



The FCA's Consumer Duty

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Contents

- Consumer Duty – The FCA's latest position
- What should firms be doing now?
- The role of the Compliance Officer in the new Consumer Duty

The FCA's LATEST Position

- “Be in no doubt: the Duty will be a significant shift in what we expect of firms. It means making lasting changes to culture and behaviour to consistently deliver good outcomes.”
- “We do not expect firms to have necessarily fully scoped all work required to embed the Duty by the October deadline, but firms plans’ should be sufficiently developed to provide their governing bodies and us with assurance that the Duty will be fully implemented for new and existing products by next July.”
- “We also expect boards to have an ongoing role overseeing these plans and ensure they remain on track.”
- Sheldon Mills, Executive Director, Consumers and Competition, 29th September 2022

A Quick Poll (Or Two)

➤ Poll 1

- Will your firm have an implementation plan approved by your Board (or governing body) by the end of October?
- A) Yes, I believe so
- B) No, unlikely at this stage
- C) Not sure

➤ Poll 2

- Is your firm likely to have fully implemented the Consumer Duty requirements by July 2023?
- A) Yes, I believe so
- B) Fingers crossed is the best we can hope for

The FCA's Latest Position



A new Consumer Duty

Feedback to CP21/36 and final rules

Policy Statement

PS22/9

July 2022



Finalised Guidance

FG22/5 Final non-Handbook Guidance
for firms on the Consumer Duty

July 2022

The FCA's Latest Position: FG22/5

Setting higher standards and putting consumers' needs first is central to our strategy – and the cornerstone of this is the Duty

We want to see a higher level of consumer protection in retail financial markets, where firms compete vigorously in consumers' interests

Even before cost of living pressures emerged, consumers were being asked to make an increasing number of complex and important decisions in a faster and increasingly complex environment. This makes it even more important that consumers can make informed, effective decisions, act in their interests and pursue their financial objectives. At present, this doesn't always happen.

The FCA's Latest Position

Some firms present information in a way that is misleading or difficult to understand, which makes it harder for consumers to make a timely and informed decision

Some firms sell products or services to consumers that are not right for them or which don't offer fair value or provide poor customer service and support


Under the Duty, firms will need to assess and evidence the extent to which and how they are acting to deliver good outcomes

Combined with our more data-led approach, this should enable us to more quickly identify practices that negatively affect those outcomes and to intervene before practices become widespread

FCA's Latest Position

- The Duty includes a new Principle 12:
- “A firm must act to deliver good outcomes for retail customers.”
- Where this Principle applies, PRIN 6 & 7 are disapplied
- The Duty also includes three cross-cutting rules:
 - Firms must act in good faith towards retail customers
 - Firms must avoid causing foreseeable harm to retail customers
 - Firms must enable and support retail customers to pursue their financial objectives
- The rules are supported by four ‘outcomes’:
 - Governance of products and services
 - Price and value
 - Consumer understanding
 - Consumer support
- There is also a new Conduct Rule (Rule 6), which requires individual employees to “act to deliver good outcomes for retail customers”

...at an individual customer and a target market level



The FCA's Latest Position

Consumer Duty Key milestones

1

27 July 2022:

Final rules and guidance published.

2

31 October 2022:

Firms' boards (or equivalent management body) should have agreed their implementation plans and be able to evidence they have scrutinised and challenged the plans to ensure they are deliverable and robust to meet the new standards.

3

30 April 2023:

Manufacturers should have completed all the reviews necessary to meet the outcome rules for their existing open products and services so they can share with distributors to meet their obligations under the Duty, and identify where changes need to be made.

4

31 July 2023:

Implementation deadline for new and existing products or services that are open to sale or renewal.

5

31 July 2024:

Implementation deadline for closed products or services.

What Should Firms Be Doing Now?

- Your Board is expected to have agreed an implementation plan before the end of October
- What should the Implementation Plan cover?

Culture and Strategy: Can management demonstrate that the customer is truly at the heart of the culture and strategy of the firm? How is this demonstrated? How can you demonstrate that your firm acts in good faith toward its customers

Senior Management Responsibility: The FCA has made it clear that the Consumer Duty will require a significant shift in both culture and behaviour by many firms. Have you appointed a Champion of the Consumer Duty at Board level? Will the Board review and approve annually the firm's monitoring and actions? Are these written into Board procedures and the Statements of Responsibility for all relevant SMFs?

“The new duty will drive a change in culture at firms. We expect firms to step up and put consumers at the heart of what they do and we'll be holding senior managers accountable if they do not. “ PS 22/9

What Should Firms Be Doing Now?

