

Vulnerable Consumers Internal Policy Framework

Responsible Marketing

DM
Data &
Marketing
Association **A**

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/ Introduction

As organisations have become more conscious of the needs and requirements of vulnerable consumers/donors within their communities, there is a need for each organisation to develop a policy to define who that audience is and how the organisation will take account of their need.

The DMA's pedigree in recognising and supporting the needs of vulnerable consumers through its [Responsible Marketing](#) foundations made it the natural place for organisations to turn to for help in developing a policy.

The Vulnerable Consumers Working Group, comprised of representative members from across the commercial and charity sectors, has created this framework to aid organisations when creating their policies and practices.

The framework, road-tested by members of the working group from the commercial and charity sectors, provides structure and flexibility and encourages organisations to tackle the key questions that will require consideration.

Policy Development Guidance

The DMA's Vulnerable Consumers Working Group identified that companies and organisations were struggling to create policies to better support the needs of consumers in vulnerable circumstances.

Furthermore, the introduction of GDPR in 2018 led to uncertainty and confusion around how the data of consumers in vulnerable circumstances should and could be used.

Consequently, employees and managers were finding difficulty in delivering appropriate and consistent service and believed they were failing this consumer group. In addition, this lack of clarity and consistency was creating a potential harm to individuals and brand reputations. In 2020, with the impact of pandemic, all of this became more obvious and essential than ever before.

The Working Group identified that clear organisational policies are often a bedrock for supporting good service and business practice, and working with consumers in vulnerable circumstances is no different.

As such, it recommends that an internal policy is created first. This ensures that all the processes and policies required to support these consumers are in place before a public commitment is made to external consumers (in the form of a consumer facing policy) to avoid confusion and disappointment.

This framework has been developed to help organisations create an internal policy for handling contacts with consumers in vulnerable circumstances, including:

- Practical guidance on the steps to follow to make your own policy
- Case studies illustrating how these policies could be used in practice
- Considerations along the way, to ensure best practice adoption and implementation within your organisation

The framework has been created by direct marketing professionals working across industries and sectors to ensure that it is a universally applicable tool. During its development, the framework has been successfully used by commercial and charity organisations to create their own internal policies.

The framework has also been designed to be flexible so that it can be adapted to suit the needs of each individual organisation.

When building your organisation's framework, here are some things to consider:

- Layout should be considered throughout to aid understanding and improve information retention. This includes formatting, e.g., variations in font size, colour and boxed sections to draw attention to key pieces of information.
- Examples should be used where relevant to illustrate or communicate confusing, difficult or not immediately obvious pieces of information.
- Each organisation's definition of vulnerability will differ based on their operation, sector, approach and culture. The important thing is that each organisation defines vulnerability and agrees this collectively.
- Guidance notes to follow are highlighted in yellow for users to amend as and where applicable.

Examples

The examples that follow are there to prompt questions and debate, helping you think through your own policy and how it might work in practice.

These illustrations are not intended as one-size-fits-all solutions to fundamentally complex data questions. Instead, they should guide you in thinking about ways of looking at situations and the types of good questions to ask when deciding on your approach.

Whatever you decide, GDPR should be considered first and foremost to ensure you support people in vulnerable circumstances in an effective, compliant and pragmatic way.

/ Which legal basis should I choose?

Before processing data, you must know and define the legal basis you're using to process it, i.e., use or work with it and what kind of information it is (either personal or special categories data).

We'll be focusing on personal data here primarily, but there is a section on special categories data later in this document which will help on this.

In a marketing context, the most common legal basis for personal data may typically be:

- Contract (e.g., sale of goods or services to new or existing consumers or when working with third parties)
- Consent (e.g., e-mail/SMS/automated call marketing, profiling by using non-essential cookie data and for data sharing with third parties)
- Legitimate Interests (LI) (e.g., marketing similar products or services to existing consumers, postal marketing and marketing services to B2B clients. Where applicable LI can be used for data sharing with third parties)

There are other legal bases (more on this later under 'substantial public interests' and 'vital interests'), but the above list is the most commonly used in direct marketing.

Below are a list of key considerations to be aware of when choosing which legal basis suits your needs best.

Getting help

If in doubt about choosing the appropriate legal basis for processing or type of data you are working with (personal or special categories) always consult your Data Protection Officer, Data Privacy Lead or a Specialist Data Protection Lawyer.

