and facilitate consumer disclosure of support needs. However, individual water companies alone need to be aware of the wider and common problem that disabled and vulnerable consumers face when it comes to disclosing support needs: there are simply too many essential service and other organisations in their lives to do this with the resources, energy, and time available to make the multiple disclosures required. Consequently, a simpler approach is required where consumers can use a ‘tell us once’ system to let their water company, energy firm, financial service organisation, and other bodies know about their support needs, and where the consumer can decide and control which organisations see which information. In summary, water companies need to develop their own organisational pathways for consumers to share extra help support needs directly with them, but also engage with wider multi-sector projects that allow a consumer to control and share their needs with multiple organisations in one simple process.
- c) *how water companies can share these needs with other organisations* – building on (b), it is important to note that when considering data-sharing arrangements between water companies and other organisations, attention should be given to ensuring that any approach is ‘future-proofed’. While there a current focus lies on sharing arrangements between water companies and organisations such as energy firms, local fire brigades, and local councils, steps should be taken to ensure that (i) these arrangement do not preclude the potential for sharing with other essential service organisations in additional sectors (such as telecommunications or financial services) and (ii) that consumers and consumer organisations have a voice and stake in developing these arrangements to ensure that they will not only work ‘technically’ (in terms of wider operational, regulatory, and legal frameworks) but also work ‘practically’ and be attractive to the consumers who will use them. To do this, water companies (and other organisations) need to engage with consumer bodies, other charities, and people with lived experience of disability, vulnerability, and a need for extra support. This consumer input is particularly important to ensure that inadvertent consequences are avoided.
- d) *how other organisations can share these needs with water companies* – water companies do not have to solely be ‘data-sharers’ with other organisations but can receive disclosures from consumers (directly or via a sharing platform or hub) or other organisations too. In terms of sharing platforms or central hubs

used by consumers, this can have the benefit of water companies receiving a disclosure of support needs when a consumer decides to share their needs with their telecommunications company but then sees their water company is also an option on the platform/hub to share with.

- e) *how we can create a common language/approach across sectors to do this* – in order for all sectors (water and beyond) to effectively share data on support needs there will be a greater requirement for alignment, understanding, and learning about which support needs can be met in different sectors. To achieve this a ‘common language’ on support is required, and the water sector should play a large part in this.

Fourthly, we welcome the ‘needs-based approach’ that Ofwat are taking in terms of ‘extra help’, but it is important to remember that some insight and information on the drivers of these needs may also still need to be collected. This is because:

- a) the support needs for different drivers of vulnerability may be the same. For example, the support needs for someone who is suicidal (e.g. take time, be sensitive, listening carefully) may be exactly the same as someone who has a speech disorder (e.g. take time to let them explain themselves, be sensitive to their situation, listen carefully). But a firm would want surely to know that a customer had disclosed that they were thinking about suicide or planning to take their life, rather than just having a general support need, to ensure this customer got the support they needed **in the right way** and that staff were prepared/knew the background?
- b) vulnerable consumers often have multiple challenges and needs. So, if a consumer has a health problem, a life event (e.g. bereavement or relationship breakdown), a family situation (partner is in prison), and financial difficulty, then how do we know *which support need matches which situation*? If a customer starts to talk about one of these elements and they've told the firm before about this, and the staff member does not know about this, then the customer will have to redisclose/repeat their situation.
- c) for customers with multiple support needs we are not just going to want to record the individuals support need, but perhaps some explanatory information about the severity of the need, whether it is long-term or short-term, and other important detail that the customer wants us to have. However, if we've got no way to record this, then we are missing key data. For example, say a customer has just got a Stage 1 cancer diagnosis, but has no need for anything but very general support now. However, he might have a need for support in 6 months' time, if his cancer worsens. How do we capture this information on a system to come back and check in on the customer's situation, if we're only recording support needs?
- d) even if firms do record support needs only, they can find themselves in a situation where that support need actually indirectly lets you know what the

actual driver is (e.g. if a person tells an essential service that they need a suitcase electricity generator to be provided during a power-cut to maintain a powered oxygen supply for breathing, then that probably infers a serious respiratory condition; or someone indicates that they require Braille or large-print, or a statement on audio, then that will probably infer a disability). Firms have to be very careful about this in terms of data protection law, as recording information about support needs that infers a health condition means that data will need to be treated and processed as special category data (which requires a higher level of care and additional processing steps to be taken). We do not want firms believing that only recording support needs will therefore mean they are no longer processing special category data.