Customers: The Consumer Duty relates to retail customers, which is a wider definition than just “consumers”. It includes SMEs, for example, and can even include local authorities in certain circumstances. Have you determined which of your customers fit within the scope of the Duty?

Distribution Chains: The existing product governance requirements have taught firms to consider the distribution chain, where firms distribute investment products which are ultimately marketed to retail clients. Firms should comprehensively review their product governance policies and procedures to reflect the new requirements.

Note the deadline of 30th April 2023 for manufacturers of open products!

What Should Firms Be Doing Now?

Risk Assessment: How up-to-date is your firm's conduct risk assessment, particularly in light of the FCA's required outcomes relating to products and services, price and value, consumer understanding and consumer support?

Product Design: Are your firm's Product Design and New Product Approval Processes fit for purpose under the Duty? Do they demonstrate that products and transactions are designed with the customer in mind and that they exist to enable customers to pursue their financial objectives?

Financial Promotions Strategy: Do your firm's communications equip consumers to make effective, timely and properly informed decisions about financial products and services?

Have you reviewed:

- the content of your firm's financial promotions?
- the whole strategy for communicating to both new and existing consumers?
- approval of financial promotions?

What Should Firms Be Doing Now?

Vulnerable Customers: Has your firm implemented an approach to vulnerable customers and does this approach fit neatly with the approach to the Consumer Duty?

Redress: Has your firm reviewed its complaints process in light of the new requirements?

Customer complaints remain a significant form of intelligence for both a firm and the FCA on poor customer outcomes. A good complaints process should not only identify areas of potential detriment, but also deliver positive solutions for customers and identify areas for remediation

The Outcomes

- *Communication:*
- *Communications must support consumers by enabling them to make informed decisions and they can assess:*
 - *the options available to them*
 - *the costs, risks and benefits attached to those options*
 - *which options offer fair value and would meet their needs*
- *Behavioural economics and consumer comprehension make existing rules and principles insufficient?*

The Outcomes

- *Products and Services:*
- *FCA has seen products designed without considering customer outcomes:*
- *Behavioural biases – the CCMS showed a tendency to overborrow and underpay*
- *Charging structures - opacity leads to difficulty for customer to assess the charges*
- *Barriers to exit – lead to the inability for customers to make the right choices*

The Outcomes

- *Customer Service:*
- *FCA wants customer service to apply throughout the customer relationship*
- *It should enable consumers to realise the benefits of the products and services they buy, and ensure they are not hindered from acting in their own interests*
- *FCA has seen customer service processes that are deliberately designed to create barriers to consumers taking action or which cause customer detriment through unnecessary cost, delay or stress*
- *Customer service should be of a standard that meets consumers' reasonable needs and expectations*
- *FCA gives the example that it should be at least as easy to exit a product or service as it is to purchase it in the first place*

The Outcomes

- *Price and Value:*
- *Products and services should be fit for purpose and represent fair value*
- *Well-functioning markets provide:*
 - *good information*
 - *good product governance*
 - *good customer service*
 - *fair pricing*
- *Firms should be able to demonstrate that the benefits of their products and services are reasonable relative to their price*
- *The price of products and services should be assessed at design stage and also through ongoing monitoring*

Key Questions

- The following slides show key questions from FG22/5
- These can be posed to senior management, the Consumer Duty Champion or to Compliance
- The FCA is highlighting these for a reason
- The questions are both general in nature and specific to each outcome

Consumer Duty – Key Questions for Firms

- Does the firm's purpose (whether publicly articulated or not) align with its obligations under the Duty? How is it embedded and understood throughout the organisation?
- How does the organisation's culture support the delivery of good outcomes for customers?
- How does the organisation ensure that individuals throughout the organisation – including those in control and support functions – understand their role in delivering the Duty?
- Are staff empowered and feel safe to challenge and raise issues where they feel the firm might not be acting to deliver good outcomes for customers? Are those challenges listened to, and where necessary, acted on?

Consumer Duty – Key Questions for Firms

- Is the Duty being considered in all relevant discussions such as strategy and remuneration?
- Are customers' outcomes a key lens for Risk and Internal Audit?
- How is the firm ensuring that its remuneration and incentive structures drive good outcomes for customers?
- Is the organisation prioritising acting to deliver good outcomes for customers?
- Are there any areas of concern?
- How is the external environment changing, and how will that impact on the organisation's ability to deliver good outcomes for customers?

