

Consumer Duty and Complaint Handling: Latest Insights for Lenders

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In a recent speech, Financial Ombudsman Service (FOS) CEO Abby Thomas voiced concerns regarding financial services providers' complaint handling and business practices.

The data underlying this speech reflects a surge in complaints related to irresponsible lending. Firms were also reprimanded for their inadequate complaint handling procedures. This speech is a clarion call for lenders – and [financial services](#) businesses more broadly – to be proactive in identifying and mitigating potential consumer harm and in reviewing their internal processes and the documents governing these processes.

Concerning trends

The FOS has seen a 70% increase in complaints compared to the previous year, with credit cards emerging as the most complained about product. Many of these complaints relate to irresponsible and unaffordable lending.

A case study involved a consumer with a known gambling problem being granted a third credit card. The FOS' decision in this case was to require the lender: (i) to write off the outstanding debt, (ii) to return all the payments that the consumer had already made (with interest) and (iii) to clear the consumer's credit file. This should serve as a cautionary tale for lenders.

Thomas observes that, despite the recently introduced Consumer Duty, the FOS still addresses complaints in which the *“customer experience has fallen far short of what it should have been.”*

In this article we set out a summary of how the Consumer Duty should inform lenders' conduct and complaint handling procedures.

Consumer Duty

Introduced as Principle 12 in the Handbook of Rules and Guidance (Handbook) of the Financial Conduct Authority (FCA), the Consumer Duty is a flagship initiative compelling firms to raise their standards when dealing with retail customers.

It is important to note that the Consumer Duty builds on and enhances many of the rules that existed before its introduction. For instance, prior to the introduction of the Consumer Duty, lenders were required

to carry out affordability assessments. These rules still apply but now sit alongside additional responsibilities imposed by the Consumer Duty.

The FCA's existing requirements included an obligation to carry out a thorough investigation of borrowers' income, expenses, debts, and financial behaviour. Under the Consumer Duty, lenders must be able to demonstrate that they have taken reasonable steps to determine that the credit is affordable for the customer. The objective is to prevent over-indebtedness and promote responsible lending practices.

The Consumer Duty is therefore more than a 'tick-box' compliance exercise. Financial services businesses subject to the Consumer Duty have a positive duty to "act to deliver good outcomes for retail customers". The rules relating to the Consumer Duty require firms to consider their customers' needs and characteristics at every stage of the customer journey. This is echoed in the FOS' observations regarding affordability.

Firms must not only act to deliver good customer outcomes; they must also be able to provide evidence to show that they are delivering these outcomes. This is made clear in a letter published by the FCA shortly after the introduction of the Consumer Duty, in which the regulator set out its requirement that firms monitor and review customer outcomes to identify shortcomings. Firms must therefore actively improve their internal policies and practices to bring them in line with the Consumer Duty.

Policies and procedures

The FOS' findings highlight that, despite the existence of the Consumer Duty, there remains a gap in customer experience that the FOS identifies as needing to be bridged.

Lenders' approaches under the previous rules are likely to be inadequate under the new rules. Firms must take a holistic approach to the Consumer Duty and must refocus their efforts on delivering customer-focused outcomes. This involves:

- implementing robust governance structures that integrate the Consumer Duty into strategic decision-making;
- ensuring that all staff, especially those in customer-facing roles, are trained to recognise and respond to signs of vulnerability; and
- designing products and services that are considerate of the customer's financial resilience.

For example, improving the guidance given to employees communicating with borrowers, particularly pre-debt collection, is one means of complying with Principle 12. This could minimise the incidence of poor customer outcomes (such as stress).

Complaint handling

Another area in which firms are failing to comply with the Consumer Duty is complaint handling. The FOS received over 15,000 complaints about irresponsible and unaffordable lending in the first three months of this financial year.

The FOS reminds financial services businesses that they should design policies and practices that are tailored to help customers. Lenders should ensure complaint-handling teams have a thorough

understanding both of the FCA's consumer credit rules and of the Consumer Duty. It is therefore important that lenders have well-drafted internal procedures to ensure their complaint handlers' conduct aligns with the FCA's expectations.

Further, lenders are encouraged to utilise their complaints data to enhance their understanding of customers' product comprehension and to improve their business' approach. The FCA expects firms to monitor their service quality and to seek evidence of any shortcomings. Using complaints data effectively can be a powerful tool in doing so.

Conclusion

The FOS' recent statements serve as a prompt for lenders to review and improve their internal policies in order to meet regulatory expectations. This could involve a review of a firm's complaints handling procedure or an analysis of whether a lender is meeting the standards set by the FCA's Consumer Duty.

For advice on the Consumer Duty or the FCA's lending rules or for a detailed review of your internal procedures from a compliance perspective, please contact [William Garner](#) and [Richard Ellis](#).