- e) overall, 'recording support needs only' may be well-intentioned, but in the longer-term it may not turn out to be practical (or helpful when analysing outcome data, where 'drivers' and 'conditions' may be useful data). Instead, firms may be better working to record the absolute minimum of the most relevant information to support the customer in question, rather than leaving out entire categories of information (such as drivers) as a point of principle.

Question 3: Do you agree with our proposed approach to applying the guidance to new appointees and the Welsh non-household sector?

We agree with the proposed approach to apply the guidance to new appointees and to the Welsh business sector. We would like to see the guidance apply to all customers as the guidance will be equally applicable to how such customers are treated for vulnerability issues.

Question 4: What impact do you think our draft guidance will have on the experiences of customers who need extra help?

We think Ofwat's intention is clear, but that the impact of the guidance could be greater if attention could be paid to three further points of clarification/revision.

Firstly, Ofwat explicitly states in its introduction that the purpose of their guidance is to "*play an important role in improving outcomes for water customers*". This is clearly important. However:

- a) Ofwat **do not** define what is meant by 'outcome'. We would recommend that Ofwat do this to avoid firms conflating 'outputs' with 'outcomes'. This is because some firms will often focus on service delivery processes (such as answering telephone calls or correspondence within a certain time period, or revising communications to improve their readability). While improvements in service are always welcome, it is important that firms also measure changes in consumer behaviour and circumstances.

For example: a firm decides to review and revise its suite of customer debt collection letters and emails with the aim of increasing the number of customers who respond and make payments on time. These new communications are the output of that activity. The outcome measure, however, could be the number of customers who – once sent the new communication - (i) respond to it, (ii) make payments, and (iii) make these payments on time. Here the outcome is either (i) a change in observable customer behaviour (i.e. an increase in customers responding) or (ii) no change (i.e. no increase in customers responding) that (iii) flows from a defined firm action or intervention (i.e. sending out the revised communications).

While Ofwat will want firms to improve their outputs, it is important that real and tangible customer outcomes are defined, measured, and acted-upon.

- b) Ofwat mention outcomes nine times in their draft guidance. However, Ofwat do not explicitly instruct firms to compare the outcomes of vulnerable and non-vulnerable customers. This differs from other regulatory bodies where a more directive approach is taken.

For example: the Financial Conduct Authority in its 2021 'Guidance for firms on the fair treatment of vulnerable customers' (FG21/1) states that *"we want vulnerable consumers to experience outcomes as good as those for other consumers and receive consistently fair treatment across the firms and sectors we regulate"*.

While such a comparison of the outcomes of customer groups may be implied by the Ofwat draft guidance, we would recommend that Ofwat is clearer on the need for firms to make such comparisons in outcome across their range of operating activities.

- c) Ofwat recognises the importance of collecting better data on vulnerable customers throughout its consultation. However, we would recommend a stronger and clearer emphasis is placed on using these data to be able to not only broadly compare 'vulnerable versus non-vulnerable customers', but to also compare sub-groups of vulnerable customers with non-vulnerable customers.

For example: it may be helpful to compare the outcomes of vulnerable customers with a specific support need (such as a medical need to have access to water) to non-vulnerable customers. Or to compare vulnerable customers with a mental health problem to non-vulnerable customers.