Consumer Duty – Key Questions for Firms

- Has the firm identified the key risks to its ability to deliver good outcomes to customers and put appropriate mitigants in place?
- How does the firm define good outcomes (over the short, medium and long term) for customers using its products and services?
- What data does the firm have about its customers and how they use its products? Are there any gaps in the data? What steps is the firm taking to address them?
- What outcomes are customers getting? Are they getting good outcomes which align with reasonable expectations?

Consumer Duty – Key Questions for Firms

- Are certain groups of consumers getting different outcomes, and if so why?
- What's driving any adverse outcomes?
- What actions is the firm taking to improve outcomes?
- Who is accountable for this work, what will improvement look like and when will it happen?

Key Questions: Product and Services

- Has the firm specified the target market of its products and services to the level of granularity necessary?
- How has the firm satisfied itself that its products and services are well designed to meet the needs of consumers in the target market, and perform as expected? What testing has been conducted?
- **How has the firm identified if the product or service has features that could risk harm for groups of customers with characteristics of vulnerability? What changes to the design of its products and services is it making as a result?**
- Is the firm sharing all necessary information with other firms in the distribution chain, and receiving all necessary information itself?
- How is the firm monitoring that distribution strategies are being followed and that products and services are being correctly distributed to the target market?
- **What data and management information is the firm using to monitor whether products and services continue to meet the needs of customers and contribute to good consumer outcomes? How regularly is it reviewing this data and what action is being taken as a result?**
- **Where the firm is planning to withdraw a product or service from the market, has the firm considered whether this could lead to foreseeable harm? What action is it taking to mitigate this risk?**

Key Questions: Price and Value

- Is the firm satisfied that it is considering all the relevant factors and available data as part of its fair value assessments? Has it gathered relevant information from other firms in the distribution chain?
- What insight has the firm gained for its value assessments by benchmarking the price and value of its products and services against similar ones in the market? Have the price and value of its older products kept up with market developments?
- Can the firm demonstrate that its products and services are fair value for different groups of consumers, including those in vulnerable circumstances or with protected characteristics?
- If the firm is charging different prices to separate groups of consumers for the same product or service, is the firm satisfied that the pricing is fair for each group?
- What action has the firm taken as a result of its fair value assessments, and how is it ensuring this action is effective in improving consumer outcomes?
- **What data, MI and other intelligence is the firm using to monitor the fair value of its products and services on an ongoing basis? How regularly is it reviewing this material, and what action is it taking as a result?**

Key Questions: Consumer Understanding

- Is the firm satisfied that it is applying the same standards and testing capabilities to ensure communications are delivering good customer outcomes, as they are to ensuring they generate sales and revenue?
- What insights is the firm using to decide how best to keep customers engaged in their customer journey, whilst also ensuring its customers have the right information at the right time to make decisions?
- **How is the firm testing the effectiveness of its communications? How is it acting on the results?**
- How does the firm adapt its communications to meet the needs of customers with characteristics of vulnerability, and how does it know these adaptations are effective?
- **How does the firm ensure that its communications are equally effective across all channels it uses? How does it test that?**
- **What data, MI and feedback does the firm use in its ongoing monitoring of the impact of its communications on customer outcomes? How often is this data reviewed, and what action is taken as a result?**

Key Questions: Consumer Support

- How has the firm satisfied itself that its customer support is effective at meeting customer needs regardless of the channel used? Does the firm test outcomes across different channels?
- **What assessment has the firm made about whether its customer support is meeting the needs of customers with characteristics of vulnerability? What data, MI and customer feedback is being used to support this assessment?**
- How has the firm satisfied itself that it is at least as easy to switch or leave its products and services as it is to buy them in the first place?
- **How has the firm satisfied itself that the quality of any post-sale support is as good as the pre-sale support?**
- **What data, MI and feedback is the firm using to monitor the impact its consumer support is having on customer outcomes? How often is this data monitored, and what action is being taken as a result?**
- **How effective is the firm's monitoring and oversight of outsourced or third party service providers, and is it confident that these services meet the consumer support standards?**

Conclusion

- The FCA is clearly committed to enhancing consumer protection and competition through the Consumer Duty
- History tells the FCA that this is necessary
- It will be accompanied by an assertive, proactive approach, accompanied by improved data analytics
- Be prepared to work with (not without) senior management to embed the requirements, agree the implementation plan and GET IT IMPLEMENTED
- This needs a combination of first line, second line AND project management
- The FCA's conduct risk experience shows that the best programmes are the result of first line leadership

Thank you for attending

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