

ESAN/Citizens Advice/MAT Consumer Vulnerability Event

Tackling Consumer Vulnerability: 15 April 2015 Briefing paper

The focus of this event is on what companies can do to improve the way they interact with consumers in vulnerable circumstances, and what regulators can do to encourage this.

Background

Communications, energy, water and financial services are part of the bedrock of our lives. Everyone needs affordable access to energy and water – they are essential for life, health, safety and well-being. Being able to communicate via a telephone and increasingly through online methods has become essential for everyday life, and for wider social and economic participation. Similarly financial services, such as bank accounts and affordable credit, are vital in their own right and as a crucial gateway to other services. It is in the wider interests of society that everyone has easy and affordable access to these services.

The detrimental effects of not having affordable access, or of other barriers to these essential services are likely to be especially serious for people in vulnerable circumstances.

In July 2014 Citizens Advice published a paper by the Centre for Consumers and Essential Services (CCES), University of Leicester which analysed the approaches to consumer vulnerability of FCA, Ofcom, Ofgem and Ofwat.¹ Subsequently there have been significant developments in some areas. This event has been organised in order to focus on what has happened since, and to explore the practical issues that need to be tackled to improve the situation for people in vulnerable circumstances in relation to these vital services.

The Essential Services Access Network (ESAN) exists to improve outcomes for consumers in the provision of essential services, notably energy, communications, water and financial services, with particular regard to consumers in vulnerable circumstances and to issues which are of common interest across sectors. ESAN brings together regulators and voluntary organisations across these sectors on a regular basis, so is in a good position to facilitate the sharing of experience and learning. Consumers experiencing difficulties or in a particularly stressful situation are likely to be interacting with a number of firms and problems may well have a knock-on and cumulative effect. Understanding the factors that place consumers at risk of vulnerability and sharing good practice are key, therefore ESAN is particularly keen to see a common approach to vulnerability across the sectors we cover. Our aim is to achieve inclusive service – in other words to ensure that all consumers have affordable access to services which meet their needs.

What is “vulnerability”?

There is a wide range of risk factors which contribute to consumer vulnerability in essential services, and often there are multiple causes. ‘Vulnerable consumers’ do not form a static

¹ Citizens Advice Tackling consumer vulnerability: regulators’ powers, actions and strategies

separate group in the population. There are a number of factors that may increase the risk of vulnerability. These include, amongst other factors:

- Low literacy, numeracy and/or financial capability
- Low/insecure income
- Being unemployed
- Having major caring responsibilities for another person
- Having a physical impairment
- Having a long term illness
- Having mental health problems
- Living in social rented housing
- Living in a lone parent household
- Experiencing a sudden change in circumstances e.g. job loss, bereavement, divorce, diagnosis of illness.

However this is only part of the picture. In reality consumer vulnerability can be a transient state that affects people at different periods of time, or it can be long-term in effect. It may be triggered by events such as loss of a job, bereavement, the onset of disability, or becoming a carer. Vulnerability is often multi-dimensional. For example carers are likely to be on low incomes and more at risk of poor health; many people with mental health issues are likely to be on a low income. In particular a sudden change in circumstances, such as a sudden drop in income, can place people at greater risk of vulnerability.

The numbers of people who are potentially at greater risk of vulnerability are large, and are set to increase as society ages. Some key statistics:

- 6.5 million people in the UK have significant caring responsibilities and Carers UK project this will reach 9 million by 2037.
- There are 800,000 people in the UK living with dementia and this is expected to double over the next 40 years.
- 16 per cent of working adults have a disability.
- In any given year one in four adults experiences at least one mental disorder.
- Almost half UK adults do not have enough savings to cover an unexpected bill of £300.
- Of the 7.1 adults who had never used the internet in 2013, over half were disabled and nearly half were over 75.
- One in seven adults has literacy skills that are expected of a child aged 11 or younger, and just under half have a numeracy attainment of 11 or younger.
- By 2020 half the UK population can expect to be diagnosed with cancer at some point in their lives.²

The existence of vulnerability can be hidden or overlooked, for example, because people feel embarrassed about revealing low income and other issues such as disability, literacy or numeracy difficulties, mental health problems or learning disabilities. People may not reveal their personal circumstances due to a lack of trust about the implications of such disclosures.

² Statistics taken from FCA Occasional Paper 8.

