

CONSUMER DUTY: THE JOURNEY BEYOND JULY 2023 IMPLEMENTATION

At the end of July 2023 most organisations in-scope for the UK Financial Conduct Authority (FCA) Consumer Duty regulation will have completed an implementation to comply on their Open Book portfolio.

There are, however, significant weaknesses in many organisational implementations that mean they are only superficially compliant. To put it more bluntly, in the cold light of day many implementations fall far short of the original spirit and expectations of the regulation.

We consider a compliance testing approach that can help bridge the gap between initial implementation and why it is so important to go beyond basic compliance.

This approach can also be adopted by other Financial Services organisations not regulated by the FCA, but who seek to deliver a good consumer experience.



RECAP: WHAT IS THE FCA CONSUMER DUTY?

The Financial Conduct Authority (FCA) Consumer Duty is an important aspect of the regulatory framework that governs financial services in the UK. It outlines the key areas of responsibility for businesses towards their consumers and aims to ensure that they are treated fairly and transparently. The four key areas of the FCA Consumer Duty are:

PRICE AND VALUE

Consumers must be offered goods and services that are in their best interests. According to the fair value concept, they must offer customers goods and services that are cost-effective and not intended to prey on their vulnerabilities. In order for consumers to decide if the products and services suit their demands and are cost-effective, they must make sure that the price and other fees associated with their products and services are transparent and reasonable.

CONSUMER UNDERSTANDING

Businesses need to take the necessary action to assist customers in understanding the goods and services they are purchasing. Customers must be given clear, succinct information about the goods and services that are being offered so that they can decide for themselves whether or not they suit their needs. As a result, the information they give customers' needs to be written in plain language and covers all of the major benefits and dangers of the good or service. In addition, it is important for

businesses to ensure that their goods and services meet accessibility standards, making them available to customers with disabilities, special needs, those classified as vulnerable or indeed digitally excluded.

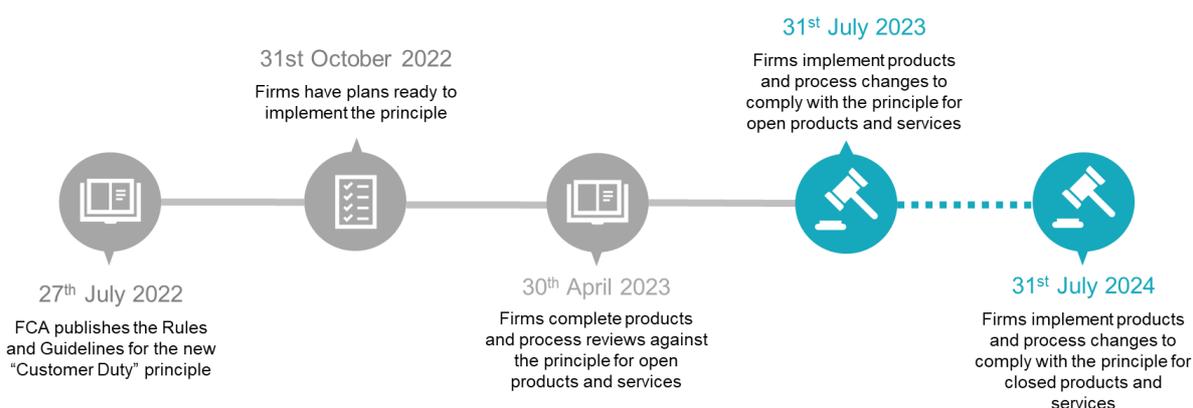
PRODUCTS AND SERVICES

Businesses need to design and develop products and services that are in the best interests of their consumers and that meet their needs. This entails making sure that the terms and conditions are reasonable and transparent, and that consumers are given concise and clear information about the goods and services being offered.

CONSUMER SUPPORT

Businesses need to make sure that customers have access to the data and tools they need to manage their finances wisely and make educated decisions about the products and services they use. This involves ongoing support and direction to assist customers in making wise decisions and resolving any problems they may face.

RECAP: THE TIMELINES

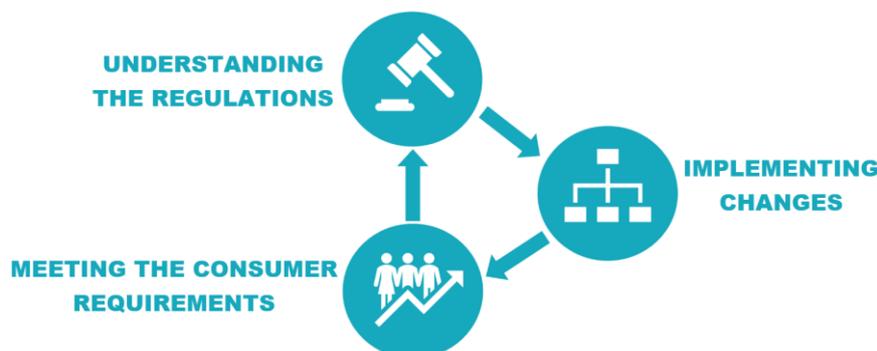




LOOKING AGAIN AT THE BUSINESS PROBLEM

Businesses have encountered numerous challenges related to ensuring compliance ever since the FCA Consumer Duty responsibility was introduced. Although it could pose some difficulties for businesses in the financial industry, it also presents an opportunity for businesses to enhance their procedures and increase consumer trust by improving processes and procedures. There are numerous implementations that did not fully embrace this opportunity and instead treated the problem in the same vein as other 'compliance projects.'