Although firms may not feel that such analyses are required (or possible) in the short-term, it will be helpful in the mid to long-term to be able to take 'deeper dives' into segmented customer data, and to avoid reliance on 'blunt' and general 'vulnerable customer versus non-vulnerable customer' metrics.

- d) For the five major objectives in the guidance, we would recommend that Ofwat provide examples of the type of service improvement experience and real consumer outcomes that firms could consider as representing good practice. Without such outcome measures, any narrative on the impact of the guidance will be more likely to resemble speculation than certainty.

Thinking ahead, Ofwat may also want to consider not only how individual firms will compare the outcomes of vulnerable customers to non-vulnerable customers, but also how Ofwat will judge the outcomes that different firms achieve for their vulnerable customers. Without selected core outcome measures that are common to all firms, making such comparisons between firms will be difficult for Ofwat (if this is something they wish to undertake), as well as the firms themselves and wider consumers.

Secondly, on page 5, Ofwat note that it wants to “*promote innovation while keeping customers protected*”. However, there is relatively little detail in the guidance on the mechanisms, schemes, recognition, and financial awards that Ofwat could use to stimulate this innovation on vulnerability.

This is in sharp contrast to the most significant and major section of the document which is entitled ‘*Our proposed minimum expectations*’. To avoid firms only acting to meet these minimum expectations, and instead going on to achieve the innovation that Ofwat is seeking, similar detail needs to be included on how this will be stimulated, supported, and acted-upon (both in terms of its presence and absence).

Question 5: Are there further lessons from other regulated sectors that could be incorporated into our draft guidance?

In their 2021 paper, Guidance for firms on the fair treatment of vulnerable customers,¹ the FCA provides numerous examples of not only good practice among firms, but also the types of common harms and disadvantages that consumers can be impacted by (and which firms should be alert to).

The latter examples are listed in 2.19 of the FCA’s vulnerability guidance. While these are predominantly related to the impact of financial vulnerability (which the Ofwat guidance has decided not to mainly cover), it would not be too much of an extension for Ofwat to list/systematise non-financial impacts in the same way.

Question 6: Do you agree with our proposed approach to enforcing our customer-focused licence condition by reference to our draft guidance?

We would agree with the proposal to use the draft guidance as a reference for enforcement of the licence condition. This seems to be a sensible approach.

¹ <https://www.fca.org.uk/news/press-releases/fca-launches-guidance-firms-fair-treatment-vulnerable-customers>

Question 7: Do you agree that our draft objectives cover the broad areas of vulnerability support activities that companies should be considering?

We believe the draft objectives are broadly clear but could benefit from some specificity under each of the five major headings.

Firstly, while the Ofwat guidance does highlight ‘inclusive design’, it strongly associates ‘inclusive design’ with ‘*improving the readability and accessibility of written communications*’. Communications is clearly an important area. However, firms should be thinking *beyond communications* when it comes to inclusive design. Instead, they should be working to anticipate and identify customer need and potential across many more journeys, types of interaction, and contact points with customers. Ofwat should therefore recognise that inclusive design – as an approach – should go across all parts of an organisation’s activity and ‘vulnerability thinking’, rather than only being linked with communications. In partnership with Fair By Design, the Money Advice Trust has published guidance on implementing an inclusive design approach – including [a guide for regulators](#) and a [guide for firms](#) – which may be helpful to refer to here.

Secondly, on a related theme, page 6 of the Ofwat draft guidance has an example of the ‘respond to vulnerability’ approach that possibly outbalances a more inclusive design approach in the document. Here reference is placed on the need for firms (in this case licence Appointees) to provide “*appropriate support...during and following incidents*”. We would recommend that a greater emphasis/re-balance is given to firms thinking ahead about the needs of consumers, with a greater appreciation of foreseeable harm (if these needs aren’t met), and strategies put in place to design action/journeys/activity that prevents in the first place, as well as responds to likely harm when it occurs.

Question 8: Do you agree with the proposed list of minimum expectations we have set out?