Consumers' individual circumstances are not the only factors. Companies' policies and behaviour can be equally important in contributing to consumers being at greater risk of vulnerability and of that risk crystallising into actual detriment:

We must recognise that the policies and practices of service and product suppliers in different markets can heavily influence the choices available, the decisions people make and the extent to which people are in vulnerable positions.³

Consumers can be at risk of vulnerability in all kinds of transactions with provider organisations. However, it is particularly important with some services – primarily energy and water, communications and financial services – because they:

- are 'essential'; without them it is hard or impossible to have a decent quality of life
- present consumers with more complex decisions when choosing a product or service than for most day-to-day shopping, and
- when things go wrong, it can have a lasting detrimental impact on the consumer.

The need to tackle consumer vulnerability in essential services has become ever more pressing as a result of the current economic situation. Pressures on living costs mean that many households are struggling to cope with bills across energy, water, communication and financial services, alongside housing and food costs and other essential goods and services. The issue of affordability has rightly become very high profile with increasing external pressures on the regulators. Affordability is inevitably a critical issue but consumers can face many other barriers.

The barriers - cross-sector issues

There are a range of issues that can affect consumers which are relevant across essential services and place people at greater risk of vulnerability. These include:

- Drastic reductions in face-to-face and personal communications options. Difficult-to-navigate telephone systems such as voice-activated systems, multi-level menus, requirements to key in passwords or PINs can all present problems for people with a range of physical or cognitive impairments. An over-reliance on online methods with limited additional options that can exclude people without internet access.
- Expensive telephone calls and linked to this, the large amounts of consumers' time that can be taken up trying to work through the system. Many people in vulnerable circumstances have acute pressure on their resources and may find it particularly difficult to spend time and money sorting out problems.
- Lack of affordable, appropriate products to meet people's needs. People with non-standard circumstances, lack of conventional histories or pre-existing conditions can find a dearth of affordable financial products. Providers' business models may not encourage these customers.
- "Cherry-picking" and encouragement of online-only access and discounts for direct debit arrangements can reduce access and affordability further. Lack of access to affordable insurance for people with certain health conditions, or living in certain areas is part of this problem.

³ Consumer Focus, Tackling consumer vulnerability: An action plan for empowerment, March 2012

- Front-line staff using rigid scripts/under time pressure. The stress that many people in vulnerable circumstances are experience may make rigidly scripted and timed calls particularly difficult. Scripts and time pressures may reduce the likelihood of call-handlers spotting clues to vulnerability and exploring this further.
- Products that lock people in so that they are unable to move or switch to a better deal can increase vulnerability, particularly if there is a sudden change in financial circumstances.
- Lack of clear and understandable information – both in terms of product offering, ongoing contractual terms and bills. This may lead people to take out unsuitable or unnecessary products; ignore important messages from their providers; make them less inclined to shop around or switch.
- Lack of policies which encourage early intervention to encourage action before financial difficulties become acute.
- Inconsistency in front-line staff knowledge – about how to spot the signs of potential vulnerability, what to do when they spot it, what support is available to people, failure to signpost people to sources of help, failure to implement policies for example around power of attorney.
- Lack of consistent approaches to third party support (e.g. family or carers)
- Confusing or incorrect application of Data Protection Act

Regulatory approaches

It is clear that approaches to regulation which relied upon encouraging competition in the markets or simply relying on competition and financial education do not provide a solution to all the problems faced by consumers in vulnerable circumstances. Regulators have needed to develop new approaches and policies. Ultimately the success of the efforts of the regulators in tackling consumer vulnerability depends on the responsiveness of the companies. This means companies recognising that their behaviour and policies can greatly add to the risk of consumer vulnerability, and taking practical steps to eliminate poor practices and learn from good practice.

The regulators: moving towards a more inclusive approach

Until recently the regulators approached issues relating to consumer vulnerability in ad hoc ways that in particular reflected their duties to have regard to certain ‘groups’ of consumers, and in response to specific issues that have arisen such as the companies’ debt management policies and practices.

Although their plans are at different stages, it is striking that the regulators have now recognised, or are in the process of recognising, the need for much more strategic approaches to consumer vulnerability. This has been precipitated by a more rounded understanding of the factors that contribute to consumers being in vulnerable situations in relation to these essential services.

All the regulators have statutory duties to protect consumers’ interests, and Ofcom has an additional parallel duty for citizens’ interests. In addition, although the legislative frameworks for Ofcom, Ofgem and Ofwat do not explicitly refer to ‘vulnerable consumers’, these regulators are required to have regard to certain consumers who are typically:

- people with disabilities
- people of pensionable age
- people on low incomes
- people living in rural areas.

