



In partnership with Kroll



The Consumer Duty Board Report

Developing an effective assessment framework



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Foreword



Keith Richards
Chief Executive Officer – The Consumer Duty Alliance

Board reporting has always been a key management and governance function of any well-run business. Personally, I have often found the construction of board reports to be very time consuming, but always massively beneficial and time well invested.

Following the introduction of the Consumer Duty, boards of in-scope firms, or other governing bodies, are required to review a specific report, prepared by the firm, which explains in detail how it complies with their Consumer Duty responsibilities and evidence outcomes.

These ‘board reports’ must be prepared and approved yearly, with the first being no later than 31 July 2024, for new and existing products and services.

In addition, and unlike past regulatory guidance, the regulator’s expectation is clearly focused on firms using all information at their disposal to evidence that their strategy, processes, system, controls, and activities are directed at achieving good consumer outcomes.

This new Consumer Duty Alliance guide has been created with the help of the Financial Services Regulatory Consulting team at Kroll UK, as well as input from a panel of practitioners. We thank them for their time and expertise.

We hope this guide will offer the reader clear and pragmatic guidance on important subjects such as how to prepare your firm for reporting, the essential constituents of the Report, the assessment itself, including the role of relevant management information, and how to structure the Report to ensure it is aligned with the regulator’s expectations and sector wide good practice, recognising proportionality for small firms.

We should remember that the FCA has been clear that it may ask to review a firm’s report and the management information (“MI”) that sits behind it.

1. FCA speech 1.11.2023 Consumer Duty: Not once and done | FCA
2. As above

Therefore, we believe that firms should prepare their reports in the expectation of the FCA requesting and then scrutinising any preparation, together with the underlying evidence (which may include minutes of board discussions) to support the conclusions and the actions being taken. We do know that many firms have already made substantial progress in pulling together both the structure and content of their report.

We hope this guide will provide a useful ‘benchmark’ against which firms can assess the work they have done to date. If, however, you feel you need expert support, we also consider this guide offers focus and thought-leadership in establishing requirements on the Report – as the FCA has stated, “this will take time to do well, so don’t delay.”¹

I would also add that the FCA continues to reinforce that it sees Consumer Duty as an ongoing journey, not a “once and done event”² – personally, I believe this is the right message, as the majority across the profession have always sought to deliver good outcomes for clients and evidencing a firm’s Consumer Duty should be at the heart of every board’s focus and culture.

We hope this guide, alongside the broader support from the Alliance and our Affiliate support providers, helps firms gain confidence in their own interpretation of the regulator’s expectations and demonstrate their commitment to good practice in this matter, both now and in the future.



“We believe this facilitates an opportunity for firms to challenge themselves in their commitment to delivering good consumer outcomes, which are now hard baked in the Financial Conduct Authority’s (“FCA”) regulations.”

Foreword

Our Guide, Its Purpose and Applicability

The FCA has reaffirmed that Consumer Duty should be an ongoing process of improvement which leads to better outcomes for customers. The Consumer Duty board report (the “Report”) is a mandatory attestation and offers valuable evidence to the FCA that you have embedded the Consumer Duty within your business and frames how you are responding to your new obligations. Essentially it is your firm’s opportunity to bring everything together (that relate to customer outcomes) in one place, at least once a year!

The Report itself should be tailored to your firm and approved by your firm’s governing body which, in many cases, will be your board, although for the smallest of firms may simply be a sole practitioner. For simplicity we have referred to the “board” throughout the remainder of this guide to keep things simple.

In this guide, we offer a methodical, step-by-step process to help you in the development of the Report, which you’ll need to prepare each year going forward, with the first being delivered by the end of July 2024.

We offer a broad framework for the creation and use of the Report, therefore acknowledging the broad diversity of business models to which it may be applied. On this basis, this guide has been designed to be a tool, intended to accommodate the potential complexities of compliantly meeting the FCA’s expectations. It is important to recognise that one size cannot fit all, and the application of this guidance should be approached with a sense of proportionality.

Our partners at Kroll and other experts across the Alliance can offer objective and effective support in this regard.

In addition, if you need more help, please reach out to us at the Consumer Duty Alliance via → www.consumerduty.org/keep-in-touch.

Who Should Read This Guide?

This guide is aimed at firms within scope of the Consumer Duty and is designed for the benefit of board directors, including any supporting Non-Executive Directors (“NEDS”) or Independent Non-Executive Directors (“INEDS”).

However, this guide may also be of interest to the following roles (this is not an exhaustive list):

- Consumer Duty Champions
- Compliance Officers
- Risk Officers
- Operations Managers
- Legal officers
- Board Secretariats

Do You Need to Read This Guide?

To assess whether this guide will be of relevance and value to you, board members should consider how they may respond to the following questions:

- does your board understand the purpose of the Report and the regulator’s expectations in this respect?
- has a ‘dry run’ of the Report already been seen by the board?
- does the business identify and gather all the necessary data/MI it needs to adequately report on customer outcomes?
- do all your board members understand their role in approving the Report?
- are your second line (compliance) and third line (internal audit) providing the board with assurance in terms of the content and conclusions in the Report?
- has a date been set for the Report to be presented to the board, with sufficient time to review, challenge and make changes, if necessary? (remembering the latest the report must be approved is 31 July 2024)

If the answer to any of these questions is ‘no’ or ‘unsure’, we strongly recommend you continue to read our guide.