Compliance testing is a key tool that allows us to identify gaps in any policies and procedures, and develop strategies to address any issues that may arise. There are three main areas when businesses will face challenges when trying to meet compliance:



UNDERSTANDING THE REGULATIONS

The FCA Consumer Duty is a comprehensive set of regulations that can be challenging for businesses to understand and adhere to, especially given its ever-evolving nature. Consistent interpretation and understand the impact for your business is fundamental to achieving a successful implementation. Non-compliance can result in regulatory scrutiny, which can be time-consuming and costly. As such, it is crucial for businesses to stay up-to-date with the latest regulatory requirements and seek expert guidance to ensure compliance. Reputational damage is also a potential consequence of non-compliance, which can harm a business's credibility and long-term success.

IMPLEMENTING CHANGES

The FCA Consumer Duty could result in businesses having to make significant changes to their business practices in order to ensure they are treating consumers fairly. By taking the correct approach and utilising the right testing strategies, businesses can ensure that they are making the necessary changes and putting resources into the areas that will have the greatest impact on treating consumers fairly.

Incorporating User-Centred Design (UCD) principles is essential when implementing changes to ensure compliance with the FCA Consumer Duty. This is the single biggest failure in implementation, as it does not consider the user experience from a 360° perspective, i.e., the consumers themselves were not sufficiently involved in the understanding of the need to meet the consumer duty.

By actively involving consumers in the design and testing process, businesses can gain valuable insights into their needs, preferences, and expectations. Failing to take users into account and neglecting to make changes, can result in negative consequences such as loss of customer trust, reputational damage, and regulatory penalties.

MEETING THE CONSUMER REQUIREMENTS

As businesses try to meet the needs and expectations of a wide range of consumers, it can be challenging to get the right balance. While consumers may have different needs and varying levels of understanding of a product, businesses must ensure that their practices comply with regulatory



requirements and treat all their consumers fairly. Failure to do so can result in regulatory scrutiny, reputational damage, and loss of customer trust. However, by prioritising consumer requirements and making sure compliance is met, businesses can create an environment of trust and build a growing customer base through increased trust and word of mouth.

TAKING A MORE SYSTEMATIC APPROACH

We believe that the key to coping with the changes to the FCA Consumer Duty in a fully compliant manner, is having a well-thought out and planned user-centric approach. Being user-centric means not only going back to the genesis of the purpose of the regulation but also to focus on the goal that every financial services organisation has in their strategy: **to be customer focused**.

Within this section is a framework that can help ensure the spirit of compliance is met. In support of this framework there is an outlined 3-step testing strategy, as the biggest challenges reside on how well the changes are implemented. This strategy can show where there are potential flaws and allows creation of a bespoke plan to fixing individual needs.

THREE STEP TESTING STRATEGY

A crucial step in ensuring that goods and/or services comply with consumer duty requirements is compliance testing. This will make it easier for to determine/validate what will be subject to the Duty (i.e. scope), how near they are to compliance, and what needs to be done to ensure compliance. This three-step approach focusses around testing current policies and processes, testing data compliance and consumer experience testing. This approach is a semantic one, making sure to test customer understanding and not just testing what is being presented to them on the screen (or via other channel) is correct.



STEP 1 – POLICY AND PROCESS TESTING

The FCA's Consumer Duty sets expectations of retail financial services going forward, and how the FCA will measure performance to improve, adapt and deliver in the interest of consumers, markets and the economy. Higher standards are being set whilst putting consumer needs first, allowing for higher protection in retail financial markets.

- **Audit:** Conduct a formal independent review of business policies, procedures, and processes to ensure they align with the Consumer Duty. This should be treated much more like a certification audit than an internal audit. This is the stage where the initial implementation can be re-evaluated independently and continuous improvements can be identified. Continuous improvement is important as the consumer's experience is a moving target.
- **Surveys:** Conduct surveys with employees to gather feedback on their understanding and implementation of the current business processes and align with FCA Consumer Duty expectations. External user research must be used to get the true customer perspective; in many cases organisations have not engaged with the very consumers that the regulation is for, or specific consumer groups such as vulnerable customers and other groups via relevant segmentation techniques.



- **Key Performance Indicator (KPI) Tracking:** Use data and KPIs to measure business compliance Consumer Duty regulations, tracking target market, consumer understanding and products and services.

