

3 February 2023

Dear CEO/Director

Implementing the Consumer Duty in the Mortgage Lenders and Administrators sector

The Consumer Duty is a significant shift in our expectations of firms. It introduces a more outcomes-focused approach to consumer protection and sets higher expectations for the standard of care that firms give customers.

We are sending this letter to firms whose primary business model is in the mortgage lending and administration sector to help them implement and embed the Duty effectively. This letter sets out:

- A reminder of the implementation timeline, key elements of the Duty and how it applies to firms
- Our expectations for how firms should embed the Duty, including relevant examples of good and poor practice
- Feedback from our recent review of firms' implementation plans
- Our approach to supervising the Duty and planned next steps

We expect the Consumer Duty to be a top priority for you personally. We want good outcomes for customers to be at the heart of firms' strategies and business objectives, and leaders have a key role to play here. Firms' Boards and senior management should embed the interests of customers into the culture and purpose of the firm.

We expect you to consider and discuss this letter with your fellow directors and Board, including the [Consumer Duty Champion](#) (or equivalent), and agree with them what further action you should take to ensure that your firm meets the requirements and expectations we have set out.

Your timeline for introducing the Duty

In July 2022 we published final rules and guidance for firms, and set out the following timeline for firms to implement the Duty:

- By the end of October 2022 firms' boards or management bodies should have agreed their plans for implementing the Duty
- By the end of April 2023 manufacturers should have completed all reviews necessary to meet the outcome rules and shared necessary information with their distributors
- The Duty comes into force on 31 July 2023 for new and existing products or services that are open to sale or renewal
- On 31 July 2024 the Duty comes into force for closed products or services

While our work on the Duty pre-dates the cost-of-living crisis, it is particularly important as consumers face increasing pressures on their household finances. Even before the crisis, consumers were being asked to make an increasing number of complex and important decisions in a faster and increasingly complex environment. But the crisis underlines the need for high standards and strong protections. It is more important than ever that consumers can make informed, effective decisions, act in their interests and pursue their financial objectives.

How the Duty applies to Mortgage Lenders and Administrators

The Duty applies to products and services offered to retail customers, and to all firms who determine or have a material influence over customer outcomes – not just those with a direct customer relationship. The definitions of ‘retail customers’ align broadly with the scope of our Handbook or relevant regulations in each sector (see the [Finalised Guidance](#) (FG) 2.3–2.11 and **Annex 1** below for a summary).

The Duty applies across the ‘distribution chain’, by which we mean the manufacture, provision, sale and ongoing administration/management of the product or service (FG 2.12–2.20). Firms’ obligations under the Duty should be interpreted reasonably and to the extent a firm can determine or materially influence retail customers’ outcomes. What is reasonable will also depend on the nature of the product, the characteristics of the retail customers, and the firm’s role. Annex 1 notes some distribution chains common among mortgage lenders and administrators.

Overview of the requirements of the Duty

The Finalised Guidance we published in July provides firms with a full explanation of the requirements of the Duty, including many helpful examples of good and poor practice.

The Duty requires firms to act to deliver good outcomes for retail customers. Firms must act in good faith towards customers, avoid causing them foreseeable harm, and enable and support them to pursue their financial objectives. Firms should consider the diverse needs of their customers – including those with characteristics of vulnerability (see FG chapters 4–5).

The Duty also introduces new rules and guidance to ensure that:

- **Products and services:** are designed to meet the needs, characteristics and objectives of consumers in a specified target market (chapter 6)
- **Price and value:** products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive (chapter 7)
- **Consumer understanding:** firms communicate in a way that supports consumer understanding and equips consumers to make effective, timely and properly informed decisions (chapter 8)
- **Consumer support:** firms provide support that meets consumers’ needs throughout the life of the product or service (chapter 9)

A key part of the Duty is that firms are able to define, monitor, evidence and stand behind the outcomes their customers are experiencing (chapter 10). This monitoring must enable firms to identify where customers, or groups of customers, are experiencing poor outcomes, and where this is the case firms must take appropriate action to rectify the situation.

The Duty does not have a retrospective effect and does not apply to past actions by firms. However, the Duty applies, on a forward-looking basis, to firms’ ongoing work for existing customers (chapter 3).

Our expectations for how Mortgage Lenders and Administrators should embed the Duty

It is for your firm to assess if it is currently providing customer outcomes which have gaps or fall short against the higher standards set by the Duty, and to identify what it needs to do to address those. Such gaps or shortfalls may be specific to your firm. However, at **Annex 2** we highlight some aspects of retail mortgage lending and administration that we presently consider especially important for firms in general.

Given the current cost of living challenges, I would draw out two headlines from Annex 2:

- ***The need for firms to deliver good outcomes for customers in financial difficulty.*** Although not yet in force, firms should be stepping up now in the light of the Duty to support customers in these straitened times and ensure they get good outcomes.
- ***The need for firms to provide fair value to retail customers.*** Firms should not underestimate the new requirements of the Duty about fair value (including the need to monitor and evidence the customer outcomes resulting), the enhanced extent of our interest in this, or the high expectations we now have of the rigorous and balanced analysis with which firms should be able to support their assessments of fair value.