The FCA Finalised Guidance (FG22/5) and Additional Commentary

In this section we explain the published regulatory requirements.

Final Guidance

The FCA's Final Guidance FG 22/5³ - Final Non-Handbook Guidance for firms on the Consumer Duty describes its expectations about reports in terms of both the content and its use. It states:

Board Report

10.11 A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes for its customers which are consistent with the [Consumer] Duty, at least annually.

10.12 This assessment should include:

- the results of the monitoring that the firm has undertaken to assess whether products and services are delivering expected outcomes in line with the Duty, any evidence of poor outcomes, including whether any group of customers is receiving worse outcomes compared to another group, and an evaluation of the impact and the root cause
- an overview of the actions taken to address any risks or issues
- how the firm's future business strategy is consistent with acting to deliver good outcomes under the [Consumer] Duty

10.13 Before signing off the assessment, the board or equivalent governing body should agree the action required to address any identified risks, or any action required to address poor outcomes experienced by customers and agree whether any changes to the firm's future business strategy are required.

10.14 This assessment will be part of the evidence we use to assess a firm's compliance with the [Consumer] Duty. We expect to be provided on request with the Report and the management information that sits behind it.

Further to this, the FCA has been busy speaking about the Consumer Duty and the Report, for instance:

On 1 November 2023, the FCA published a speech delivered by Nisha Arora, FCA Director of Cross Cutting Policy and Strategy:

"This assessment should include the results of your monitoring on whether your products and services are delivering expected outcomes in line with the Duty and any evidence of poor outcomes. And before signing it off, your board needs to agree the actions required to address any identified risks or poor outcomes and agree whether any changes to your firm's future business strategy are required. This will take time to do well, so don't delay!

This assessment will be part of the evidence we use to assess a firm's ongoing compliance with the Duty. You'll need to be able to provide it, and the management information that sits behind it, on request."⁴



"...at least once a year your board, or equivalent governing body, must review and approve an assessment of whether your firm is delivering good outcomes for your customers..."

3. FG22/5: Final non-Handbook Guidance for firms on the Consumer Duty (fca.org.uk) (page 111)

4. FCA Speech 1.11.2023 Consumer Duty: Not once and done | FCA

The FCA Finalised Guidance (FG22/5) and Additional Commentary

And...

On the 6 December 2023, the FCA hosted a webinar to help firms understand their expectations now the Duty is in force. In respect of board reports, the FCA reinforced the following key points:

- they represent a **review** and **approval** as to whether or not a firm is delivering good outcomes for their customers
- the FCA does not expect board reports to be a tick box exercise, nor simply an attestation to them, but a core piece of internal governance
- the FCA does see outcomes monitoring as an essential input for the board report, which means boards need to gather and review the right information and testing as part of taking an increasingly data-led approach

The FCA went on to say: “we will be reviewing a sample of firms’ board reports, looking at the data they include to evidence consumer outcomes, how effectively the board has scrutinised the firm’s performance and what actions are planned to address any gaps in particular. We are going to feedback on what we see and that [feedback] will help to drive good practice across the industry more widely.”⁵

Much like they did with implementation plans, we are already seeing the FCA starting to engage on the Report, requesting drafts, mock-ups, and minutes from board meetings to see the extent to which the governing body is getting itself (and the business) ready.

5. FCA webinar 6.12.2023 (Consumer Duty: Next Steps)

Getting Ready

In this section we explore key topics which should help you plan, build, and finalise the Report as well as identifying some of the key players who may be involved in the creation and scrutiny of the Report through its governance journey.

Individuals Responsible for Identifying and Managing Risk

First Line of Defence

Business managers and other staff involved in the operations of the business are normally your firm's first line of defence and will be best placed to create the content of the Report, including gathering the necessary data and drawing initial conclusions. It is important that front-line staff understand their responsibilities in compiling the Report.

In practice, the Report is best developed and owned by a representative group of individuals from across the business (as well as input from other independent areas).

This is not only a practical and time saving approach, but also avoids the risk of group think, where group biases may skew the findings, inhibit constructive challenge, and ultimately lead to erroneous conclusions. Of course, for smaller firms, board members may well be the first line of defence.

Consumer Duty Champion

Your firm's Consumer Duty Champion should oversee the monitoring of your firm's performance in relation to the Duty and challenge the board on how the firm is embedding it and achieving good customer outcomes. However, it is important to recognise that this is a facilitation and steering role – the overall responsibility remains with the collective board and its members.

Compliance (Second Line of Defence)

Your compliance area may provide input to the Report, potentially as part of compliance monitoring activities but is not ultimately accountable for your firm's compliance and legal obligations. The second line should also provide the board with a summary opinion of the Report and the validity of the content within it, based on the FCA's guidance.

