



**Business in Focus**



# Consumer vulnerability

**A guide to identifying consumers who may be vulnerable**

Making sure your business complies with consumer law

**businesscompanion**  
trading standards law explained

This guide was produced as part of a business advice project by the Department for Business, Energy and Industrial Strategy and the Chartered Trading Standards Institute.





# Introduction

## Doing the right thing

While businesses have a responsibility to treat all consumers decently and fairly, it is particularly important that they are aware of their duties towards vulnerable consumers.

Many of us find ourselves in vulnerable situations at certain points in life, as do those we care about. During those times we would all wish to be treated with respect and understanding, and not to be taken advantage of by businesses seeking to sell us inappropriate or overpriced goods and services.

This guidance is intended to help you, as a business, identify and assist consumers who may be vulnerable.

It is important to be aware of these consumers because early identification often leads to more effective interventions and allows them to receive the appropriate help and support. There are also laws in place to ensure that consumers receive the information necessary to make informed purchasing decisions, and are not exploited.

Being aware of the issues around consumer vulnerability, and developing a policy to accommodate it, will help to ensure your customers are satisfied, everyone gets a fair deal, and those most in need of protection are safeguarded.

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Published by:  
 Chartered Trading Standards Institute,  
 1 Sylvan Way,  
 Southfields Business Park,  
 Basildon SS15 6TH  
[www.tradingstandards.uk](http://www.tradingstandards.uk)  
 01268 582 200

# Background

Consumer vulnerability is fluid and dynamic, and consumers can move in and out of periods of vulnerability. A consumer's circumstances – for example, going through a bereavement – can make them more vulnerable at a given time.

In a business context, consumer vulnerability refers to any situation in which an individual may be unable to engage fully or effectively in a market. As a result, they may be at a particularly high risk of not getting a fair deal or being exploited by criminals.

The COVID-19 pandemic has made consumers potentially more vulnerable than before. Social isolation, increased anxiety and different ways of shopping all contribute to this.

In addition to general consumer protection law, in certain regulated sectors – for example financial services, energy and telecoms – there are specific rules and guidance on dealing with vulnerable consumers that businesses in those sectors need to be aware of and abide by.



# Types of vulnerability

## 1. Situational

Vulnerability should always be assessed on a case-by-case basis. It is important to remember all consumers can be vulnerable, and vulnerability is dynamic.

Vulnerability may be caused by the personal circumstances of the consumer; the timing and nature of the purchase or decision; the consumer's level of knowledge, skills or ability; and the effectiveness of tools made available to them by businesses to assist in decision-making.

Situational vulnerability can be caused by, for example, cognitive impairment, low income, loneliness or social isolation.

Some of us may experience vulnerability during difficult periods in our lives, such as when we go through a bereavement, a divorce or a period of ill health.

Vulnerability can also originate from more enduring personal circumstances, such as a long-term physical or mental disability.

## 2. Market context

The second type of vulnerability can be caused by market contexts, for example, when a consumer has to choose between complex offers or alternatives, or make decisions on the basis of imperfect or unclear information.

It can also come about when a consumer hasn't accessed a market for some time or ever before.

Market context vulnerability can also be caused by the way consumers are expected to contact or communicate with a business. Sometimes lack of experience and education around technology can lead to vulnerability.

Market context vulnerability may arise in some of the following situations (the list is by no means exhaustive):

- Switching gas or electricity providers
- Switching bank accounts
- Buying an electric car
- Buying a funeral plan
- Investing in cryptocurrency
- Buying a first car or home
- Choosing a care home for an elderly relative

The two types of vulnerability are not mutually exclusive.

