Panacea Adviser

CONSUMER DUTY OR JUST NEW TCF CLOTHES FOR THE EMPEROR?

Apr 2023

Based on 136 Responses

INTRO

In February the FCA published the final rules for Consumer Duty - PS22/9: A new Consumer Duty, alongside finalised guidance FG22/5.

Advisers have until 31 July 2023 to fully implement the Consumer Duty requirements for new and existing products and services, and until 31 July 2024 for closed products or services.

Is this latest regulation mission a case of the 'Emperor's new clothes'?

The FCA has said the consumer understanding and outcome of the most 'excellent' consumer duty should benefit firms by reducing complaints and driving healthy competition.

Its aim is to reduce poor outcomes by improving the information individuals are given about a product or service.

Therefore, between late February and early April 2023 Panacea ran a survey asking our community their thoughts on the Consumer Duty:

- How well prepared are they?
- Is it a huge regulatory advance, a complete waste of time or just a re-skin of the 2015 TCF initiative?
- Is it making business life more difficult?

136 responded. The following pages outline their views…

Q1. Have you made the appropriate changes to your business?

Answer	%
Yes, fully compliant	25.0%
Not quite, still some work to do	50.0%
No, still a lot to do	19.4%
What is Consumer Duty?	2.8%
N/A	2.8%

Comments included:

After running a practice for 38 years, and enduring numerous regulatory initiatives, I feel well qualified to say this is a complete waste of time. We consider we have a fiduciary relationship with clients

We're pretty much there. I have to say, though, it has been a ginormous waste of time. Any good business will already be doing the sort of things expected of us.

Finding it hard to understand what if anything we would change from how we conduct business now other than generating more tick box lists.

Too busy working to ensure that clients get the "best outcome" to stop and rework the whole business to ensure that clients get the "best outcome". A lot of the impact of Consumer Duty will result in clients getting a worse outcome or less clients getting the best outcome.

Who really knows what is wanted? It's just another 'rule' capable of arbitrary interpretation by capricious and self-serving bureaucrats to justify their continuing existence.

Q2. Have you, will you or are you reviewing the following business areas?

Answer	Complete	In process	Won't be doing	N/A
Processes that help to shape client recommendations	50.0%	35.7%	7.1%	7.1%
Adviser to client communications	22.2%	55.6%	0%	22.2%
Adviser to client service	36.4%	54.6%	9.1%	0%
Suitability of past product recommendations	5.6%	22.2%	61.1%	11.1%
Suitability of provider to client communications	23.8%	19.1%	23.8%	33.3%
Processes that help to shape client recommendations	50.0%	35.7%	7.1%	7.1%
Adviser to client communications	22.2%	55.6%	0%	22.2%
Adviser to client service	36.4%	54.6%	9.1%	0%

Comments included:

I feel that having CIP is the best way to evidence rather than researching on a per client basis. It can cover segmentation and philosophy.

We've been doing all this constantly since we were first authorised in 1995

Q3. Do you feel that Providers ARE proactive in offering support to advisers?

Answer	%
Yes	19.4%
No	47.3%
Unsure	33.3%
N/A	0%

Firms mentioned:

ABRDN

Fidelity

Prudential

Transact

Q4. Has the FCA support to advisers been helpful / easy to understand?

Answer	%
Yes	5.6%
No	75.0%
Unsure	19.4%
N/A	0%

Comments included:

They can't even explain it themselves I've seen webinars with the supposed top guy at the FCA to do with Consumer Duty and he seemed so unsure of himself and what the whole thing is about.

Much depends on what they retrospectively choose to judge us on.

Vague as always, they should be more prescriptive.

Too much jargon - not enough clear examples of what they think "it" looks like.

To start sending emails that 'clarify' is worrying in that something should be understandable without the need to clarify.

The only real FCA guidance was issued earlier this year when were supposed to have completed our reviews and then only because it appears no-one had a clue what they wanted over and above the existing principles.

My view is that its the FCAs way of handing all accountability of any issues to senior managers rather than themselves

Q5. Do you think that the Consumer Duty is something your clients will view in a positive light?