(For a list of additional industry specific legislation and guidance, see [Appendix 1](#))

| Key considerations in Practice | |
|--------------------------------|--|
| Legal Basis: Contract | <ul style="list-style-type: none"> • Contracts must include adherence to current data protection legislation to protect the rights of individuals and the security and integrity of personal data. • You must have robust written agreements in place to cover GDPR requirements for data processing and data sharing. There are mandatory clauses that must be included in data processing agreements. For example, how you'll handle a subject access request, a breach, confidentiality, data transfers and use of the Standard Contract Clauses for data transfers. • Be aware that data sharing agreements with third parties must document the legal basis for sharing that data, e.g., legitimate interests or consent. Written contracts may not on their own cover the legal requirements for using data without these. • Using contracts may not mean you still don't need to use or do the work to justify using other legal bases. Don't assume using a contract will cover your obligations in their entirety. |
| Legal Basis: Consent | <ul style="list-style-type: none"> • For consent to be legal it must have an auditable and evidencable table. • Consent must be informed, freely given and use affirmative action, such as ticking an unticked box to be valid. • You must set up systems to respond to requests to withdraw consent or unsubscribe from email marketing offers. • Because consent needs to be auditable, this can be a resource intensive activity to log and track. • Depending on how you collect consent and what for, if you use this as a legal basis, be aware that it may be restrictive to how you use that data in future. Conversely, you can't be too 'vague' when collecting consent for what you will use it for, or this may fall foul of being non-transparent as far as the ICO is concerned, thus making the basis invalid. • You cannot bundle different purposes together when asking for consent. • Being direct when collecting consent means that you may be able to undertake activities which an individual consents to which would otherwise not pass a LIA because of how much it impacts the individual's privacy or rights. This is because the individual is allowed to make this choice, whereas with LIA, this level of agency and active control isn't provided. • Consents require an active opt-in, and so this can yield lower permissions than using legitimate interests (which can use an 'opt out' mechanism when collecting information which may be used for direct marketing). |

| | |
|-----------------------------------|---|
| Legal Basis: Legitimate interests | <ul style="list-style-type: none"> You must have in place a documented legitimate interest assessment (LIA) and opt-out provisions before using LI. LIA's must be completed before activities are undertaken, not afterwards. An LIA is a three-stage process using a framework to document your case for using LI as your legal basis for processing personal data. [see here for LIA guidance] Operationally you must set up systems to respond to requests to withdraw consent or unsubscribe from email marketing offers. LIA's can be quite flexible in responding to external circumstances. However, there may be restrictions on what you feel you can feasibly deliver beneath LI before the balance of the LIA starts to put you into a position which is less justified for using this basis. You still require an opt-out mechanism, as with consent, however the auditing obligations regarding LI are less strict and the amount of people you'll be able to communicate with is likely far higher in volume. |
|-----------------------------------|---|

Other legal bases exist but the scope is specific and rarely used within a direct marketing context.

Substantial Public Interests

E.g., for statutory and government purposes, preventing lawful acts, or one of many public interests. (see [here](#) for examples from the ICO)

The UK DPA 2018 Schedule 1, part 2, offers additional conditions for processing specific categories of data, such as in the Substantial Public Interests – one of the conditions is the 'Safeguarding of economic well-being of certain individuals'. This can be applied to consumers at 'economic risk' because of 'physical or mental injury, illness or disability'.

Vital interests

E.g., life or death situations

This is only an option if no other legal basis applies or can be obtained in an emergency, life threatening situation or if the individual is not capable of giving consent. It cannot be used if a person refuses their consent unless they are not physically or mentally competent to do so.

Be aware this is quite difficult to use because it **explicitly applies to life and death situations** such as a doctor giving a lifesaving operation (which they would normally ask your consent for) but you're near death and in a coma.

| Key considerations | |
|---|--|
| Legal Basis: Substantial Public Interests | <ul style="list-style-type: none"> • This is new legislation and must be carefully considered and documented because of the lack of caselaw, precedence or standard practice. • You may need to justify why you don't ask for explicit consent or use another legal basis. |
| Legal Basis: Vital Interests | <ul style="list-style-type: none"> • This is only advised as an option if there is no other legal basis. This is because it is difficult to justify as a reasonable course of action to the ICO if another legal basis was actually an option. • It cannot be used if a person refuses to give consent. • If you decide to use it in extreme circumstances, for example, as a last resort to protect someone from harm, you must document your decision-making process in detail. • If you collect personal or special category personal data under vital interests it must be handled with the utmost security and securely deleted as soon as you no longer need to process this data. |

/ Special category data – How do I process this?

Processing special category data

In addition to your original legal basis for processing – contract, consent, legitimate interests – an additional condition is needed for processing special category data.

Explicit consent is required for processing special category data, such as physical or mental health conditions, sexual orientation, religious or philosophical beliefs, ethnicity etc. Special categories of data are listed in GDPR Article 9.