The injunction to have regard to particular groups does not prevent the regulators from having regard to other consumers and has not proved to be a barrier to the development of broader approaches to consumer vulnerability.

The FCA's statutory duties are not set out in the same way but nevertheless the FCA is required to have regard to, for example, the differing degrees of experience and expertise of different consumers.

While the lists of 'groups' of consumers outlined above in their statutory regulatory duties (apart from the FCA) were important in ensuring that these consumers were not marginalised, grouping consumers in this way fails to address the nature and extent of vulnerability. Labelling some consumers as 'vulnerable' also serves to let the companies off the hook by implying that it is only consumers' circumstances that matter, thereby ignoring the role of the companies.

Moreover, the idea of a more inclusive approach is increasingly gaining acceptance, for example, in the British Standard for Inclusive Service Provision (BS 18477:2010) that recognises the wide range of factors that contribute to consumer vulnerability.

The regulators have started to recognise that consumer vulnerability is a more complex, dynamic concept than can be captured in list form and have been developing plans and policies aimed at reflecting this reality. This is extremely welcome but it inevitably leads to the big question of how the regulators put this approach into practice and whether they can achieve much-needed changes in their sectors for consumers as a result. Much also depends on the behaviour of companies and the actions of government.

What should the regulators be doing?

It is vital that the regulators continue to develop their understanding and act upon it to improve matters for the large numbers of consumers facing difficulties in these essential services. This means being prepared to use their powers appropriately and to the maximum where needed, and to influence the companies to change poor practices and behaviour.

- Having a good evidence base: are there ways in which the regulators can collaborate more in researching the experiences and needs of people at greater risk of vulnerability?
- Building good networks: how can the regulators ensure they are in regular contact with organisations working with people in vulnerable circumstances?
- What lessons can be shared to encourage a better understanding of vulnerability and good practice amongst companies involved in these essential services?
- How should the regulators ensure that companies' understanding of standards of conduct and fair treatment includes how they treat consumers in vulnerable circumstances?

- Where should regulators use intervention and enforcement powers (where remit permits) to tackle market or company failure?
- How should regulators influence company behaviour (where issues fall outside their powers)?

What should companies be doing?

Having policies and practices based on achieving inclusive services is at the core of ensuring that all consumers are treated properly including people in vulnerable circumstances. The kinds of questions that need to be addressed include the following:

- Do you take proactive measures to identify those at risk of falling into financial difficulty as early as possible?
- Do you train staff to have a good understanding of the risk factors that contribute to consumer vulnerability and how to identify triggers in initial conversations?
- Do you have a high level strategy that ensures initiatives are not isolated, and that they become embedded processes? Does this include evaluation of strategies and management information?
- Have you conducted an audit of your processes to identify current barriers? Are your communications processes inclusive?
- Do you have a system for assessing staff awareness of policies, e.g. through mystery shopping? Do you know whether there is a policy/practice gap in your company?
- Do you know whether complexity of information that you provide is a barrier to understanding, access, affordability, engaging, switching? Have you tested whether the information provided is clear and understandable? Is it provided in a range of formats?
- Are staff alert to providing assistance to consumers who may need particular services?
- Have you ensured that staff knowledge of the Data Protection Act and effective implementation is sufficient to ensure full compliance and ensure concerns about DPA are not a barrier to effective collection and recording of information?
- Have you evaluated whether your products are designed to cope with consumers' unexpected change of circumstances or drop in income? Is sufficient flexibility/breathing space built in? Do any of your products "lock" people in which may exacerbate difficult financial situations?
- Have you evaluated whether staff feel empowered to be able to offer a flexible, tailored response? Are frontline staff expected to stick to rigid scripts or timings?

- Have you developed good relationships with debt advice agencies and other voluntary organisations in order to be able to signpost effectively?
- Have you evaluated the role of third parties (e.g. family members or carers)? Do you have effective mechanisms in place to facilitate delegation in times of crisis? Do carers face unnecessary barriers e.g. in communicating with companies? ⁴
- Do any of your sales tactics exploit vulnerability or behavioural biases?
- If you sub-contract to third party providers are you able to assess their performance against the above list?

Kate Scribbins, ESAN, April 2015



**Essential Services Access
Network**

⁴ (FCA OP found policies around data protection in particular, but also safeguarding and affordability, need to be implemented based on a correct understanding. If staff are well trained they are less likely to apply such policies in an over- zealous manner which can create problems for customers).