Objective 1 - High standards of service and support

Minimum expectation 1.1: *Companies should adapt their services to customers in line with any known extra help needs. This is especially important during times where there is increased risk of harm; for example, during incidents.*

As noted, it is important to recognise that firms will need to both analyse and respond to known need at the individual customer data level (e.g. a customer discloses a requirement for extra help), as well as the aggregate customer data level (e.g. what is known about the prevalence of known support needs, types of disability, conditions and situations in the wider population or region that is being served).

Taking the latter step – and building aggregate data profiles - is central to inclusive design activity (and anticipating/meeting need through design).

Minimum expectation 1.2: *Companies should ensure that the level and nature of support available to customers is presented in a way customers can understand.*

It is important that the wider customer base is made aware of this support being available before the need for it arises (allowing customers to disclose or make contact in order for it to be delivered when required). Firms therefore need to send 'signals' to consumers about the support they may be able to obtain, as well as creating routine opportunities and 'mechanisms' for consumers to share their situation/support needs with firms. Firms need to use these signals and mechanisms to create 'disclosure environments' (see **Box 2 in the Appendix**) which create the conditions for consumers to disclose and be supported.

Minimum expectation 1.3: *Companies should develop clear policies that set out any compensation arrangements for customers whose extra help needs have not been met.*

Claiming such compensation will require processes to be in place that are inclusive, accessible, and well communicated to potentially hard-to-reach/engage customers.

Minimum expectation 1.4: *Companies should seek to continuously improve the service they provide to customers who need extra help. This may include finding innovative ways to design or implement services.*

As noted earlier, it is not clear what incentives are in place for firms to aim for such innovation and progress, rather than just delivering on the minimum expectations outlined in the document.

Minimum expectation 1.5: *Companies should use a range of data to monitor the effectiveness of their extra help services, and the satisfaction levels of customers who have made such needs known.*

Again, as noted earlier, the impact of a firm's work on vulnerability cannot be solely measured on experience and satisfaction, and other outcomes of direct changes in customer circumstance or behaviour should also be put into place.

Objective 2 – Inclusive by design

Minimum expectation 2.1: *Companies should communicate with customers in a way that is easy to understand to a diverse range of audiences. This should be underpinned by relevant insights, which may include research, engagement and accreditation.*

Inclusive design approaches are about more than communication – as noted earlier in this response.

However, where communication is considered, firms need to not only address readability (Plain English), but also numeracy (Plain Numbers), as well as accessibility and inclusion requirements.

Minimum expectation 2.2: Companies should offer their customers a range of ways to interact and communicate. This includes allowing customers to opt for third party billing where appropriate.

Agreed: providing there are a range of channels for customers to make contact – rather than simply providing a single (usually telephone-based) channel – is also required in terms of accessibility.

Minimum expectation 2.3: Companies should consult with CCW, and engage with stakeholders and other customer representatives, when making significant changes to their proposed service offering around vulnerability.

These representatives should include people with direct lived experience of disability and vulnerability, as well as the organisations and charities working to support them.

Objective 3 – Identifying customers

Minimum expectation 3.1: Companies should take active steps to identify customers who require extra help who have not yet been identified.

Firstly, the Ofwat guidance should be clearer that this is about identifying individual customers with extra help needs. This is in addition to profiling the wider customer base and developing an aggregate profile of their potential needs – an action which clearly also needs to be addressed.

Secondly, in taking such a step with individual customers, firms need to be able to clearly communicate what support needs can be met (and which cannot). Ofwat also need to remind firms that this is not just about registering customers on the Priority Service Register. There will be needs and information that the PSR does not yet currently record (e.g. specific support needs related to mental health problems, rather than just capturing the presence of a mental health problem). Therefore, firms may need to develop an additional ‘side-car’ system for capturing information about accessibility, inclusion, and extra help needs that goes beyond that of the existing PSR.