In smaller firms, an independent compliance consultant should provide the board with some assurance on the robustness of the Report and the validity of the content within it, based on the FCA's guidance, but responsibility for performance remains with management itself.

Internal/External Audit

Depending on the size and complexity of your business, you may have a permanent internal auditing function, or this may be outsourced. Regardless, this function acts as a third line of defence and provides boards with independent assurance, by investigating how well the firm's systems and controls allow for compliance with all relevant regulations. The regulator is increasingly expecting this form of discipline within regulated businesses, and it can act as a valuable resource for the board to assess its continuing compliance with the Consumer Duty.



Getting Ready

The Board

The primary role of the board is to review and approve the Report and ultimately take ownership of the content. Therefore, the board should apply the necessary degree of scrutiny, discussion, and (where necessary) direction, to ensure that the Report fairly and accurately reflects the degree to which your firm is meeting the FCA's expectations.

The board should also understand that it is ultimately responsible and accountable for your firm's delivery of good customer outcomes. For this reason, the annual report should provide evidence that the board is discharging its responsibility in terms of Consumer Duty and may act as a defence, should your firm be challenged in the future concerning how it is meeting its obligations.

Where the first line and/or the second line have identified areas for improvement, the board should also be assessing whether the actions taken, or planned actions, to address deficiencies are sufficient and likely to create the desired outcome.

Obviously in a smaller firm the preparation, review and formal approval could be the responsibility of the same person.

Non-Executive Directors

If appointed, a NED should take an active role in further scrutinising the Report, including the underlying information, conclusions, and actions.

If your firm has not appointed a NED, the board should consider other options for gaining an independent assessment of the firm's performance in relation to the Consumer Duty, such as a regulatory consultancy and/or, where available, ensuring internal/external audit have provided an opinion.

Engagement

As part of your engagement stakeholders across the firm need to be fully briefed. All those responsible for the creation and approval of the Report should understand their responsibilities and accountabilities.

Therefore, as part of your preparation (and assuming this has not already happened), we suggest that a short presentation is delivered in a Board Meeting or another forum, with the following proposed agenda:

- the purpose of the Report and regulatory significance
- the responsibilities and accountabilities of those involved
- what the Report will contain and will not contain
- the process of creation and approval
- the timeline
- any other specific items which the board would like further information on from the business

Timing

The FCA expects a Consumer Duty report to be produced annually, with boards expected to have approved their first report by the end of July 2024.

Ideally, you would have been gathering, interpreting, and acting on the data since 31 July 2023, and the Report would be based on this twelve-month period.

The board would normally expect a working draft (or dry run presentation) of the Report to be available ahead of the deadline, to assess and challenge the adequacy of the data and findings.

For this reason, you will need to start the process as early as possible, accepting that you may need to ask for, and review, additional information in respect of the months leading up to the Report's final approval. These timings should be shared and agreed with all stakeholders to the Report and the board.

Getting Ready

This may mean an adjustment to the board's meeting calendar or alternatively scheduling an extraordinary meeting, purely to review the Report and discuss its composition with relevant stakeholders, such as your business lines or Executive Committee.

All of these measures help to avoid the worst possible outcome for all concerned, which is reaching the 31 July 2024, and the board members collectively only seeing the Report for the first time, and at that stage finding its content is not sufficient for the board to make its attestation. This would put your firm, and the board in a difficult position.

You should also be mindful that the FCA has indicated, going forward, that it may selectively review these reports, the underlying information and that the board is scrutinising the performance of the business and what actions are planned to address any gaps that have been identified.⁶ Therefore, it is important to ensure sufficient time is given to enable the board to be entirely comfortable with the findings, conclusions and recommendations. Having to ask the regulator for an extension to the deadline may result in further questions about the board's degree of oversight more broadly.

We consider that, after the first report deadline has passed, the FCA may take the opportunity to quiz board members (e.g. the Directors or NEDs) on how the board, as a collective, gained sufficient comfort to make a formal attestation, based on the contents of the Report. It would be prudent to be ready for this eventuality.

Information in the Report

The findings and recommendations in the Report should be based on the information gathered by your firm between July 2023 and July 2024, as a minimum.

This information should have been captured methodically and systematically during this period and used in an ongoing assessment and to identify areas of improvement.

The Report needs to include a good mix of quantitative and qualitative information. It follows that you should also form an opinion based on your findings and not be restricted to the information that has been gathered, especially if you feel insufficient insight has been given on circumstances where poor outcomes have arisen.

“The responsibility for gathering and interpreting the information should be shared with more than one individual - ideally with a small group of individuals who work in different areas of the business. This approach can help to ensure that there is limited risk of bias, which could undermine the Report's conclusions.”

6. FCA webinar 6.12.2023 (Consumer Duty: Next Steps)

Getting Ready

Proportionality

The FCA has commented on several occasions that it expects firms to act in a “proportionate way”⁷ in its implementation and ongoing compliance of the Consumer Duty. This equally applies to the Report – its scope and level of detail should be reflective of the capabilities of firms in terms of resources, size and complexity of business, the complexity of products and services offered, together with the level of risk posed to its customers and the wider market⁸.