Key considerations when using explicit consent:

- The individual must freely give a fully informed express statement of consent
- The statement can be written or verbal – which must be recorded as evidence
- In the case of verbal explicit consent, you must be able to prove that the individual is informed and understands why you need their explicit consent
- Two-stage verification via email or text can be used or signed statements

/ Governance and Accountability

- **Accountability** – The ICO recommends that organisations must document decisions, i.e., the whole decision-making process, including how and why you are processing personal data. Place the rights of the individual at the heart the processing. Don't just focus on risks to your organisation.
- **Case by case basis** – Evaluate the purpose, what data is needed, why and how it will be processed, stored and deleted, etc., in line with the six data protection principles.
- **Evidence** – Capture evidence of decision-making process. Use privacy by design LIAs, DPIAs, up-to-date records of processing and make sure to include collection of vulnerable consumer data. In addition, ensure necessary safeguards are in place for confidential and special category data.
- **Transparency** – This should be done by whatever means, i.e., in writing or verbally. If completed pictorially, you must inform individuals before you process their personal data, i.e., why you want it and if you'll make disclosures to third parties.
- **Purpose** – What will the personal data be used for?
- **Robust legal agreements** – If any disclosures to third parties take place they must be documented. Where necessary they should be covered by a legal agreement, such as a data sharing agreement or a data processing agreement to protect the integrity and confidentiality of the personal data.

/ [Policy framework]

Internal vulnerable consumers policy

Executive Summary

[For Example:]

[Organisation] recognises that some consumers we come into contact with will be vulnerable in the context of how we interact with them, by virtue of their personal circumstances. As a provider of [insert nature of services], we have a duty and obligation to ensure that all elements of our work are consistent with our [e.g., mission statement/values/charter or similar]. In addition, we make reasonable adjustments and put in place appropriate additional support mechanisms to take account of these needs and to ensure such consumers/members of the public/supporters are not at risk of undue detriment.

[Additional optional standardised wordings:]

- [If wanting to state who is covered by the document]
This report is intended for use by Internal Staff/Third Parties [shortened version] and is designed to ensure [we] meet(s) not just our legal and regulatory requirements, but also the codes of the professional bodies to which we are members, as well as the ethical standards we set as part of our company values [reference source].
- [If wanting to include statement reference values]
Because of our values, [Organisation] is committed to ensuring anyone who interacts with consumers, staff and volunteers working with [children or] vulnerable individuals will take all reasonable measures to ensure that the risks of harm to welfare are minimised and that they are treated fairly. This will be done through adherence to this policy and by ensuring the practice of safe recruitment in checking suitability of staff and volunteers working with children and vulnerable adults.
- [If wanting to include statement of commitment]
[Organisation] is committed to providing appropriate support to vulnerable consumers and this forms part of [Organisation]'s wider commitment to ensuring our services meet the obligations of [insert most relevant obligations, e.g., Equality Act 2010, Charities legislation etc.].
- [If wanting to include state purpose/aims of policy]
This policy aims to [delete/amend as appropriate]:
 - Provide guidance for staff on how we define and identify a vulnerable consumer
 - Outline the processes we have in place to help support vulnerable consumers
 - Outline roles and responsibilities in relation to vulnerability and how we will oversee compliance in this area

Our population and vulnerabilities



UK population(2015) is estimated to be 65.1 million



850,000 people are (estimated to be) living with dementia in the UK



Major depression affects around 1 in 10 of the general population at any time



6,188 suicides registered in the UK in 2015. This is over 16 a day.



One in six of the population has some form of hearing loss



Over two million people in the UK are living with sight loss (2015)



Around 100 people each week are diagnosed with MS



There are an estimated 10 million people in the UK suffering from arthritis



It's estimated that up to 1 in every 20 people in the UK has some degree of dyslexia



32% of all people aged 65+ in the UK live alone (3.64 million people).



Every day 150 families in Britain become homeless



Almost 822 cancers were registered per day (2015)



Definitions

“Vulnerability”

Types of vulnerability vary widely (i.e. a young person with autism living independently for the first time, a single parent with dependent children who has recently become unemployed, someone with a terminal illness).

“**Vulnerability**”: Can be permanent, transient or progressive.

Whilst it is very difficult to define, [Organisation] is likely to consider someone to be vulnerable when:

“Their personal circumstances and characteristics mean they are significantly more likely than an average person to suffer detriment in connection with how [Organisation] deals with them, or where that detriment is likely to be more substantial”.

“Consumers”

Whilst this policy title refers to vulnerable “consumers”, this should be taken to include all individuals who [insert description of what is meant by consumers, users, or similar]

[Alternate standardised wording defining vulnerability:]

For the purposes of this policy we consider a vulnerable adult to be:

“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.”
[Example Vulnerable Persons Definition from the Financial Conduct Authority]

[If policy covers children:]

“For the purposes of child protection legislation [reference source] the term ‘child’ refers to anyone up to the age of 18 years.”