Thirdly, ‘identifying customers’ is important as a key theme – but it requires further unpacking. This is because there is often a need to move from identification to conversation/engagement (where appropriate), or from identification to understanding and meeting need.

Minimum expectation 3.2: Companies should take steps to proactively increase customer awareness of the extra help available to those who need it.

Ofwat should include a paragraph which encourages firms to explain and expand the range of support services that can be provided to authorised third parties. These support services are particularly important for customers vulnerable to detriment or disadvantage who require a family member or third-party to assist them with everyday account tasks and management.

Minimum expectation 3.3: *Companies should train their staff to spot potential requirements for extra help, even when a customer has not previously declared it.*

Again, an awareness and understanding of customers' extra support needs is not only the responsibility of customer facing staff, but also needs to be spread across the whole organisation.

However, in terms of 'spotting' potential requirements for extra help, water company staff will not only need to be aware of the 'red flags' that may indicate this (**see Appendix, Box 3**), but also need to be able to potentially engage and start conversations with customers (where the opportunity arises) to do this (**see Appendix, Box 4**).

Minimum expectation 3.4: *Companies should actively consider how they can reduce communication burdens on customer who need extra help; this could include establishing data sharing arrangements with partner organisations.*

Data-sharing arrangements are important. However, Ofwat and firms need to consider both the benefits of data-sharing (e.g. reduced need for repeated disclosures of support needs) and also the risks. For example, data-sharing operations could grow beyond their initial network of participating organisations. Additional organisations could be included that customers either may not be aware of or be comfortable with some bodies having access to their data, or where the potential for negative consequences is introduced.

For this reason, Ofwat should distinguish between data-sharing arrangements where a vulnerable customer does not control or have a choice over which organisations 'see' or 'receive' their data, and those which do allow the customer control over this.

Objective 4 – recording needs

Minimum expectation 4.1: *Companies should take appropriate steps to record customers' extra help needs. These records should be held securely and in line with wider data protection requirements.*

Firstly, it should not be assumed that a customer's need for support will perfectly align with the 'needs codes' contained within the Priority Service Register. There will be occasions where additional information about a customer's support needs cannot be captured and recorded in the PSR. Firms will need to ensure that they have additional capacity and systems to record this in order for services to be delivered in a truly inclusive, accessible, and effective manner.

Secondly, in addition, firms should also review their PSR journeys to ensure these are accessible, particularly for digital journeys where the design and presentation of the PSR 'form' can be sub-optimal. Firms should ensure that consumers or third parties can complete this journey via a variety of channels (e.g. digital, telephone, or post) to ensure accessibility and inclusion.

Thirdly, while ‘recording needs’ is also a key action, there is more that will be required from firms in terms of how they use individual and aggregate customer data to (a) better understand the drivers, experience, and outcomes/impact of vulnerability, and (b) to ensure these data are used within a firm to improve service and support.

Objective 5 – vulnerability strategies

Minimum expectation 5.1: Companies should develop and maintain a vulnerability strategy setting out how they plan to support the extra help needs of their customer base.

It would be helpful for Ofwat to provide broad parameters on what the ‘long’, ‘medium’, and ‘short’ term represent in order to ensure consistency of approach/strategy across different water companies.

Minimum expectation 5.2: Companies should take steps to understand the likely underlying requirements for extra help in their areas.

This is critical – and in our opinion, should be more explicitly outlined in the Ofwat vulnerability guidance at an earlier point. Data is key to water companies’ efforts to understand, identify, and support customers in vulnerable circumstances, and building an aggregate customer profile (based on internal and external research sources) is central to any vulnerability strategy.

Minimum expectation 5.3: Companies should publish their service commitments for customers who have declared an extra help need so that all customers can understand the nature of help available.

These service commitments should be published in an accessible, inclusive, and well-publicised format, and also include options for supporting third parties who are helping customers in vulnerable situations too.

Question 9: Do our draft minimum expectations offer a good balance between making clear the minimum standards we expect from companies, and challenging companies to innovate and find new ways to meet the needs of their customers?