Our guiding principle is that your firm should take a risk-based approach and include sufficient analysis based on relevant risk factors, such as, but not limited to:

- the extent that the activities of your firm fall within the scope of the Consumer Duty
- the number of retail customers you deal with/ your market share
- the range of services you provide to retail customers
- the range of investment solutions you recommend to retail customers
- whether you recommend higher risk investment products to retail customers
- the proportion of your retail customers who have characteristics of vulnerability

There is no fixed formula in terms of numbers of pages or words. However, you should anticipate that your final report should be based on the levels of complexity of your business, the level of risk your firm exposes customers to and the extent to which your firm’s activities are in scope of the Consumer Duty. For example, any monitoring obligation will apply proportionately to a firm’s role in the distribution chain.

A risk-based approach is also something the FCA has stressed alongside a proportionate approach to the enforcement of Consumer Duty in respect of possible breaches. Rather than enforcing every technical breach of the regulations, they have indicated they will be focusing on the most serious harms.⁹

The FCA has also suggested that smaller firms might also consider commissioning an “independent critical friend”¹⁰, with sufficient understanding of the requirements of Consumer Duty, to provide impartial feedback on how the firm is meeting its obligations under the Duty. An extension of this idea might involve consideration being given to the creation of a ‘consumer group’ to provide direct feedback against a range of metrics.

7. PS22/9: A new Consumer Duty (fca.org.uk) (page 27)

8. This latter point is particularly relevant where a firm may hold a significant consumer share of the market/sector, such that any misconduct or failure by the firm may have a considerable impact.

9. FCA webinar 6.12.2023 (Consumer Duty: Next Steps)

10. FCA webinar 6.12.2023 (Consumer Duty: Next Steps)



Getting Ready

Language

As with all board reports, the language used in the Report should be simple, clear, and succinct.

The findings referred to in the Report should be based, as much as possible, on evidence rather than assumptions and explained accordingly. In addition, all findings should lead to a conclusion and, if required, a clear set of actions.

For example:

“Between July 2023 to July 2024 we identified a 5% increase in readability scores in our customer communications. This indicates a positive improvement in our 2022/2023 scores of 1%. However, the readability score fell in Q4 by 2%. To address this, all staff are receiving writing skills training in August 2024, and this will continue to be monitored throughout Q2 2024.”



Data/MI

The FCA has not explicitly defined what data/metrics firms should use within their reports, instead giving firms discretion to create key risk indicators that align with their target markets and distribution channels.

However, there may be a tendency to derive MI only from the data available rather than from what is needed to be able to identify whether good outcomes are being delivered. Where existing sources do not fulfil measurement of all defined outcomes, these gaps still need to be addressed. This may mean that systems or processes need to be developed to capture new data.

Ideally, an ‘MI-gap exercise’ should have already taken place as part of your firm’s Consumer Duty Implementation. If this has not taken place, it is never too late to make a start. A good place to originate such a task is to ask the board to look at the existing MI they receive, and to highlight further data they feel they are missing/need to evidence good customer outcomes. This MI may already be available in your business; if not, the process to start capturing this MI needs to be considered.

The FCA recognises that firms will have different capabilities and resources to undertake this monitoring. So, firms’ data strategy approaches will vary.

When determining what a proportionate data-driven evidence framework looks like, you should consider factors such as size, resources, and level of risk to consumers. The FCA expects firms to apply a similar focus to outcomes monitoring as they do to generating other information, such as MI for commercial purposes .

For more information on what should be tested and examples of MI, review the FCA’s Final Guidance (FG 22/5).¹¹

11. FCA webinar 6.12.2023 (Consumer Duty: Next Steps)

Consumer Duty Assessment

In this section, we suggest a Consumer Duty Assessment Process, which will enable you to build the content of your Consumer Duty board report.

We recommend that the firm approaches the production of the Report by taking four distinct steps:

Step 1:
Gather relevant information

Step 2:
Analyse and interpret the findings

Step 3:
Conclude on additional actions

Step 4:
Review the business strategy

Step 1: Gathering Relevant Information

While the requirement to gather and use MI is not a new one, since 31 July 2023, firms have been required to gather information which helps them to evaluate the extent to which they have been achieving the FCA's four customer outcomes, underpinned by the FCA's supporting cross-cutting rules, and ultimately the new Consumer Principle.

Step 2: Analysing and Interpreting Information

An important part of your process will be to identify whether the information you have gathered has identified any form of poor customer outcome. This means being open, being prepared to accept that things could have been done better and making an active decision to improve things.

The information used should be sufficient and comprehensive such that any interpretation can be as accurate as possible. It is also important to recognise that the information gathered at the end of the 12-month period may not indicate whether the firm has, or has not, met the requirements of the Duty – only the degree of performance in its delivery of good customer outcomes.

A helpful and consistent method of measuring performance is for your firm to create a series of desired outcomes.

