

CLIENT BRIEFING NOTE

25th January 2023

ARE YOUR CONSUMER DUTY PLANS ON THE GOOD OR NAUGHTY LIST?

FCA's Multi-Firm Review on Consumer Duty Implementation Plans

The FCA's review of firms' Consumer Duty implementation plans¹ reconfirms its high expectations about the level of focus, engagement and resourcing that firms must apply to Consumer Duty implementation and warns firms against complacency. The review points to specific areas of FCA interest: we recommend you review these and ensure these are sufficiently captured in your plans. There is also the promise of continuing FCA focus on the progress of implementation over the coming months.

What FCA reviewed

The FCA reviewed the implementation plans of 60 larger fixed portfolio firms to better understand their approach to embedding the consumer duty. The areas they focused on were:

- Approach to governance and ongoing oversight of implementation work;
- Deliverability of plans;
- Firms' understanding of, and engagement with, third party providers for delivery of their plans;
- How far plans address the substantive requirements of the Duty, including the four outcomes;
- Firms' data strategies to identify, monitor, evidence and stand behind customer outcomes;
- Firms' culture and people strategies to embed the Duty and ensure it's understood by staff.

The FCA will continue its closed engagement with firms about the Consumer Duty – through continuing engagement with fixed firms, surveying around 600 additional firms on their progress, issuing letters on implementing the Duty and key risks and consumer harms in different sectors and providing further updates (through webpages and regional events).

Main findings

The FCA found that while many firms have extensive programmes in place and are understanding the shift required, some firms are further behind, and there is a risk they may struggle to apply the Duty effectively when the rules come into effect.

The FCA highlighted three areas that firms should focus on before 31 July 2023:

- 1) effective prioritisation;
- 2) embedding the substantive requirements of the Consumer Duty;
- 3) working with other firms.

Effective prioritisation

The FCA has always made clear that they do not expect firms to review every aspect of their business but to apply a reasonable and proportionate approach. The review makes equally clear that they will be expecting

¹ FCA highlights areas of focus for firms implementing the Consumer Duty:
<https://www.fca.org.uk/news/press-releases/fca-highlights-areas-focus-firms-implementing-consumer-duty>

firms to be able to articulate clearly the rationale for their prioritisation. We recommend that you keep a clear audit trail of key prioritisation approaches and decisions.

Embedding the substantive requirements of the Consumer Duty

The FCA sends a warning shot to those firms that have considered the requirements superficially or are over-confident that their policies and processes will be adequate; and they make clear that they expect firms to review their products, communications, and customer journeys to identify changes they need to make. We remain strongly of the view that firms must be able to show that they have interrogated their business model and processes critically and have made changes as a result. Our advice is that you must be able to show the changes you have made by end July and demonstrate clear continuous improvements going forward.

Working with other firms

The FCA notes that some firms' plans underplay the need for working with other firms in the distribution chain. We have seen the FCA disappointed in this area already in the context of existing insurance product governance rules and the exchange of product and fair value information with distributors - we expect to see further scrutiny in this area. While the short timelines of the Consumer Duty make this a particularly challenging ask, your dependency on other firms is an area to watch. We recommend that you review your plans and document any material reliance on third parties for the delivery of the Duty: this should include others in the distribution chain and outsourced providers you rely on.

Our pick of key good and bad practices highlighted by the FCA is at the end of this note.

Actions you should be taking

1. You should review your plans against the FCA's findings and make changes to your plan if there are material gaps.
2. You should ensure that your board and executive are aware of the FCA findings and incorporate these in their oversight of the Consumer Duty plan.

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Our pick of good and bad practices

The FCA's listing of good and poor practices are a good way of checking how your firm is performing compared to peers. Here is our pick – but the whole list is worth of read.

Area of FCA focus	Good practices	Poor practices
Governance and oversight	Board, audit and risk challenge Central co-ordinating forums to drive consistency and required systems and technology changes	No timing for updates to key governance bodies Further development needed on engagement with board and executive post-implementation.
Culture and people	Clear people and training approach on the Duty Reviews of remuneration and performance management	Lack of detail No tangible action or no consideration of alignment to purpose, culture and values
Deliverability	Workstreams aligned to outcomes Committed resources including technology and external experts Sensible approach to prioritisation / triage of implementation work	Gap analyses at an early stage and confused sequencing Risks and dependencies not clearly set out
Third parties	Time allowed in plan for work with third party providers	Third party relationships and nature of dependencies not identified
The 4 Outcomes	Prioritising products that present risk of poor customer outcomes Incorporating value chain and non-price factors in fair value assessments New communication standards, improvements to scripts, detailed metrics to measure customer understanding Review of customer journeys leading to improvements, specific vulnerability focus, quality and complaints metrics	Superficiality of high-level actions Complacency about current frameworks Lack of a clear methodology for reviews and gap analyses
Data strategies	Work to understand data and metrics available across the business and remaining gaps Shorter-term solutions to evidence and monitor Duty alongside longer-term strategic aims	Limited detail in plan of data requirements Repackaging of existing data with limited consideration of gaps or outcomes Limited consideration of how firms will monitor outcomes for different groups of customers, including vulnerable customers