



connecting the future

# Getting ready for the FCA's Consumer Duty rules: What you need to know





**Alison Donnelly**  
Director, **fscm** and Project  
Regulator Lead  
**The Payments Association**



**Gaurav Gaur**  
Head of Commercial  
Payments Products  
**NatWest**

**Ahead of the FCA's Consumer Duty rules\* coming into force in July 2023, Alison Donnelly, Director at fscm and Project Regulator Lead at The Payments Association, interviewed Gaurav Gaur, Head of Commercial Payments Products at NatWest\*\*. Together they explore how payments firms and financial institutions can make progress with the implementation of the Consumer Duty, develop more outcomes-based objectives and ensure customers are treated fairly.**

### **Switching institutional mindsets from actions to outcomes**

The crux of the Consumer Duty, and how it significantly differs from previous consumer protection regulations, is that it requires firms to think about outcomes – and this goes beyond a simple checklist exercise. Banks and financial firms may be well-versed in meeting compliance obligations from an action point of view, but the FCA is now asking them to show evidence that the outcomes of those actions have not disadvantaged their consumers.

Because the FCA has not prescribed specific actions for firms to comply with, there is some wiggle room for firms in how they interpret any required changes.

According to Gaurav, the starting point for many firms will be to understand what it means to treat customers fairly. “Treating customers fairly was previously defined as equitable availability of products, ensuring that customers were treated in a fair and reasonable way. Now, we have to look at not whether we did the right things, but whether the customer ended up in the right position. And if we can see that the customer is not in the right position, then we need to fix that.

“The best analogy that I can draw on this is using our experiences as car drivers. We’ve all been driving for X number of years and after a point of time you don’t drive with your brain, you drive with your muscle memory. When I have to go past a

cyclist in order to take a left turn, I know I need to slow down and indicate to turn left. Nobody needs to teach me how to do that. But what evidence do I have that, in doing those actions, I did not disadvantage the cyclist? I don’t have any evidence, because my car is not equipped with a 360-degree camera to give me that evidence that I’ve not impinged on the cyclist.”

But this is essentially what the FCA is asking firms to do. In order to show evidence-based outcomes, firms need to put in place a 360-degree framework that will give them visibility over all of the relevant Consumer Duty touchpoints that intersect with their products and services.

“It’s creating a huge amount of work right now to identify all these areas. We assumed that by doing the right thing, we would get the right outcome. Now, the question is focused on the outcome of what you do, which is a different way of thinking for us,” Gaurav adds.

### **Implications of good customer outcomes, pricing and fair value assessments**

Providing evidence of good customer outcomes, pricing and fair value may throw up challenges and fundamental rethinks of how firms set prices for the products and services they offer.

Under the Consumer Duty, firms will be obliged to contact consumers and let them know of more suitable products and services.



“Did you, the bank, let the customer use one particular product when you knew that they would have been better off with another alternative?” Gaurav says, outlining some of the most pressing questions now facing firms. “What action did you take to ensure that the alternative was made fully transparent to them? How can you assure yourself that the customer made the free choice, rather than a choice made out of ignorance or your inability as a bank to offer the second product to them as aggressively as you offered the first product?”

“A number of firms charge standing fees for their current accounts. If they know that the customer has no activity in that account, they’re still charging standing fees. But is it the right outcome for the customer to pay for an account that they don’t use? That’s a tricky one. Complying with PSD2 requires banks to publish their tariffs, and tell the customer what the terms of the account are. They send invoices to the customers for their accounts before charging them. In that way, they’re complying with everything regulatorily.”

Undertaking a fair value assessment, for example, means firms need to evaluate whether individual products are the right products for individual target markets.

“Some firms have tariffs where they charge customers on the frequency of payments made, for example a customer who makes a specified number of payments a month will be charged a fee minus a percentage discount, with more discounts for more payments,” Gaurav explains. “But all of these payments are automated – there is no human intervention. Whether one payment is made or 500 payments are made, the overall transaction cost for you as an institution is the same. So why is your pricing different?”

“Potentially, the regulators could point to that pricing and say that you’re disadvantaging some of the smallest customers. Those are the customers that the regulator really wants to protect. How do you look at this through the lens of the Consumer Duty? Do you need to have a flat transaction fee for everybody regardless of how many transactions



they make per month? Will the Consumer Duty obligate you to move customers to a different account with better pricing, or remove profitable products altogether?”