## Understanding vulnerability

### WHY A CONSUMER YOU INTERACT WITH MAY BE VULNERABLE

**14.1 million**

UK residents have a disability

**One in six**

adults experience common mental health problems every week

**23%**

of UK consumers suffer anxiety when dealing with service providers

**2.5 million**

consumers in the UK are living with cancer

**1 million**

consumers in the UK are affected by dementia

**318**

consumers per day in the UK are declared bankrupt or insolvent<sup>1</sup>

**One in four**

consumers experience mental health issues each year

**792 million**

consumers are affected by mental health issues worldwide

**One in six**

working-age adults have symptoms associated with mental ill health<sup>2</sup>

<sup>1</sup> [www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2020/vulnerable-customers-must-be-treated-fairly](http://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2020/vulnerable-customers-must-be-treated-fairly)

<sup>2</sup> <https://mhfaengland.org/mhfa-centre/research-and-evaluation/mental-health-statistics/>

### Poor mental health and vulnerability

Consumers with poor mental health are at an increased risk of experiencing poor outcomes in markets.

These consumers may be less likely to get a good deal from a supplier, for example, through switching or shopping around, because of the challenges they experience in these forms of engagement.

This can mean these consumers may be paying more than they need to for services.

Consumers with poor mental health can also feel the effects of experiencing poor outcomes in markets more severely. For example, these consumers are more likely to experience financial harm, which can mean they are more likely to be behind on their bills or suffering financial problems.

## Identifying vulnerabilities

These things don't necessarily make a consumer vulnerable, but they indicate that they could be.



**Health:** Any long-term disability, impairment, illness or age-related conditions, and additional needs.



**Life events:** Major life events such as bereavement, redundancy, retirement, loss of income, divorce or a relationship breakdown.



**Resilience:** Difficulty in enduring financial or emotional shock due to debt or a one-off unexpected expense; lack of support in the family and friend structure, or a disempowered status.



**Capability:** Low knowledge and education related to finance and budgeting; lack of digital skills or low confidence in managing money, usually due to the above or another barrier to learning such as disadvantage, inexperience, English as a second language, or additional educational needs.

## What businesses can do



If a consumer shows any of the above signs, this may be an indication they are vulnerable.

Once a consumer has shown signs of vulnerability, then steps can be taken to support them (however, businesses should always be taking steps to ensure they are acting responsibly towards every consumer).

For example:

- » Consider communication preferences

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- » Don't make assumptions about the consumer

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- » Ask the consumer what they need and how you can help them better

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- » Empathise and sympathise with the consumer

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- » Try asking questions in a different way

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- » Summarise what has been decided or agreed in plain English

Consider this when talking to consumers:

Be **REAL**

**R Retain** Is the consumer able to retain and repeat the information you give them? Do you have to repeat what you have said over and over again?

**E Explain** Is the consumer able to properly explain or communicate the decision they have made? Are they joining in the discussion or just agreeing with what you are saying? Are they asking questions that aren't related to what you are saying?

**A Able** Is the consumer able to understand what they are being told?

**L Listen** Is the consumer able to listen, follow and understand the discussion taking place, or are they just repeating what you say?

# Things to consider

### **Inclusive design**

This involves designing products or services so they are accessible to, and usable by, as many consumers as possible.

Vulnerable consumers should be considered at all stages of the product and service design process, including idea generation, development, testing, launch and review, to make sure products and services meet as many consumers' needs as possible.

### **Communication**

Finding the right communication channel for consumers with differing needs is key.

Consumers with mental health problems may prefer electronic means of communication, as they can create less anxiety than telephone, face-to-face or letter interactions. Older consumers may prefer a letter, face-to-face discussion or a phone call.

It is recommended to offer as many different channels of communication as you can. This could include email, text messaging, mobile apps such as WhatsApp or web-based interactions, telephone, face-to-face discussions and letters.

It should be remembered that some consumers may not have access to the internet, so customer support should be offered through other communication channels.

Businesses should always ask consumers what their preferred method of communication is.

### **Training**

Train your staff to understand the nature and scale of vulnerability that exist in your target consumer market.

Embed the fair treatment of vulnerable consumers across the business. All staff should understand how their role affects the fair treatment of vulnerable consumers.

Ensure staff have the necessary skills and capability to recognise and react to a range of vulnerabilities.

Provide support to staff to build resilience and have a safe space to offload if they have been supporting vulnerable consumers as this can be emotionally difficult for them as well.

Consider training staff on what to look out for. This could include, for example, the Dementia Friends training or the Friends Against Scams training. It may also be worth considering sourcing training on mental health awareness.