Setting a Desired Outcome

Although the regulator has indicated what it expects firms to achieve, it is for your firm to decide what 'good' really looks like. This should be based on your firm's expectations, but also its limitations, resources, and capability.

The process of setting a desired outcome can be straightforward. It should be realistic, but also aspirational. After all, this is the standard against which your firm will measure itself going forward.

For example, "we want all our customers to feel that we exceed their expectations" may be unrealistic. A more realistic expectation might be, "we want 90% of our customers to agree that we have met or exceeded their expectations in the following areas..."

Importantly, the desired outcome needs to be owned by everyone involved in serving your customers, which is likely to be all staff in your firm. For this reason, there should be a common agreement as to the type and level of the standard your firm is applying.

Measuring Performance Against the Desired Outcome

To enable you to measure the performance of your firm against your desired outcome, relevant information should be gathered and accurately recorded. The information captured may be quantitative, such as number of customer complaints, but it may also be of a qualitative nature, such as nature and type of complaints, particular themes etc. Both are of equal importance and provide a rounded picture of the firm's overall performance in achieving good customer outcomes.

Consumer Duty Assessment

The example below shows how to measure performance against a desired outcome:

Cost and value

- as part of its assessment against the Cost and Value outcome, an investment management firm has reviewed its charges against the value it provides its retail investors. It considers that the overall charge should not exceed 0.75% of assets under management (“AUM”) up to £100,000, reducing to 0.1% for amounts of AUM of more than £100,000
- in this case the firm has decided that a fair approach to charging for its investment services is to do so as a percentage of AUM starting at 0.75% and reducing to 0.1%, based on the size of the investment being managed by the firm

Customer Understanding

- a firm has reviewed feedback questionnaires it has received from customers in relation to the readability of its customer communications. The firm aims to achieve at least a seven out of ten feedback score from its customers on this subject
- in this case, the firm has chosen a desired outcome of seven for the readability of its customer communications

Using Weightings

Performance information should then be aggregated, ideally with different weightings on different types of data.

For example, results from satisfaction surveys may be more significant than first contact resolution speed. To apply a weighting, simply multiply the performance by the associated percentage, corresponding to the degree of importance and probable accuracy of the result.

In this scenario, the use of customer research is likely to be more accurately done using readability software, and therefore the firm may choose to add a weighting which increases the score in relation to customer research.

Interpreting the Information

The gathering of information, setting a desired outcome and comparing these with your firm’s performance is of little practical use if you then do not put in place the actions to maintain or improve performance.

To do this, the root cause of the performance must be understood – not only to identify the causes of poor performance, but also to realise what has led to good performance and the evolution of best practice within the firm.

Outcomes and Root Causes

As part of your review of performance in relation to the Consumer Duty, your firm should be analysing its MI and routinely seeking to understand what the root cause of a particular issue is (or might be where the issue is considered foreseeable).

Root cause analysis is an approach where we identify the triggers or other causal factors which have led, or may lead, to an event.

Only by identifying the root cause, can the firm establish what actions it should take to change the way in which it operates, or indeed to preserve some of its good practices. In short, root cause analysis allows a firm to ‘turn off the tap’ at source, to ensure an issue does not keep reoccurring.

In most cases, there is rarely just one causal factor and in-depth analysis may be required to identify each factor. Even after more detailed analysis, a conclusion is likely to be based on the degree of probability of a factor directly leading to the identified result.

Grading

Although it is important to include qualitative and quantitative information in the Report, a grading system can help aid understanding and to focus the attention of the board on areas which are problematic.

A Red, Amber, Green (RAG) grading, may be sufficient. In some cases, where it is not possible to accurately rate performance, an alternative rating may be applied, such as a Blue (unknown) rating.

The Report should contain an explanation as to what these gradings mean, in relation to the desired outcomes which the firm has set itself.

Consumer Duty Assessment

Step 3: Concluding and Developing Future Actions

Having gathered all the information, relating to each customer outcome, comparing this with your set of desired outcomes and having undergone some root cause analysis, the next stage is to draw your overall conclusions in terms of how your firm has performed, in relation to each outcome and plan your future actions.

As explained earlier, the conclusions should be detailed in the Report, supported by relevant information.

Where possible, the process of drawing conclusions is best facilitated by a representative group of individuals from across the business. As the board will want to test these conclusions and review the supporting evidence, these conclusions need to be carefully considered before they are presented to the board. As stressed earlier in this guide, it is important to ensure sufficient time is given to drawing conclusions. As we have indicated earlier, we would also recommend that these are shared with the board well in advance of the Report being formally presented for approval.

Take Action!

One of the most important elements within the Report is the recommendation of future actions, which aim to address areas of identified poor performance.

As discussed earlier, the process of gathering information, interpreting it and taking relevant actions should be an ongoing process and not left to the end of the year. The production of the Report creates a good opportunity to review the actions your firm has taken during the last 12 months and for you to decide what further actions may be needed to improve performance for the following period.

As with objectives, all actions also need to be S.M.A.R.T. (Specific, Measurable, Achievable, Realistic and Timed). Any action also needs to have an accountable owner, who can ensure the action is adequately completed and can provide an update on progress where necessary to the relevant committee or forum.