Trying to achieve one outcome may inadvertently cause unintended consequences when trying to achieve others. A concern is that implementing the Consumer Duty will identify some products as being unprofitable, which will lead to them being withdrawn from the market. And that means less choice and functionality for key customer groups, which could then cause even more work for regulators further down the line.

There is also a risk that informing customers of alternative products could cross the line into financial and investment advice, as Gaurav highlights. “If a customer has a current account or savings account with £10,000 deposited, does the Consumer Duty compel somebody at the bank to call the customer and say: ‘You should put £5,000 of that into this high-yield savings or deposit account?’ That almost gets into an advisory situation.”

### Evaluating customer communication and contact approaches

The FCA wants firms to demonstrate that they’ve educated their customers about their choices. And here, the Consumer Duty requirements may conflict with consumer contact preferences and the potential to fall foul of GDPR, as Gaurav points out. “How do you approach the customer? Do you forever email or phone customers with different options? Firms will have to look at the customer’s chosen contact preferences in line with GDPR. The choices that the customer might have made in their previous engagement with you would allow you to then frame your actions and approach. But that’s where it becomes very complicated because it will vary not only by customer, but also by product set. You’re not going to find a script that tells you the answer.”

To empower their consumers with the right information, firms should evaluate how they support customers through their financial journeys, provide clear and timely communications, and



Because the FCA has not prescribed specific actions for firms to comply with, there is some wiggle room for firms in how they interpret any required changes.”

enable consumers to make informed decisions to pursue their financial objectives. Customer support should be knowledgeable, helpful and accessible through a variety of channels – email, mobile, post, etc.

Providing clarity in terms and conditions, simplifying language and removing jargon will help educate consumers to fully understand what they’re signing up for, select the right products for their circumstances, and empower them to make good financial decisions.

### Identifying and monitoring good customer outcomes

The FCA has made it clear that it expects engagement with the new standards from Board level down to product manager/owner level and customer support level. But preparing for the Consumer Duty should involve staff at every level of a firm to look through an outcome-driven lens rather than a functional action-driven lens.

“It is very important for senior leaders to be involved in this process. It’s tempting to leave this to consultants, but it needs to be done by the people who own the product, who live and breathe the product.

You need people with the ability to change their way of thinking, to think outside the box, to think from a regulator point of view and the outcome-driven point of view, rather than an action-driven point of view, or people who’ve just been kind of doing it for X number of years,” Gaurav explains.

“That’s where I go back to the analogy of the car driver who’s been driving for 20 years. You’ve got to teach them new tricks. But it starts at the top. It is a new way of thinking, which requires

the people who have the broadest ability to think across products and across customer groups to first set down the markers. Once that outline has been drawn, then the specialists can come in and fill in the colour.”

Firms can begin with evaluating one product against the four expected outcomes as an example, and then replicate that process across other products or customer groups.

“Use one product as an example, get comfortable that your answer for that one product is right and then replicate it. Do it one by one for each product first, then target market, and then outcome by outcome. Once you’re comfortable with one product, you can get to a product family, and then you start doing the read-across on that,” Gaurav explains.

The sheer scale of the reforms means the pace of implementation is challenging. There is no ‘one-size-fits-all’ answer to the multitude of considerations outlined above, as every firm and the composition of their customer bases will be different.

Ahead of the July deadline, firms will need to identify and prioritise issues to be addressed – fast. That in turn will create a backlog of work that needs to be done to fix those issues.

“We’ll have to go through quite a lot of iterations of this,” Gaurav adds. “But at least in the first instance, you’re identifying what the issues are. Then, as clarity develops, you can put a decision tree around them to then get to the right outcome. If you can demonstrate that you have got the mechanisms in place to identify customer harm, and the ability to take actions to fix that customer harm, then you’re in a good place.”

\* The Financial Conduct Authority’s new Consumer Duty rules will give the regulator the power to assess how banks, financial and payment firms are meeting their consumers’ needs, to identify products or processes that don’t deliver the right outcomes for consumers, and to take action against firms that fall short of the new standards.

The FCA expects firms to not only deliver good consumer outcomes, but to show proof of understanding and evidence of whether those outcomes are being met. All affected firms now have until 31 July 2023 to review their product ranges, communications and end-to-end customer journeys, and to evaluate changes to governance and accountability, management information and reporting, product design, pricing, distribution, servicing and staff training.

\*\* Disclaimer: The opinions expressed in this article are the personal views of the individual and might not represent NatWest Bank’s position on the subject.