[Additional optional wording if wishing to define what constitutes a vulnerable situation]

Scope

This policy is relevant to considering the needs of your consumer audience.

This policy applies to [Organisation] and [delete as applicable] to the following service partners:

- [Subcontractors (e.g., a contact centre provider)]

[Optional wording] The following service providers are not required to comply directly with this policy, but are expected to have their own policy in place which does not conflict with this policy:

- [Other suppliers (e.g., suppliers who provide less core services)]

This policy does not deal with:

- [List anything excluded (e.g., potentially children if covered by a separate safeguarding policy, or staff if staff bullying/harassment covered elsewhere)]

Relevant guidance and legislation

[Confirm here if any relevant guidance or legislation relating to vulnerability is applicable to your sector or other relevant legislation. For example, this could include:]

- FCA guidance requiring organisations to have in place and adhere to its own policy for managing vulnerable consumers
- The Public Sector Equality Duty (PSED) under the Equality Act 2010
- General Data Protection Regulation – this supersedes the Data Protection Act 1998 and must be considered regarding collection, processing, retention, security and disclosure of data relating to consumer vulnerability
- Regulation/guidance applicable to the charitable sector
- Mental Capacity Act – See appendix 2

Key principles

Insert key principles relevant to your organisation. Some examples you might wish to pick and choose from or use to prompt your own are included below. Some are generic, while others may be applicable to certain types of organisations but not others.

- [Organisation] works on the general principle that we will take appropriate steps to consider the circumstances of any individual who is particularly vulnerable or susceptible to detriment and therefore needs either:
 - Adjustments to the way in which we communicate and support them.
 - Special consideration in the context of enforcement and prosecution actions.
- [Organisation] recognises that vulnerability is a state, not a trait. There is a sliding scale of vulnerability, and people are different, meaning that some consumers will become vulnerable in circumstances where others may not.
- [Organisation] believes the welfare of any vulnerable person [or child] is paramount; those who are vulnerable without exception have the right to protection from abuse regardless of gender, ethnicity, disability, sexuality or beliefs.
- [Organisation] works on the basis that every individual is different, has different circumstances and therefore, may need consideration. This means we will treat individuals in a way that is appropriate to their needs, where possible tailoring our approach.
- In some cases, we may, where appropriate, need to adopt an approach for dealing with certain categories of vulnerable consumers, who despite having different circumstances may be appropriate to follow a similar treatment path.
- We have a number of processes and tools in place to facilitate this and each are covered in more detail under 'How [Organisation] can support vulnerable consumers' below.

- [Organisation] expects its own and subcontractor's staff who come into direct contact with members of the public as part of their job, to carry out appropriate selection and vetting procedures, including where appropriate, basic criminal record checks.
- [Organisation] takes any complaint about treatment of vulnerable consumers very seriously and any such complaint will be investigated fully. If appropriate, [Organisation] will liaise with relevant law enforcement agencies.
- This policy should be circulated and made public as appropriate.

/ How [Organisation] will support Vulnerable Consumers

[Organisation] has a range of services and processes in place to support consumers. Some of these are aimed at people with disabilities who may not be vulnerable but form part of our wider suite of support for consumers who need us to do things a little differently. The services we can provide are summarised in more detail below:

[These services will vary considerably from organisation to organisation but the types of service you may wish to reference could include:]

Alternative formats – whilst many consumers who need reasonable adjustments will not be vulnerable, we recognise that for some consumers a disability, such as being blind, means we need to communicate with that consumer in a different way. This may include providing communications in large print, Braille or audio format, for example.

Text, phone and Minicom – as with alternative formats, these services are available to consumers to help them communicate with [Organisation]. These services act as a conduit to transmit a message between [Organisation] and the consumer in a way that is accessible to the consumer.

Language Resources – we recognise that a language barrier, particularly when combined with other factors such as age or social isolation, may lead to individuals being unlicensed and potentially vulnerable. [Organisation] offers a number of language resources: [Might include]

- Translation/interpretation service
- Leaflets or literature available in other languages

Easy Read – [resources written for a low reading age, e.g., for people with learning difficulties the average reading age in the UK is 9]

Web accessibility – [Not directly linked to vulnerability but you may wish to reference any guidelines your website complies to, such as the W3C guidelines, or any specific steps you have taken to make your site accessible]

Reasonable Adjustments process – [If you have such a process you may wish to outline how the process works and how it can be accessed]

- [Organisation] has a process to identify, consider and, where appropriate, put in place a range of adjustments for consumers who may need them. This process is particularly important given each consumer's circumstances are different.
- [Insert other relevant detail as appropriate]

Stakeholder engagement programme

- [Outline any relevant stakeholder relationships and how they can support vulnerable consumers]
- [Outline how the organisation signposts to vulnerable consumers across all communication channels]

Debt management

- [If applicable you may wish to outline how the organisation deals with vulnerable consumers with reference to debt management, referencing any special procedures in place to support consumers in debt management]
- [Can reference FCA guidance on vulnerability if relevant]

Advisors helpline

- [Insert contact details if applicable]

Consumers at immediate risk of harm

[You may wish to cover scenarios where consumers are at risk of immediate harm and identify procedures in place to deal with those. For example, this could include suicidal consumers, consumers at risk of domestic violence or consumers living in refuge. Below we have provided some examples of the kind of scenarios you might wish to consider.]