The process is cyclical; your firm should use consistent measurements and standards to monitor the outcomes of any actions taken, as these outcomes may take time to improve. Nevertheless, it is expected that your firm will take action to address any problematic areas, on a risk basis.

Storing Information

All information gathered, including the analysis, conclusions and agreed actions should be accurately recorded and stored securely (ideally with password/limited access). The firm should operate some form of version control, being able to look back at earlier information. This is particularly important for monitoring ongoing performance and identifying trends.

Step 4: Reviewing the Business Strategy

In addition to using data to measure and improve your firm's adherence to the Duty, the current and future business model and strategy must be considered if it is conducive with creating good customer outcomes. The outcomes of this consideration must also be included within the Report.

With the 'bar' being raised, the board may need to challenge itself – is the firm's plan directly aligned with achieving good customer outcomes?

At a high level, you should review your business strategy and consider:

- is your strategy likely to result in a negative customer outcome or conflict with the FCA's cross-cutting rules?
- where this is likely to happen, what alternative approaches can your firm take in achieving its objectives?

Consumer Duty Assessment

The following example illustrates this point:

Increasing Profitability

- as a result of increasing operational costs, the firm wanted to maintain its profitability by increasing its fees to its customers. Although this may be necessary, charging fees to all customers equally may lead to unfair outcomes for some customer segments. Therefore, the firm has reviewed the range of services it offers its customers
- having completed a cost and value review for its various customer cohorts, the firm has established that it is undercharging for certain services. Consequently, the firm increased the charge of some services in line with the value they provided. The firm also reduced some charges, where these were found to be unfair. In addition, the firm removed some services which offered limited value (such as a monthly opt-in customer alert service, which analysis suggested was subject to minimal uptake or engagement) and were expensive to maintain
- overall, the firm was still able to achieve its commercial objective by making a range of changes to its services and charging structure and still providing (and being able to evidence) good value for money

Designing, Populating and Presenting your Board Report

In the previous section we explained the regulator's minimum regulatory requirements. In this section, we build on this by suggesting examples of designing and structuring the Report.

Relevant and reliable information is key to producing a satisfactory report. Ultimately, the Report should contain sufficient detail to support the findings and recommendations by the firm. The information contained within the Report should be:

- relevant
- material
- reliable
- understandable
- layered

Starting with the end in mind, you should construct the Report to achieve these qualities.

The regulator has not stipulated a fixed structure¹² that you should follow but placed the responsibility for the design of the Report with the firm. Although a lack of defined template or structure may, at first glance, be seen to frustrate the process, we believe it usefully allows you the flexibility to design the Report in a way that reflects your business model. As we have previously indicated, a one-size-fits-all approach is unlikely to work in this instance.

The following outlines how the Report might be structured for a medium sized firm:

Executive Summary

At the beginning of the Report include a summary of the key points:

- the purpose and scope of the Report
- the key findings from the analysis of the data over the period¹³
- an overall assessment of areas in terms of good and poor performance
- the extent to which the firm is complying with its obligations under the Duty
- at a high level, planned actions and accountability to address any under-performance
- an outline of any limitations or challenges, such as resources or financial constraints

The Purpose of the Report

At the beginning of the Report, explain its purpose, referring specifically to the regulator's expectations of boards or governing bodies producing an annual assessment of the extent to which your firm has embedded Consumer Duty and is meeting the FCA's four good customer outcomes. We suggest that you reiterate that the Report should be approved by the board and that it constitutes evidence of the extent of the firm's compliance with Principle for Business 12 (Consumer Duty), as at a point in time.

How the Firm is Meeting the FCA's Expectations

This section should include a short summary of how the production of the Report meets the regulator's requirements, outlined in its policy statement.

Here you might also want to include commentary about your firm's general engagement with FCA information or guidance and any specific examples where the firm may have had direct interaction with the regulator over the last 12 months in relation to the Duty.

12. FCA webinar 6.12.2023 (Consumer Duty: Next Steps)

13. Good practice would be the creation/inclusion of a Consumer Duty Outcomes dashboard, for ongoing reporting.

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The Methodology Used

Explain the process that your firm has gone through in gathering, analysing, and drawing conclusions in terms of how it has performed in relation to the four customer outcomes.

Include here any desired outcomes that you have used and the basis of any gradings that have been applied (e.g. a RAG rating).

Reference any sources of additional information, should a more detailed explanation be required.

Remember to keep this as clear and understandable as possible.

The Firm's Cultural Alignment with the Consumer Duty

In this section, include a short summary of how your firm's culture may have evolved as a result of the Consumer Duty. Give examples of how significant any changes have been, such as how the firm now deals with vulnerable customers, how it rewards its staff based upon customer outcomes or how it pays greater attention to customer feedback than perhaps it did previously.

It is worth bearing in mind the four pillars used by the FCA to measure culture (Purpose, Leadership, Remuneration and Governance) and emulating them in any summary.

