Consumers' access to financial services
Treasury Committee call for evidence
Response from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

1.1 We are pleased to be able to provide input into this inquiry into consumers' access to financial services.

1.2 Our expertise is in relation to taxation and related state benefits issues that might affect vulnerable or low-income taxpayers and accordingly it is against this background that we offer comments in relation to the proposed definition of vulnerable customers.

1.3 In order to address the needs of vulnerable consumers correctly, it is important to be able to identify them. We think that the FCA definition of vulnerable customers is wide and far-reaching. However it is also a little bit vague, and it is our view that drilling down into some detail could be most useful in terms of helping frontline advisers understand and recognise vulnerability.

1.4 To this end, we would like to draw your attention to HMRC's 'drivers of need' for accessing their Needs Enhanced Support (NES) service. These are a reasonably comprehensive set of indicators of vulnerability that could be used as a starting point for staff to identify vulnerability in the financial services context. However there will no doubt be other indicators and, indeed, it might be argued that any low-income individual should be regarded as potentially vulnerable in relation to financial matters.

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1.5 We wholeheartedly agree that vulnerability may be a temporary or fluctuating state and that an individual may not recognise themselves as being vulnerable. As such, it is crucial that any adviser uses their fact-find to its fullest extent to tease out any underlying issues.

1.6 There are a number of things that front-line staff could be on the look out for – e.g. if the customer asks them to speak up or speak more slowly or says things like 'My wife/husband deals with these things for me'.

1.7 Nevertheless such vulnerability should not preclude them from receiving consistent, quality service or 'best advice' and it is therefore vital that front-line staff are equipped to pick up signs of a vulnerable consumer and how best to handle such situations with care and respect.

1.8 We think that the express 'duty of care' on financial service providers may require increased protection for vulnerable customers. We highlight two areas within our remit where we believe special care needs to be taken in relation to vulnerable customers. The first one is pension access where, under pension freedoms, people are required to make more complicated decisions than ever. The second, connected one, is interactions with tax and entitlement to state benefits.

1.9 We think it is vital that when dealing with a vulnerable customer, financial service providers have a thorough grasp of the tax and state benefits implications. They are a major component of any financial decision and require consideration in determining the most suitable course of action.

2 About Us

2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

2.2 LITRG works extensively with HM Revenue &Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.

2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3 General comments

3.1 *Definition of vulnerable*

3.1.1 Ensuring that vulnerable customers are treated not only fairly but flexibly and with empathy, seems to be a growing priority for financial services organisations and this is to be welcomed. However delivering this outcome relies on financial service organisations correctly identifying their vulnerable customers in the first place.

3.1.2 The existing definition used by the Financial Conduct Authority (FCA) is 'A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care.'

3.1.3 The definition is wide and far reaching, but does not go on to consider any specific personal characteristic or circumstances (or changes to them) that might lead to an individual being or becoming vulnerable.

3.1.4 As noted in the FCA's own document – Occasional Paper 8:[1] 'Vulnerability can come in a range of guises, and can be temporary, sporadic or permanent in nature. It is a fluid state that needs a flexible, tailored response from firms. Many people in vulnerable situations would not diagnose themselves as 'vulnerable'. The clear message from the research carried out for this paper is that we can all become vulnerable.' Further on it notes: 'Multi-layered vulnerability, and sudden changes in circumstances, are particular indicators of high risk.'

3.1.5 In our experience, it is often the case that one event can be the straw that breaks the camel's back – changing an individual's circumstances or perceptions so that they no longer feel in control of their finances or able to make rational decisions. That change need not be a financial one – it may be a change in relationships or work, for example, which could lead to increased stress and vulnerability.

3.1.6 While it may be relatively straightforward to set out some factors that may point towards vulnerability on a long-term basis, changes in circumstances may arise suddenly causing temporary vulnerability and it is these situations that may be particularly difficult to identify unless an adviser has had a long-term relationship with a client and can recognise the change.

3.1.7 Nevertheless we think that providing frontline staff with some clear and specific indicators of vulnerability could be most useful in terms of helping them identify those who are vulnerable, as well as what they might be vulnerable to.

3.1.8 To this end, we would like to draw your attention to HMRC's 'drivers of need' for accessing NES Service. While HMRC are not a financial services firm, they do provide similar essential

[1] https://www.fca.org.uk/publication/occasional-papers/occasional-paper-8-exec-summary.pdf, page 4

services to those regulated by the FCA, so these could be taken to be an appropriate and reasonable set of indicators of vulnerability for use in the financial services context.

3.2 ***HMRC's drivers of need***

3.2.1 Access: For example, problems in communicating, including difficulties speaking and understanding English as a foreign language, speech impairments and restricted mobility. Of course, disability does not necessarily equate to vulnerability. People with restricted access could include those with limited time because they are a carer for a child or other family member with a disability or who are, themselves, vulnerable.

3.2.2 Personal Confidence: For example, those daunted by what they perceive to be complex issues and, in some cases, the risk of making mistakes. People in this category may be new to the financial service concerned and be anxious/not understand what is involved or required.

3.2.3 Mental/Emotional State: For example, those suffering from mental health difficulties, long-term conditions and harmful behaviour (anxiety, depression, Alzheimer's, alcoholism), or with emotional issues (recently widowed, serious illness, e.g. cancer).

3.2.4 Capability: Customers may face challenges due to lower levels of literacy and education; learning difficulties (dyslexia, ADHD), or low IT skills.

3.2.5 Intricacy: Customers may have complex situations, perhaps involving numerous parties or products or situations that had developed over long periods of time.

3.2.6 Internally driven need: Customers may have needs triggered by receiving confusing letters. People in this category could also include those where a mistake has been made in the past by the organisation or where previous attempts to resolve a problem have failed.