The purpose of step 1 is to review policies and procedures are effective and comply with the spirit of consumer duty. By conducting these tests, it is possible to identify gaps and areas for improvement, as well as validate the effectiveness of existing policies and procedures.

STEP 2 - DATA COMPLIANCE TESTING

The FCA expects businesses to be able to provide evidence that they act in good faith to deliver good outcomes. The duty demands a higher requirement for accuracy e.g. for assessments of fair value, accurate contact details so that customers can be contacted and actively engaged. Because customers and the environment in which they operate can change, the timeliness of data has increased importance. In addition to capturing and using relevant current data and storing historical data, businesses must forecast in order to avoid foreseeable harm.

- **Data Understanding:** evaluate the consistency of understanding of data that is underpinning the regulation. A very common challenge is inconsistency in data definitions leading to erroneous or incorrect conclusions.
- **Data Audits:** Conduct a systematic review of data storage, processing, and usage to ensure it complies with new FCA Consumer Duty regulations and standards. Using automated tools to continuously monitor data activities and identify highlighting where compliance is not being met.
- **Data Lineage:** Create a visual representation of data flows to identify potential compliance risks and ensure data is being utilised properly to benefit consumer understanding. Making sure they have the correct data being stored including customer, market & pipeline data required.
- **Risk Assessments:** Regularly assess and manage risks related to data compliance, such as data storage, data access and data utilisation.
- **Regular Reviews:** Conduct regular reviews of data management policies, procedures, operational metrics and systems to ensure ongoing compliance and utilisation

The purpose of step 2 is to ensure that the current data being stored will help allow reporting on compliance with the consumer duty whilst also testing data accuracy. Accurate data is critical for businesses to make informed decisions and predictions, and to avoid the risks associated with making incorrect assumptions or relying on outdated information. By conducting these tests, gaps and areas for improvement can be identified, as well as validating the current data and how it is being used to benefit compliance.

STEP 3 – CONSUMER EXPERIENCE TESTING

Consumer experience testing is a tool that that can be used to monitor and assess the compliance of businesses with the Consumer Duty. By conducting user research and testing with real consumers, it is possible to gain valuable insights into the quality of products and services being offered, as well as the level of support being provided. From here, it becomes possible to assess the effectiveness of the consumer protections that are in place, and to ensure that businesses are providing fair, transparent, and appropriate products and services to consumers. The outcomes of consumer experience testing can reveal important details about the customer experience and point out areas that require improvement. It is important to note that consumer experience testing not only evaluates whether a product or service is working, but also assesses the level of consumer understanding, which can help businesses identify areas where consumers may struggle with comprehension or misunderstanding.



FRAMEWORK

Alongside this three-step testing strategy, all businesses need to have a number of policies and procedures in place to identify and manage risks to consumers and ensure fair outcomes that are user-derived rather than conjured up by the business. This framework will help to protect consumers and to promote confidence for being aware of the changes and working on fixing them by putting users at the heart of it; it can also provide a compass to manage the risks associated with your products and services and ensure that you are providing appropriate support to customers by engaging them for research and testing whilst also improving efficiency and reducing costs.



CONSUMER PROTECTION POLICIES

Businesses should have policies and procedures in place that spell out their dedication to safeguarding consumers and the steps they have taken to ensure fair results.

CUSTOMER COMPLAINTS MANAGEMENT

Businesses must have a strong structure in place for handling consumer complaints, including a method for documenting, looking into, and resolving issues. To guarantee that it continues to be useful, this framework needs to be evaluated and updated frequently.

MONITORING AND REPORTING

Businesses must have procedures in place, such as regular self-assessments, consumer research, and internal audits, to monitor and report on their compliance with the consumer duty.

RISK MANAGEMENT

To identify and manage risks to consumers, businesses should have a framework in place for risk management. To guarantee that it continues to be useful, this framework needs to be evaluated and updated frequently.

BUSINESS CONTINUITY PLANNING

To ensure that they can continue to run in the case of an unforeseen disruption, businesses should have a plan in place. This entails preparing for potential dangers to consumers and making sure their requirements are met in an emergency.

TRAINING AND AWARENESS

Businesses should educate their staff members about the Consumer Duty and the safeguards they put in place to ensure fair outcomes for their customers.

OTHER CONSIDERATIONS

As mentioned earlier, being customer-focused (or customer-centric) is a key strategic intent of most retail Financial Services organisations, by taking a strategic approach to Consumer Duty there is also an opportunity for genuine business differentiation. This regulation can be weaved in with a broader customer strategy that can help organisations generate improvements to their Net Promoter Score (NPS) and external trust measures which in turn can create a virtuous circle of customer loyalty and recommendation. When considering what to do next (or indeed whether to do anything more), the benefits that can be attained through an industry-leading implementation of this regulation should not be underestimated.