### **Vulnerable Consumer Policy**

A Vulnerable Consumer Policy defines what constitutes a vulnerable consumer and sets out how these consumers can achieve a fair outcome.

You should outline rules that ensure the policy is followed and updated, and provide regular training. The policy should outline how your business can improve and support vulnerable consumers, and what is expected from all staff in helping to identify vulnerability to ensure every consumer gets a fair and positive experience.

A practical way to support this policy and training is consumer feedback.

### **Always remember**

Try to understand the impact of vulnerability and how this might affect the consumer experience and outcomes.

Consumer vulnerability is fluid and dynamic; consumers can move in and out of periods of situational vulnerability.

Referring to consumers directly as 'vulnerable' can be disempowering.

“All staff should understand how their role affects the fair treatment of vulnerable consumers”



# Checklist for businesses to understand how to recognise and support consumer vulnerability

This checklist should be used once the accompanying guidance on identifying consumer vulnerability has been read. A Vulnerable Consumer Policy should also be considered to support this checklist and the guidance.

## THE CHECKLIST WILL HELP TO

- Document a vulnerability assessment process
- Help staff assess consumer vulnerability in a consistent way
- Record the information

Checklist	Y/N/Notes
<p><b>Use BE REAL to identify consumers who may</b> show signs they could be vulnerable. Once a consumer has shown signs of vulnerability, then steps can be taken to support them. If signs are there, use the checklist to document what you discussed.</p> <ul style="list-style-type: none"> <li>• <b>Retain</b> Is the consumer able to <b>retain</b> and repeat the information you give them? Do you have to repeat what you have discussed over and over again?</li> <li>• <b>Explain</b> Is the consumer able to properly <b>explain</b> or communicate the decision they have made? Are they joining in the discussion or just agreeing with what you are saying? Are they asking questions that aren't related to what you are saying?</li> <li>• <b>Able</b> Is the consumer <b>able</b> to understand what they are being told?</li> <li>• <b>Listen</b> Is the consumer able to <b>listen</b>, follow and understand the discussion taking place? Or are they just repeating what you say?</li> </ul>	
<p>I have read and considered how the consumer is assessed against the businesses vulnerability guidance/policy.</p>	
<p>I have actively encouraged the consumer to share any potential vulnerability, considering all circumstances – situational, marketplace, health, life events, relevant abilities and barriers.</p>	
<p>I have recorded anything the consumer has said on the relevant system.</p>	
<p>I have discussed my approach with my line manager or other members of staff.</p>	
<p>I am considering whether I need any further information from the consumer to support them in their experience and to ensure they get what they need from the business.</p>	

**ALWAYS REMEMBER**

Try to understand the impact of vulnerability and how this might affect the consumer experience and outcomes.

Consumer vulnerability is fluid and dynamic; consumers can move in and out of periods of situational vulnerability.

Do not directly call consumers 'vulnerable' as it is disempowering; it's their situations that make them vulnerable.

Are there any other relationships with this consumer I need to be aware of, for example, Power of Attorney?	
I have considered how I need to deliver any relevant information to this consumer – for example, braille, large written format.	
I have considered the language I am using and taken a plain English approach when explaining a product or service. I don't use complicated industry-specific language if it can be avoided.	
I have taken the time to listen, to identify vulnerabilities and, if appropriate, will suggest that someone else (a family member or trusted friend) forms part of the advice process and/or refer to a suitable specialist if appropriate.	
I have taken account of the complexity of the service/goods being delivered and made reasonable adjustments – for example, staggering the advice over several meetings and/or allowing more time to think before making a decision.	
I haven't made assumptions about the consumer.	
I have asked the consumer what they need and how I can help them better.	
I have summarised what has been decided or agreed in plain English.	
Do I need any additional support, training, supervision, support from my line manager?	

# More information

Further information on the Consumer Protection from Unfair Trading Regulations (2008) is available at:  
[www.businesscompanion.info/en/quick-guides/good-practice/consumer-protection-from-unfair-trading](http://www.businesscompanion.info/en/quick-guides/good-practice/consumer-protection-from-unfair-trading)

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