Answer	%
Yes	8.3%
No	61.1%
Unsure	30.6%

Comments included:

We have never had complaints constantly receive referrals not sure they will notice any difference.

Clients have no idea what any of the regulators impose on us, they either trust us or they don't and unfortunately still trust con men, the FCA regulations have never done anything to help anyone differentiate between the unscrupulous and the trustworthy.

Our clients won't see any change, except we have less time to look after them, our costs have increased and we are less sure of our will to continue in the business.

It's another expensive gout of sand into the already pretty gummed up gears of the spontaneous order of freedom and markets which will cost them money.

Don’t think they’ll notice any difference

Q6. Do you think the Consumer Duty will result in an increase in the cost of running your business?

Answer	%
Yes	91.7%
No	2.8%
Unsure	5.6%
N/A	0%

Q7. Would you pass on any increased business costs to your clients?

Answer	%
Yes	63.9%
No	16.7%
Unsure	66.7%
N/A	2.8%

Comments included:

One must do so. There has been so much extra red tape since RDR.

It is not the client's fault that regulatory costs are increasing, we always absorb the burden

Any increases will be proportionate and reluctantly charged but we have to be able to pay our staff and overheads.

We have to pass this on, it's likely to be in increased initial fees but will also mean we are less likely to discount ongoing fees.

Timewise it is going to be costly- initial implementation and then MI monitoring and reviewing going forward.

Q8. Do you think there will be a reduction in firm PI costs as a result of Consumer Duty?

Answer	%
Yes	0%
No	91.7%
Unsure	8.3%
N/A	0%

Comments included:

If back-office systems and pension comparison software and quote machines and customer relationship management software and cash-flow software and client portals and software to help with open banking could be compatible with each other at a more viable cost point, then potentially third party compliance outfits such as SimplyBiz could reduce the P.I. costs as due process is in place and underwriters might like such quality control.

Of course there won't I can't believe you even suggested this

FCA aren't proactive in working with PI firms

Q9. How do you think the Consumer Duty will impact consumers?

Answer	%
Positive	5.6%
Negative	16.7%
Neutral	66.7%
Unsure	11.1%

Comments included:

Like all the previous regulation it there will only be a positive impact through retrospective review of sales, the next scandal.

It could be positive is clients are encouraged to do "annual sweeps" from Annual Financial Planning Meetings from Work Place Pension Schemes into Personal Pensions which are into ESG and Impact portfolios for example: that the Pension Commission was envisioning that people pay in a minima £ 1,500 "Voluntary" pension contributions over and above the 8 per cent WPS and that the House of Commons Work and Pensions select committee was saying that very little voluntary extra contributions are being made and that basically roughly 60% of people on WPS only are heading for poverty in retirement is not good. Encouraging people to take advice and thus invest more has to be good; even better if the FCA could encourage more people to seek Independent Financial Planning. It will probably see some high charging vertically integrated organizations or Employee benefit consultants / consulting actuaries / pensions administration houses making hay from a captive audience.

How does any of this catch those who intentionally fail their clients either by recommending unsuitable products for the remuneration or outright criminality. Most of us do the best we can to achieve the right outcome for the clients

With more paperwork and unnecessary documentation there will be less clients helped due to time pressures.

Q10. Do you see Consumer Duty as nothing more than TCF getting a makeover?

Answer	%
Yes	83.3%
No	8.3%
Unsure	8.3%

Comments included:

Anyone in this business who isn't working towards the desired outcomes of Consumer Duty shouldn't be in it, unfortunately there are still too many sales operations out their purely target led.

It has much more of the feel of a red tape big stick.

It may mean that product providers who sell direct to the consumer could service obsolete products better so fewer products would turn out worthless which would be a good thing. If it means that product providers / manufacturers have to provide the client facing materials and service which is helpful it would be a great thing. So much depends on how it pans out and what the unintended consequences are.

I'm surprised that firms aren't already doing their very best by clients and disappointed that regulatory change is needed to ensure they do so!

Always wary of "rebadging" exercises -"oh look this is wonderfully different". Better to tweak, adjust and develop existing things rather then continually reinventing the wheel..

IMPORTANT INFORMATION

For more information visit:

www.panaceaadviser.com

www.panaceapartners.com

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