Sometimes [Organisation] comes into contact with consumers who are at immediate risk of harm, either to themselves or from others. Therefore, procedures are in place to deal with this. Whilst such cases are very rare, consequences can be serious and [Organisation] will ensure it takes appropriate steps to mitigate the risk of harm. Scenarios include:

- [Threats of suicide – occasionally we encounter consumers who indicate they are suicidal. Advisors are trained so if they believe there is an immediate risk that a consumer may harm themselves, they must take prompt action. There is a procedure in place to deal with this which may include passing the details of the consumer to the emergency services to enable them to assist.]
- [Consumers at risk of Domestic violence – if a consumer notifies us that their domestic circumstances are hostile, we can recommend additional safeguards to be put in place on their account.]
- [Refuges – If we are notified that a particular site is a refuge or safe-house, there are a number of steps we can put in place to ensure any contact with that site is appropriately managed.]

Dementia Friends – [Many organisations have staff who have trained as Dementia Friends. Some may be Dementia Champions who can train others in the business. If you provide this, you could cover it here.]

Resources

[Organisation] [And its partners] are committed to implementing, monitoring, maintaining and evaluating this policy with regular reviews and updates re-issued. This includes the allocation of budget to support implementation of the policy, for example:

- Training for all staff and volunteers who may come into contact with a child or vulnerable person. [This may be internal and/or external training. For example, the DMA offer workshops as well as free training materials available at dma.org.uk. Other training providers are available in your local area.]

Case Study

Example: A health charity has a number of volunteers who support the charity by helping consumers who may have health issues. In conversations and communications with these consumers, special category data may be collected and stored. The volunteers do not know what data they can record.

Action: The charity should ensure their volunteers are trained on the relevant policies and procedures in relation to data protection, so the volunteers know how to look out for and identify vulnerability and are aware of what data they can record. The charity should provide the volunteers with a contact number of a dedicated support team/person who can help with any queries if needed.

Case study

Example: An organisation was made aware that one of its consumers had Alzheimer's and that a power of attorney (POA) was in place. It did not have processes in place to respond to this query and was not sure what action to take.

Action: The organisation should ask the individual to send a certified copy of the POA as evidence and make a note on the system that a POA was being sent and by whom. Once received, a copy of the POA can be stored and saved to the consumer's record as evidence. The certified copy of the POA can then be returned via recorded delivery. The organisation can then amend the consumer's records and add the attorney details as the new point of contact. The organisation should also set the consumer's details to 'do not contact' to ensure no further communications are sent directly but instead are directed to the attorney.

- Ensuring appropriate systems and databases are in place for the storage and maintenance of data related to vulnerable consumers. For example, vulnerability flags.

Case Study

Example: A consumer calls and tells an organisation they have a mental health condition which means they often struggle to say 'no' when asked to increase their payments. The organisation logs this information on their database after asking for permission from the consumer. This information is kept because it will explain why they have removed the consumer from being asked to upgrade again.

Under GDPR, the organisation does not know if it can still keep this information and if so, for how long.

Action: The organisation can keep the information in relation to this consumer (including about their mental health) in case the consumer should reconnect with the organisation at a later date. The organisation must however state in their privacy policy how long they will keep this data for and delete it after this period, e.g., six years. They should not use the data for any other purpose.

- Retention policy is in place to only store data for as long as is required.
- Additional FTE taking into account additional time taken to provide a more tailored service to these consumers. For example, to check evidence provided in support of someone's vulnerability.

Staff Support

- Whether before, during or after an incident involving a [vulnerable person], if you have any queries or uncertainties you should always consult your line manager or the [staff member]. They will be able to provide dedicated support. One of these members of staff should always be available within working hours or have a qualified member of staff available to address queries in their absence.
- Staff support with specialised knowledge should be made available to anyone who has any queries or uncertainties in relation to the recording, storing or sharing of data relating to a child or vulnerable person. This dedicated support should always be made available during working hours.
- Dedicated training of resourcing is required to support effective adoption of this policy reasonably and practicably within projects.
- Costs for the adoption of this policy should be factored into annual budgets and expenditure, and where budget is not available this should be requested from [line managers/team heads/directors] so that we can fulfil our [legal / regulatory obligations].