3.2.7 While not an HMRC 'driver of need' as such, broadly, we think it could be argued that any individual on a low income should be regarded as vulnerable in relation to financial matters.

3.2.8 However it goes without saying that vulnerability may have other facets which may not be straightforward for frontline staff to detect. Staff will need to listen and use information gleaned as part of the fact-find to pick up on other nuances.

3.3 ***Using the fact-find***

3.3.1 Taxpayers often approach us or the other tax charities for help when they are in some sort of crisis. They may present with one issue, but upon further investigation it transpires that there are underlying problems that have caused that issue to come to the fore. Often they are unable to articulate exactly what the problem this, but just have an inkling that something is wrong.

3.3.2 For example, a taxpayer may present to us because they have received a letter from HMRC and do not understand it or what they need to do. This is causing them stress and anxiety. Upon investigation we find that the person suffered a recent bereavement and it was their deceased spouse who dealt with their affairs.

3.3.3 Accordingly, the fact-find will be extremely important, particularly in establishing the *real r*eason(s) why contact is being made at this time. This alone can often go a long way to ensuring a vulnerable customer has a good outcome.

3.3.4 It is also an important stage because frontline staff will usually be able to decide, based on their contact with the person during the fact-find, whether vulnerability is present or not.

3.3.5 Often the customer will volunteer information about themselves that indicates vulnerability, for example by disclosing physical or mental health issues that require greater help. Other times, frontline staff will need to use their use their skill and judgement to identify vulnerability, based on the presentation of the caller when they do not tell them expressly about their circumstances.

3.3.6 For example, the fact that someone has contacted the financial services organisation several times may indicate that they are vulnerable. It may not be what they say but how they say it – they may not be able to find the right words or words could come out jumbled up. Perhaps they sound flustered or out of breath, indicating they may have an illness. Or they may ask unrelated questions or repeat themselves, which indicates that they are not understanding something.

3.3.7 Specific staff training on vulnerability and conversation techniques, including understanding the different types of vulnerability and how these can affect the customer, will help equip staff with the knowledge and confidence needed to recognise triggers and build a rapport to help tease out the underlying issues.

4 Particular areas where care is needed

4.1 Although vulnerability does not always equate to people having poor outcomes, we would agree that there is the need for financial services providers to pay particular attention to vulnerable customers and potentially treat them differently than they otherwise would.

4.2 As such, we think that the express 'duty of care' for customers by financial service providers requires increased protection for vulnerable customers. We highlight two areas within our remit where we believe special care particularly needs to be taken – pensions access and interactions with tax and entitlement to state benefits.

4.3 ***Pensions***

4.3.1 The changes to legislation that took effect from 6 April 2015 allow greater choice over how an individual might access their pension savings, but mean risks for vulnerable customers.

4.3.2 Bearing in mind that many people, including many vulnerable people, are totally uninformed about pensions, the ability to draw down income and/or a lump sum can seem very attractive as a short term 'fix', despite the fact those pension savings are designed to last for the remainder of a person's life.

4.3.3 There is a particularly worrying issue of people withdrawing their entire pension pots and putting the money in the bank instead, sometimes with no specific reason for needing the cash, and triggering completely avoidable tax charges and benefit withdrawal issues.

4.3.4 The publicity given to pension scams[1] highlights the criminal side of this issue, but we remain concerned that some individuals are accessing their pension funds without properly considering the long-term consequences of doing so. While obtaining the cash from their pension fund might enable debts to be repaid, for example, it may not help the future financial security of that individual or their family. There are undoubtedly circumstances where drawing down pension funds is the correct course of action, but ensuring the reasons for so doing are properly documented and explained in plain language to the client will help to protect the vulnerable individual.

4.3.5 Put simply, we think consumer protection should be of the highest priority in this area where poor or just plain wrong choices can have a major and deleterious effect on a vulnerable pensioner and his or her family for maybe thirty or more years of retirement.

4.4 ***Interactions with tax and state benefits***

4.4.1 When it comes to products offered by financial services providers, the interaction with tax and benefits can have major and long-term effects, often unforeseen or unappreciated at the outset.

4.4.2 For example, tax is a major part of contributing to a pension, investment growth, and treatment of retirement options at the decumulation stage, however we have seen many examples of poor advice where tax had been either ignored or misunderstood and the vulnerable pensioner is out of pocket as a result.

4.4.3 In addition, many vulnerable people on low incomes will claim and be eligible for state benefits at some point in their lives. It is vital that any financial advice given takes into account any entitlements and does not prejudice them. For example, receipt of a large pension lump sum might compromise the receipt of some benefits, either on the grounds of capital or the income so produced.

4.4.4 The consequences of a vulnerable person not fully understanding the tax and means-tested benefits implications of their actions can be seen in the real-life case study of Bill.

4.4.5 Bill has worked many years in a relatively low-paid job, but worked hard to build up a pension pot of £40,000. He is in ill health, has no IT skills and has little understanding or experience of pensions.

[1] https://www.fca.org.uk/scamsmart/pension-review-scams

4.4.6 Upon his retirement, he withdrew his entire pension pot. Bill brought a new car for £20k (which he admits he does not really need) and put the remaining £20k in an ISA which he plans to drawdown in his remaining years.

4.4.7 However this hasty decision has cost him heavily in the form of an unnecessary tax charge and the withdrawal of support through the Council Tax Reduction Scheme. All the while his savings were in his pension, they were not counted as capital for means-tested benefits (the £20k in his ISA now is) and 75% of Bill's £40,000 withdrawal is taxable as income on him – if he had taken it in stages, spread over a number of tax years he could have avoided paying so much tax.

4.5 With better care and signposting from the pension provider, Bill may have been able to find the necessary information and knit it together to find the best course to take.

LITRG
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