You might also consider detailing membership of the Consumer Duty Alliance and support for the Financial Vulnerability Taskforce's Charter, or any other voluntary codes, and your firm's rationale for doing so.

Relevant MI

The most significant part of the Report is the assessment of the performance of the business, against pre-determined desirable outcomes. For simplicity, and clear regulatory alignment, it may be appropriate to subdivide this section into the relevant customer outcomes.

- product and services
- price and value
- customer understanding
- customer support

Within each section, for each customer outcome, there should be an assessment of performance of each of your firm's activities in relation to its dealings with retail customers, together with the root causes of good or poor performance and any completed or planned actions.

In this section include appropriate qualitative and quantitative data. This information must support the firm's assessment of its performance for each customer outcome. Where quantitative information is used, a simple explanation should be added. This is particularly important in relation to explaining trends.

We have explained earlier the importance of using appropriate, proportionate but sufficient information, so not to present an unreliable picture of performance. Equally, the priority of information used should be based on the level of accuracy and the reliability of the information itself. You should consider the merits of certain types of data and highlight its limitations so that over-reliance on the wrong data does not become an issue. For instance, customer feedback is useful in gauging customer satisfaction at various points in the customer journey, but factors such as sampling errors, survey fatigue and information asymmetry, can give false comfort.

14. For instance, has new or updated FCA information, such as publication of good/poor practice, led to a review of key parts of the business? If not, it should be clear why this has not taken place and any further review that might be pending.

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The regulator has also suggested that information should be layered:

- high level conclusions and actions
- supporting information and explanation
- detailed information, presented in tables, graphs, etc.
- sources of additional information.

Against each activity, there needs to be a grading (such as Red/Amber/Green/Blue) and a performance against a relevant and realistic standard, decided by the firm and (we would recommend) agreed in advance with the board.

You may choose to provide current/anticipated gradings before and after the planned actions to address any underperformance. The benefit of this approach is that it allows the board to consider whether additional actions are required to address an area of underperformance.

We would suggest that the detailed MI itself should sit in an appendix, with key information referenced where appropriate in the body of the Report.

How we Have Conducted our Business in Accordance With the Cross-Cutting Rules

You should include a summary of how you have acted in accordance with the cross-cutting rules, those being:

- acting in good faith to customers
- avoiding foreseeable harm to customers
- enabling customers to pursue their financial objectives

Planned Actions

In relation to any poor performance, the actions which your firm has delivered or are recommended to the board, should be detailed in this section. These actions should be SMART and owned by named individuals within the firm at a sufficiently senior level.

You may wish to identify two individuals, one who will be 'accountable' (usually a Senior Manager Function holder and/or a board member) and one who will be 'responsible' for delivery (normally a senior manager, often who reports into the accountable individual), usually overseen by the former in a management capacity.

As with all actions, there should be an explanation as to the reasoning for action and what the firm is seeking to achieve through it, with a clear link to how the action will improve outcomes for your customers.

Your Business Strategy

We have explored business strategy earlier in this guide. In this section, include your firm's business strategy and how this is specifically aligned to the requirements of the Consumer Duty.

Vulnerable Customers

Supporting vulnerable customers is a key focus for the FCA and is featured heavily in the Consumer Duty¹⁵. In this section of the Report, you need to outline your current policies and procedures in both identifying and supporting customers who have characteristics of vulnerability. Ideally, this section should include details of how these individuals' vulnerabilities have been flagged in back-office systems and examples of how certain customers have received more tailored support.

Here you might want to include any progress in respect of improvements in identification, monitoring, staff training, accessibility issues and communications.

You might also want to include support for the Financial Vulnerability Taskforce Charter, how you make customers aware of this support and draw their attention to its Consumer Guide to aid self-disclosure.

15. NB: In its 2024/25 business plan, the FCA has committed to a further multi-sector review of firms approaches to dealing with vulnerable customers. This should be considered a regulatory 'hot topic' area.

Designing, Populating and Presenting your Board Report

Compliance Oversight and Internal Audit

Although the second line (compliance) function does not own the Report, they should be given an opportunity in the Report to include details of any compliance monitoring it has undertaken, which may further support the findings and conclusions outlined in the Report.

This should also be the case for internal audit, where applicable, who should be offering an independent opinion on the board report, its supporting data and conclusions.

Conclusions

In your conclusion, you should provide an assessment of your firm's performance in achieving good customer outcomes.

You should clearly and succinctly highlight the performance of the firm, taking into consideration the extent of the firm's regulated activities, and material role in any distribution chain. This may include:

- whether the firm's customers have been recommended products or services which have met their needs, circumstances, and financial objectives
- whether the products or services offered, provide value for money
- whether the firm has provided its customers with clear, timely and relevant information in order that they may make effective decisions
- whether the firm is providing effective support to meet the needs of their customers

The data and analysis within the Report must support any conclusions or statements made at this juncture. The FCA has been very clear throughout the Consumer Duty consultation and policy process, that it expects good outcomes to be supported by relevant evidence. In short, ensure any claims can be substantiated.