Training and awareness

[Organisation] [And its partners] will ensure that all relevant staff receive training in how to identify and respond appropriately to a vulnerable consumer and understand what data can be recorded when a vulnerable consumer or potential vulnerability is identified. We will do this through a combination of: [Include relevant methods e.g.]

- Training as part of our induction process, e.g., how to recognise vulnerability and understanding what data can be recorded.
- Specific training for front line staff, refreshed periodically.

- Flagging real examples (such as those given in this policy) in contact centre buzz sessions and other team meetings.
- Communications and awareness materials, e.g., posters in areas for all members of staff to see.
- Consider listing the different types of special category data. Signpost how to spot vulnerability and what issues can cause vulnerability.
- Highlighting, sharing and rewarding individual examples of staff providing great consumer service to vulnerable consumers and managing their data correctly.

Case study

Example: A consumer is having difficulty accessing a website and entering their details. They log on and off, fill in the same form several times and have problems logging in, often forgetting their password. They contact the call centre, and the operator notes they consistently appear to have challenges remembering information.

The operator is unsure how to update the records to reflect this situation.

Action: It is in the consumer's best interest to record this information so that any staff member involved in future engagement is sensitive to their needs and can transfer them to a specially trained agent if needed. The operator should add a vulnerability flag to the system, e.g., 'assistance required'.

Case study

Example: A charity received a call from the partner of a vulnerable supporter regarding their entry into a prize draw being run by the charity. The partner said they could not remember if they had entered the prize draw as they both suffered from dementia. The operator was unsure whether they could share information with the partner, as well as how to flag the disclosed vulnerability of the supporter and their partner as this was not covered in their training.

Action: The charity should provide their operator with access to a line manager or support team who can provide advice on data compliance and/or safeguarding issues. In this case, the advice would have been to update the supporter's details with a note that vulnerabilities had been flagged by the partner. The supporter's marketing preferences should be set to 'do not contact' so that no further communications are sent to the supporter in case this causes confusion or distress. The details can be kept on record for the period stated in the charity's privacy policy and then should be deleted.

Outsource Providers and third parties

[Organisation] will seek to ensure that appropriate provisions are in place to protect vulnerable consumers, through its direct contractual relationships and its contractors' sub-contractors.

We will do these through ensuring that, where relevant, contractual providers are asked to demonstrate how they can support vulnerable consumers, including through providing copies of any relevant vulnerable consumers policy.

[Alternate standard wording your organisation might include]

All reasonable endeavours will be made to ensure that suppliers abide by the standards set by [e.g., this policy/FCA guidance etc.]. Where third-party suppliers cannot agree by these standards, [Organisation] will undertake a review of the third party's policies and operations. This will ensure we are confident the third-party meets our standards in principle, even if they do not directly align, but they will always have to meet our legal requirements.

Where any of the above conditions are not met, this must be flagged within the [Organisation] risk register.

Supporting policies/procedures

The following [Organisation] policies and procedures are relevant and either explicitly reference, implicitly provide for or have related procedures with provisions relating to vulnerable consumers:

[Include policies relevant to your organisation which might include any of the following]

- Complaints procedure
- Data Protection Policy
- Privacy Policy [this might need to state how you process data relating to vulnerable consumers]
- Consumer security and verification procedures
- Safeguarding Policy
- Anti-bullying or harassment Policy
- Whistle-blowing policy
- Acceptable Use Policy
- Policies and procedures which promote safety and welfare, e.g., Health and Safety Policy

Oversight, Governance and monitoring

- Roles and responsibilities with reference to review and monitoring of this policy are defined below in the 'Roles and Responsibilities' section.
- Issues relating to this policy will in the first instance be raised at any of the following:
 - [Insert any other relevant information about how you will monitor compliance with the policy, for example staff quality checking, call listening, audits etc.]
 - [You may wish to consider individual accountability, e.g., requiring staff to sign the policy as evidence they've seen/read it]

Roles and Responsibilities

The following roles within [\[Organisation\]](#) [and its service partners] have responsibilities in connection with this policy:

| Partner | Functional Area | Role accountable | Responsibility |
|--------------------------------------|---------------------------|--|--|
| [E.g., Organisation] | [E.g., Operations] | [E.g., Head of Operations] | Overall accountability for ensuring partners adhere to policy |
| [E.g., Organisation or consultant] | [E.g., Specialist advice] | [E.g., Data Governance/ Compliance Manager/Data Protection Consultant] | Providing advice and support to teams on data protection issues |
| [E.g., Organisation] | [E.g., Database team] | [E.g., Data Protection Officer/Lead] | Responsible for organisations data retention policy and training employees on GDPR compliance requirements |
| [E.g., Service partners/third-party] | [E.g., Operations] | [E.g., Database Lead] | Responsible for day-to-day handling of data |
| | [E.g., Policy] | [E.g., Policy Manager] | Overall responsibility for policy, including review and monitoring policy and day-to-day advice for all partners on application of policy |
| | | [E.g., Training Manager] | Ensuring all training material adheres to policy and updating this as required |
| | | [E.g., Recruitment Manager] | Ensure that as part of staff and HR inductions, all staff members will confirm they have read, understood and agree to abide by the policy |
| | | [E.g., Departmental Manager] | Carrying out checks to ensure relevant staff in their local team comply with the policy |
| | | [E.g., Fundraising/ Team Manager] | Disclosure checks for staff or volunteers working with children |