Firstly, as noted, Ofwat states that it wants to “*promote innovation while keeping customers protected*”. However, there is relatively little detail in the guidance on the mechanisms, schemes, recognition, and financial awards that Ofwat could use to stimulate this innovation on vulnerability (this is important for current practice, as well as Ofwat’s future plans for the further evolution of the Priority Services Register).

This emphasis on innovation is in sharp contrast to the most significant and major section of the document which is entitled ‘Our proposed minimum expectations’. To avoid firms only acting to meet these minimum expectations, and instead going on to achieve the innovation that Ofwat is seeking, similar detail needs to be included on how this will be stimulated, supported, and acted-upon (both in terms of its presence and absence).

Secondly, on page 12, reference is made to the BSI Standards on Inclusive Services. It is important to note that other standards relating to vulnerability also exist including those related to digital design (see COGA - <https://www.w3.org/TR/coga-usable>), and also specific schemes such as Money and Mental Health Policy Institute's 'Mental Health Accessible' (www.moneyandmentalhealth.org/mentalhealthaccessible/). These should be recognised in the Ofwat guidance.

Question 10: Do you agree with the proposed approach and timeline around companies' vulnerability strategies?

We agree that it is vital for companies to develop a vulnerability strategy setting out their approach to delivering extra help.

We understand that the intention is for vulnerability strategies to be published by the end of June 2024. This is quite a lengthy timescale and we would urge Ofwat to set an interim date by which time companies should be required to at least set out their short-term approach to implementation.

We also note that Ofwat's paper on Priority Service Registers (publication date yet to be announced) will play an important role in any water companies' strategy and work on vulnerability and would urge Ofwat to indicate when this will be made available for consultation to allow this to be taken into consideration.

Question 11: Do you agree with our proposed approach to how water companies should use our guidance?

We understand from the paper that the draft guidance is intended to constitute the "minimum expectations" of the services water companies should provide where customers require extra help. We very much agree with the expectation from Ofwat that water companies should "*deliver all our expectations in full*".

We recognise that Ofwat intends to monitor progress and monitor how companies adhere to their vulnerability strategies. However, it is vital that Ofwat sets out a robust and comprehensive supervision and enforcement regime. Ofwat should explain how they will ensure compliance with the guidance and to ensure that the outcomes are met.

Question 12: Do you agree with our proposed approach and timelines for setting out our detailed expectations around the design of priority services registers in a separate standards document?

We agree that the Ofwat expectations as to the design of a priority services register (PSR) should be set out in a separate guidance document. However, it is vital that the guidance on PSRs should work to complement the vulnerability guidance.

Ultimately, we would support the work to develop a common PSR across utilities and financial services. We would like to see a common PSR across water companies rather than individual PSRs which will allow for a transparent and consistent approach and will be a lot easier to communicate to consumers.

For more information on our response, please contact:

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APPENDIX 1

BOX 1: Vulnerable to what?

BOX 2: Disclosure environments

BOX 3: Identifying vulnerability

BOX 4: Moving from identification to support

BOX 1: Vulnerable to what?

Answering the question “what are our vulnerable customers *actually vulnerable to*” is key.

1. Relevant knowledge = relevant support

if a firm does not know *what* harm, detriment or disadvantage a customer is vulnerable to, then supporting that customer is going to be a lot harder.

For customer-facing staff, we therefore need to ensure our contact with vulnerable customers works to establish the *most relevant* information to provide help. This sounds obvious. But like everything that is simple to include in a written policy, it can be extremely difficult to do in practice, without the right support and training. Furthermore, if staff cannot ‘home-in’ on ‘what’ a customer is vulnerable to, they may not only miss crucial insights with which to help the customer. They may also end-up in lengthy conversations (when they could be helping others), or recording irrelevant information (which is not desirable in terms of the GDPR).