Expectations of the Board

At the end of the Report, add a specific request for the board to review, comment and approve the Report.

In the event the board is not willing to approve the report at this time, perhaps because it feels more information is necessary before it can reach a decision, ensure governance mechanisms clearly record this fact in a transparent and auditable manner.

Any form of discussions, challenges or decisions by the board should be clearly recorded within the minutes of the Board Meeting. Keep in mind the FCA often requests copies of minutes of meetings to understand the extent to which the board is fulfilling its overall responsibilities.

Ensure your board (and any other supporting committees, where appropriate) meeting minutes are a reasonable proxy for evidence that your governance is necessarily robust and challenging on customer outcomes.

Good and Poor Practices

In this section, we have included examples of good and poor practice, in relation to preparing and gaining board approval for the firm's Consumer Duty board report. This list is not intended to be exhaustive.

Good Practice

- the board has been given a clear explanation as to the requirements of the Report and their responsibilities and accountabilities in this respect
- the board has been involved in the early stages, to enable the directors to explain their expectations and requirements to enable them to discharge their responsibility
- the firm has started its development of the Report several months before the Report is required, allowing it time to carefully consider the conclusions it has drawn based upon the information that it has gathered
- the Report includes a clear explanation of the methodology that it has applied and has used relevant information
- the Report has been produced through a collaboration of different business units (as appropriate, given the size of firm)
- the information included in the Report is based upon robust information gathered through questionnaires and file reviews
- the Report includes a clear explanation of the root causes of its findings
- internally agreed standards have been applied for all measurements, together with relevant gradings in the Report
- the Report includes an accurate, evidence-based summary of the overall assessment of the firm's delivery of good customer outcomes
- the Report provides a clear indication of what the priorities should be for the business, moving into the next period

Poor Practice

- the board is unclear on its responsibilities regarding the Report and believes the accountability for the Report's contents (and any conclusions it may reach) lays with the business
- the firm has started the production of its report in the month preceding the July Board Meeting
- the Report has been wholly produced by the Compliance Officer or Consumer Duty Champion without input from other stakeholders
- the information contained within the Report is purely a narrative and includes little evidence to support its conclusions or claims
- the Report does not show how the firm has performed during the course of the entire year (e.g. 31 July 2023 for 12 months), only at the end of the current year
- gradings of performance have been based on gut feel, rather than using a robust and agreed methodology
- the grading methodology is designed in such a way that a 'red' indicator is almost impossible to achieve, thereby creating a false or misleading impression of potential issues or harm. Conversely a 'green' indicator is defined very broadly!
- the Report does not include any details concerning the firm's current and future strategy and the extent it is aligned to the Consumer Duty
- the assessment of the firm's performance in relation to cost and value, is purely based on the amount it charges for advice services compared to the sector average. There is no consideration of non-financial factors
- although issues have been highlighted in the Report, no specific actions have been included nor the expected outcome of these actions
- where actions have been identified, the accountability and responsibility for ensuring those actions are overseen/completed are not clear e.g. there is no named individual against each action

Overall Summary and Conclusions

As we have previously indicated in this guide, the FCA's expectation is that a firm's measurement of its performance in relation to the Consumer Duty should be ongoing. It is therefore essential that sufficient governance concerning the ongoing monitoring and reporting of customer outcomes is maintained. Your firm can achieve this in a number of ways:

- the clear ownership, responsibility, and accountability for gathering relevant information
- the ongoing and evolving role of the Consumer Duty Champion
- a regular review of information gathered by a representative panel
- a regular report of progress to the board, ideally quarterly
- build on previous reports but avoid repetition.
- including Consumer Duty as a regular agenda item in board meetings
- capturing relevant details of discussions, decisions, and actions in Board Minutes

Remember that the purpose of the Report is to provide an indication of how the firm is performing against the Consumer Duty. Where deficiencies have been identified, these need to be highlighted, explained and realistic and timely actions agreed to address these issues.

Realistically, it is not envisaged that your firm will have a clean bill of health in the Report (in particular this first time around!), in fact evidence of only good outcomes, with no recognition of where room for improvement may have been identified, may be considered a red flag in its own right! It is highly likely that most firms will have areas where more could be done to enhance the outcomes customers receive. If your report is only telling a 'good news story', consider the optics of this from the FCA's perspective.

The regulator will want to see that firms modify and enhance their existing methodology and data gathering to ensure they are accurately assessing their adherence to the Duty. It is also an opportunity for the financial services industry to demonstrate how it is building on any prior customer-centric practices, such as those developed under the previous Treating Customers Fairly regime.

Sources of Additional Information

Further information and resources for firms on the Consumer Duty can also be found at:

FCA website

→ fca.org.uk/firms/consumer-duty

Consumer Duty Alliance website

→ consumerduty.org/helpful-resources/guides-support

Sign up for Consumer Duty Alliance newsletters

→ consumerduty.org/keep-in-touch

The Kroll Consumer Duty Insights can also be found here:

→ kroll.com/en/insights/publications/financial-compliance-regulation/consumer-duty-regulatory-insights



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