- Staff with responsibilities under this policy should be able to evidence steps taken to ensure compliance.
- [You may want to include specific advice on who is responsible for protecting vulnerable customers in particular scenarios unique to your organisation. For example, if you carry out community events where children may be attending, it may be necessary to stipulate safeguarding policies and procedures, or what staff should do if they identify a risk in this situation.]

Questions

[You may want to include specific advice on what staff reading the policy should do if they have an issue to report. For example:]

Is there a potential incident you have experienced or a question you have which isn't covered by this policy? Do you have needs which are not covered by the resources identified in this policy (for example, a gap in available training)?

If so, please contact [insert relevant manager] who will be happy to discuss this. They can be contacted through the below methods, and all questions or comments will be treated confidentially.

Does your organisation require and have a Data Protection Lead or Officer?

Have you considered how the organisation or your third parties log and store information about vulnerability?

If not, consider whether you should appoint a Data Protection Officer or Lead within the organisation.

[Flag how to contact, which subject line in an email, etc....to ensure these are treated confidentially].

[Optional:]

- Contact Details:
- Tel:
- Email:
- Office location:

Case study

Example: Whilst on a fundraising call with a third-party fundraiser working on behalf of a health charity, an individual gets into a conversation regarding chronic health conditions and references that they have diabetes. This is important as to whether this should be flagged within the system as the individual having vulnerable circumstances or not.

Action: This information is shared in passing and the fundraiser makes a judgement that the individual is not in vulnerable circumstances. The individual signs up to donate and this is processed over the phone with no notation of the condition.

Call recording is automatically stored by the third-party agency for six months before being deleted. During that time, the charity requests the call recording for QA purposes, and the recording is transferred to the charity. The reference to diabetes is picked up and evaluated again to not suggest vulnerable circumstances.

The charity then deletes the recording, as per all calls requested for monitoring.

/ Appendices

Appendix 1

[Still to consider but might include Vulnerability key stats, Vulnerable Consumer Profiles, links to the accessibility page of the website, etc.]

Guidance and Law

- DMA – [‘Caring for the vulnerable’](#) (training materials)
- DMA – [‘Guidelines for call centres dealing with vulnerable consumers’](#) (Whitepaper)
- [The Fundraising Regulator – Code of Fundraising Practice](#)
- [Institute of Fundraising \(IOF\) – Treating Donors Fairly \(TDF\)](#)
- [Charities \(Protection and Social Investment\) Act 2016](#)
- [Data Protection Act \(DPA\) 2018](#)
 - Personal Data – Article 6
 - Special Categories Data – Article 9
- [Equality Act 2010: Defining Disability](#)
- [Equality Act 2010: Guidance for Charities](#)
- Mental Capacity Act (MCA) 2005: [Code of Practice](#)
- TICO – [Does my organisation need a data protection officer](#)
- FCA Guidance – [Consumer Vulnerability FCA Guidance – Consumer Vulnerability](#)
- [Money Advice Trust – Vulnerability resources hub](#)

Standards

- Direct Marketing Association (DMA) – [Code of Practice](#)
- Direct Marketing Association (DMA) – [Best Practice Guidelines](#)

Training

- DMA – [Caring for the Vulnerable](#) (FREE training materials)
- DMA – [Guidelines for call centres dealing with vulnerable people](#)
- Samaritans – [Conversations with vulnerable people](#)
- Zero suicide alliance – <https://www.zerosuicidealliance.com/>

Additional Information

[Organisation] policy is the primary piece of information you should follow. There are, however, links below with useful information should you wish to find out more:

- [Alzheimer's Society](#)
UK's leading dementia charity. They campaign for change, fund research to find a cure and support people living with dementia.
- [Childline](#)
Childline is a free service to help anyone under 19 in the UK with any issue they're going through.
- [Dementia Friends](#)
An Alzheimer's Society programme is an initiative to change people's perceptions of dementia.
- [Mencap](#)
Mencap is the leading voice of learning disability.
- [Mind](#)
Provide advice and support to empower anyone experiencing a mental health problem.
- RNIB (Royal National Institute of Blind People) – [Practical Help](#)
One of the UK's leading sight loss charities and the largest community of blind and partially sighted people.
- Scope – [About disability](#)
A disability equality charity in England and Wales.