Equally, this also applies to non-customer facing staff. For example, if they do not establish – through research or user involvement – what customers are vulnerable to, they may design products these customers cannot access, use, or benefit from. Similarly, if a firm’s IT team does not consider the ‘to what?’ question, then a new database might have multiple ‘account flags’ describing the causes of vulnerability. But, it may have none indicating a customer’s practical difficulties or support needs.

2. Cause is *not* the same as effect

The second reason is firms and staff are *only human*. We sometimes can’t help but put people in groups or boxes. And we often then go on to assume that those in the same boxes, will have the same needs for support. But this is a mistake as: **what makes a customer vulnerable is *not* the same as what they are vulnerable to**. Firms need to grasp this. Knowing what caused a customer’s vulnerability is helpful. However, just because two (or two hundred) customers have the same underlying cause to their situation, it does not mean they will have the same difficulties. And this is why knowing ***what harm*** a customer is vulnerable to, is key.

3. ‘Common harms’

The third reason why ‘what’ matters, focuses on the importance of ‘common harms’. In contrast to our second point above, we know that: **different causes of vulnerability can have the same effects**.

Critically, firms can use this to their advantage. We know, for example, that customer decision-making can be impaired by dementia. And this can raise serious challenges for a firm working to help these customers. However, we also know that decision-making difficulties can be caused by English language problems. Or because of the side-effects of treatment or medication. Or due to a urinary-tract infection leading to delirium. Or due to a learning disability.

Consequently, a firm can make a choice. It can focus its efforts on a single cause of vulnerability (like a particular health condition). Or it can choose to think about tackling a ‘common harm’ instead.

If it chooses the latter, firms can use this common harm like a ‘lens’ and run the lens over their journeys, products, services and policies.

Real answers for the real-world

Asking ‘just what are our customers actually vulnerable to?’ can help us evaluate the support we give customers. It reminds us that what makes someone vulnerable, is not the same as what they are vulnerable to. Plus it helps us to think about common harms, rather than individual risk groups.

Source: Fitch C, Bell R, Trend C. (2020) Vulnerability, GDPR and disclosure. Money Advice Trust/MALG.

BOX 2: Disclosure environments

Being a consumer in a vulnerable situation can be difficult. Firms don't always know or understand the additional support needs consumers can have (which can span challenges from communication, interaction, decision-making, to concentration). Consequently, this can make it harder for these consumers to get what they need from these organisations in terms of service and experience.

Disclosure

Disclosure has been seen as one way to break this grind. Based on the logic that if consumers simply told firms about their additional support needs, those organisations would have the information needed to deliver relevant help and support, such an approach has been recommended across multiple regulators, including in previous Ofwat publications ("it is useful to encourage customers in circumstances that make them vulnerable to disclose their need", Ofwat 2016).

However, despite regulators' expectations, only a minority of vulnerable consumers disclose their additional support needs to firms. For example, 2021 research by Money and Mental Health has found just 11% of consumers with a mental health problem said they had disclosed to a water firm. Consumer uncertainty about the consequences of disclosure and lack of belief about it being welcomed, twinned with firms not offering reassurance and opportunities for disclosure lie at the heart of this. This means available support that could have been given to many of these consumers is 'left on the shelf' unused.

Disclosure environments

Disclosure environments can help overcome this challenge.

Firstly, by routinely sending signals to consumers that indicate both that disclosure is welcome and show how disclosed information will be used, organisations will help lift barriers to disclosure.

Secondly, by building-in simple opportunities for disclosure across their channels, journeys and platforms, organisations can make it easier for consumers to make disclosures at any point.

Thirdly, by encouraging and facilitating disclosure from point-of-first contact onwards (so support needs are known and met from the outset), organisations can prevent difficulty and harm, as well as effectively and consistently support consumers.

In practice

The first step in building a disclosure environment is for firms to identify and appreciate the reasons why consumers do not disclose, then to use this insight to remove the barriers related to this. These can include fear of financial harm, a lack of opportunities to disclose, a concern about how disclosed data might be used and shared in the future, worries about being judged, disbelieved or pitied by staff, or a perception that 'nothing will come' from a disclosure.

Once identified, organisations can secondly take steps to create and improve pathways to disclosure. These steps include identifying what support an organisation can provide to people in vulnerable situations (a critical action in terms of establishing what help can be offered to customers when they do disclose). Following this, organisations can focus on offering opportunities for disclosure from first point of contact/onboarding onwards, as well as within routine contact and review points. Finally, organisations can ensure that staff remember that creating a disclosure environment is not simply a technical project. Instead, staff should all recognise their role in not only encouraging disclosure, but also making disclosure a human, meaningful, and positive interaction.

Source: Fitch C, Holloway D, D'arcy C (2022) Disclosure Environments. Money Advice Trust and MMHPI.

BOX 3: Identifying vulnerability

Recognising vulnerability

Key 'little red flags' for identifying vulnerability

Individual factors:

- passing mentions of illness, disability or impairment
- reference to contact with health sector, such as doctors, nurses, advocates, carers and others
- mention of dealing with the social care sector, such as social workers, key workers or support workers
- receipt of specific benefits, such as sickness or disability benefits
- indicators of an addiction – may be financial clues (e.g. reluctance to share bank statements or unexplained expenditure) or behavioural clues (e.g. intoxication or unexplained physical injuries). More indicators given in Section 6.

Wider circumstances:

- evidence of bereavement, for example: mention of or avoidance of certain dates (which may be the anniversary of someone's death); mention of funeral costs; receipt of bereavement benefits
- apparent relationship difficulties: reluctance to involve partner; moved out of recent accommodation for unexplained reasons; legal costs associated with divorce
- reference to other life events, such as time in hospital or imprisonment

Organisational actions:

- reference to, or complaints about, things that your or another organisation may have done – such as changed the way that they communicate with the client
- mention of things that organisations haven't done, such as failures to deal with a third party or carer, to accept a different payment method, or to explain key information in a way that the client can understand.

Source: Vulnerability Resource Pack for Advisers (2018).

<https://www.moneyadvicetrust.org.uk/vulnerability>

Box 4: Moving from identification to support

Moving from identification to support

Starting a conversation about vulnerability: set-up, start-off, stay with

1. set-up

make sure the right conditions exist to allow a conversation to happen:

RIGHT TIME?
RIGHT PLACE?
RIGHT PEOPLE?
RIGHT INFORMATION?

2. start-off

use questions that normalise the situation, which show you have been paying attention, and which give the client hope.

3. stay-with

it is not always easy to start a conversation about vulnerability – so stay with it. Be polite, but don't give up on the first silence or change of subject. And if it doesn't work this time, keep the door open for the future.

START-OFF QUESTIONS

Showing you have been observing

Are the bank transactions something we can just quickly look at together?

Showing you have been listening

I heard you mention now taking on some extra liabilities and projects – can you tell me more about this?

Suggesting a connection might exist

What connections do you see between your financial difficulties and your health situation?

Referring to the bigger picture

I know you weren't expecting to be looking at this today, but I wondered how you felt the relationship breakdown fits in with all this?

Normalising the situation

Many of our clients are in a similar situation to you, and we've been able to help them get back on track. It will take me 60 seconds to explain how – is that OK?

Showing you want to help

There's lots that we can do to help with your situation. On the money side of things we have plenty of options – let me tell you about just one of the things we can do...

Referring to leaflets and resources

I'm not sure if you've seen our leaflet on all the different types of clients we've helped this year, but it shows the situations they were in and how we helped. Can I tell you more?

Simply by being direct

John, can I ask you a question – is everything OK at the moment? If not, is there something that we can help you with?

these are example questions – you will want to find your own versions, and in your own voice

<https://www.moneyadvicetrust.org.uk/vulnerability>

Source: Vulnerability Resource Pack for Advisers (2018).



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