Procedures/process List

- Complaints

Supporting policies

- Safeguarding Policy
- Data Protection Policy
- Employee Handbook
- Contracts Handbook
- Volunteer Handbook

Regulators

- [Add as required]

Appendix 2

Mental Capacity: Our Obligations

The Mental Capacity Act 2005 empowers health and social care professionals to assess mental capacity themselves rather than relying on expert testing. However, this expectation doesn't extend to marketing professionals.

As such, it is important to be clear in understanding the limits of your personal obligations and abilities within this context, as it may be wholly inappropriate for marketers to define mental capacity in this legal sense.

This policy, however, does support staff to identify potential vulnerability for individuals without reviewing a person's mental capacity. Information which may lead a staff member to consider an individual as vulnerable may cross over with information used to inform a mental capacity assessment. However, the obligation here (because the vast majority of staff are unlikely to be legally qualified/certified/permitted to make mental capacity assessments) is to fundamentally identify and highlight potential vulnerability in the first instance to allow individuals to be appropriately supported thereafter.

This policy and its related procedures provide staff with the tools they need to provide appropriate support but does not rely on staff needing to make a 'diagnosis' of mental capacity. Therefore, if additional support is given to an individual, this does not imply a judgement having been made about their mental capacity and the language used by staff should reflect this.

Under the **Mental Capacity Act 2005 (MCA)**, a number of statutory principles were established, including:

- A person must be assumed to have capacity unless it is established that they lack capacity
- A person is not to be treated as unable to make a decision unless all [practicable] steps to help him or her to do so have been taken without success; and
- A person is not to be treated as unable to make a decision merely because he or she makes an unwise decision

Determining Mental Capacity

Under the MCA 2005, a person lacks capacity in relation to a particular matter if at the [material] time he or she is unable to make a decision for himself or herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.

[For more information see [here](#)].

Checklist:

Signs that an individual may be in a 'Vulnerable Circumstance'.

Is the individual:

- Asking irrelevant and unrelated questions, or displaying signs of forgetfulness?
- Unable to read and understand the information they are provided with, and asking for it to be continually repeated?
- Responding in an irrational way to simple questions?
- Saying 'yes' or 'no' at times that it is clear they haven't understood?
- Taking a long time or displaying difficulty in responding to simple questions or requests for information?
- Repeating simple questions such as 'who are you', 'what charity is it' and 'what do you want'?
- Wandering off the subject at hand and making incongruous statements?
- Saying that they are not well or not in the mood to continue?
- Displaying signs of ill-health like breathlessness or making signs of exasperation or discontent?
- Giving a statement such as 'I don't usually do things like this, my husband/wife/son/daughter takes care of it for me'?
- Indicating in any way that they are feeling rushed, flustered, or experiencing a stressful situation?
- Having trouble remembering relevant information, for example, that they are already a regular donor to that charity or have recently donated?
- Donating an unexpectedly large gift with no prior relationship? (There being no prior relationship before a gift is made does not on its own constitute 'vulnerability': many legacy and major donor gifts to charities are given without the existence of a relationship between the donor or charity). [IOF Treating Donors Fairly]

Appendix 3

Sources for [Our Population and Vulnerabilities](#)

- [UK population \(2015\) is estimated to be 65.1 million](#)
- [850,000 people are \(estimated to be\) living with dementia in the UK](#)
- One in six adults is living with a mental health problem ([ONS, 2001](#))
- [Major depression affects around 1 in 10 of the general population at any time](#)
- [6,188 suicides registered in the UK in 2015](#). This is over 16 a day.
- [One in six of the population has some form of hearing loss](#)
- Over two million people in the UK are living with sight loss ([RNIB, 2015](#))
- [Around 100 people each week are diagnosed with MS](#)
- [There are an estimated 10 million people in the UK suffering from arthritis](#)
- [It's estimated that up to 1 in every 20 people in the UK has some degree of dyslexia](#)
- [3.8 million people aged 65+ in the UK live alone](#) (Age UK, 2019)
- [Every day 150 families in Britain become homeless](#)
- Almost 822 cancers were registered per day ([ONS, 2015](#))

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/ About the DMA

The Data & Marketing Association (DMA) comprises the DMA, Institute of Data & Marketing (IDM) and DMA Talent.

We seek to guide and inspire industry leaders; to advance careers; and to nurture the next generation of aspiring marketers.

We champion the way things should be done, through a rich fusion of technology, diverse talent, creativity, insight – underpinned by our customer-focused principles.

We set the standards marketers must meet in order to thrive, representing over 1,000 members drawn from the UK's data and marketing landscape.

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