Letters to other sectors (which are being published) are drawing out aspects that are important for the Duty in other parts of the market (eg mortgage intermediaries, consumer credit, retail banking, insurance, consumer investments), and you should consider those too where relevant to your firm's business, including where your firm plays a role in distribution chains in those sectors.

Feedback from our review of implementation plans

On 25 January we [published feedback](#) for firms on the implementation plans we have reviewed. This feedback contains examples of good practice, and areas for improvement, which will be useful for all firms to review as they implement the Duty.

Many of the plans we reviewed showed that firms have understood and embraced the shift to focus on consumer outcomes, established extensive programmes of work to embed the Duty, and are engaging with the substantive requirements.

However, we did also identify plans that suggested some firms may be further behind in their thinking and planning for the Duty. This brings a risk that they may not be ready in time or may struggle to embed the Duty effectively throughout their business.

We have identified three key areas where firms should particularly focus their attention during the second half of the implementation period (to 31 July 2023):

- **Effective prioritisation:** We saw some plans where it was not clear what the basis was for prioritising some implementation work ahead of other aspects. Firms should make sure they are prioritising appropriately, focusing on reducing the risk of poor consumer outcomes and assessing where they are likely to be furthest away from the requirements of the Duty.
- **Embedding the substantive requirements:** We saw some plans that suggested firms may have considered the requirements superficially or are over-confident that their existing policies and processes will be adequate. We urge firms to carefully consider the substantive requirements of the Duty, so that when they are reviewing their products and services, communications and customer journeys, they identify and make the changes needed to meet the new standards.

- **Working with other firms:** To implement the Duty on time, many firms need to work and share information with other firms in the distribution chain. However, some firms may need to accelerate their work on this important aspect of implementation.

I would highlight three further points for the mortgage lenders and administrators sector.

First, I would re-emphasise **the importance of firms in the sector not being complacent about the customer outcomes they currently provide or what the Duty requires**. In particular, there is a risk of some underestimating what the Duty requires of them, for example because they consider themselves to be 'smaller firms' (eg in comparison with banks and building societies). In fact, all firms in the sector must implement the Duty's standards and all should be progressing their baselining, gap analyses and correction plans, ahead of the deadline. That said, our Guidance does helpfully discuss considerations of proportionality around implementation: see, for example, FG paras 7.18, 8.7, 8.41, 9.5, 11.19 and 11.32.

Second, having recognised the scale of the task **it is important that firms in the sector ensure adequate resourcing of their work programmes implementing the Duty** including identifying early and in detail any resource shortfalls, especially in areas like technology, and establishing a detailed plan to address or mitigate those in good time before the deadline.

Third, **it is important that firms in the sector adequately assess the extent of the data needs associated with the Duty**. Whilst many firms will likely be able to build on their existing data and refocus it through the Duty lens, all firms should think deeply and afresh about the types and granularity of data they need to monitor and evidence outcomes under the Duty and drive further improvements in customers' experience. All firms must carefully design, source, and deliver the data and dashboards they will need for this (with an emphasis on the quality, focus and clarity of management information and indicators rather than their quantity), and establish mechanisms for governing and reviewing those and acting promptly on them.

As they oversee the implementation of the Duty, firms' Boards and management bodies will want to focus and provide challenge particularly on those general and sector-specific issues highlighted above, and on the other issues highlighted in our feedback, including Annex 2 below.

In the coming months, firms must tell us about anything we would reasonably expect notice of under Principle 11 (relations with regulators), including if they foresee that there will be areas of their business which will not be materially compliant with the Duty by the deadline.

Our supervisory approach and next steps

The Consumer Duty is a cornerstone of our [three-year strategy](#), and a key element of our work to set and test higher standards between now and 2025. It is being prioritised at every level of the FCA, from the Board down, and it will drive our supervision strategies and prioritisation.

As part of this work, we are developing a strategy to embed the Duty in our Supervision work with mortgage lenders and administrators and tackle key harms in the sector, as well as develop metrics to measure the impact of the Duty in the sector.

Firms of all sizes in the sector should be ready for us to include them in engagement. We will use a variety of tools, likely to involve bilateral firm engagement, including with accountable executives and Board champions; 'shallow' and 'deep' dives involving firm visits; and multi-firm work of varying scale and formality.

Specifically, with a likely focus on the products, services and issues discussed in Annex 2, we will:

- From April 2023, engage a sample of firms in the sector:
 - on details of the frameworks and methodologies they have used to conduct their baselining and gap analyses (informed by existing data) of whether customer outcomes are meeting, or falling short against, the higher standards set by the Duty
 - on specific instances of those baselines and gap analyses of particular products, services and customer journeys
- From September 2023, engage a sample of firms in the sector on:
 - specific instances of changes they have made due to their baselining and gap analyses, including their design and implementation of appropriate corrections and remedies of the gaps and shortfalls they have identified
 - specific instances where they concluded that change was *not* needed because their baselining and gap analysis showed that the Duty was already being met
 - the enhanced data, indicators, and dashboards that firms should by then be starting to use to monitor customer outcomes against the Duty
- From January 2024, engage a sample of firms in the sector on what their enhanced outcome-focused data and dashboards are now indicating about customer outcomes, and whether those outcomes are consistently meeting the Duty

We will continue our work to support firms' embedding activities in the run-up to the July 2023 implementation deadline. For example, we recently held roundtables with Consumer Duty Champions, including some from firms in the sector, to discuss our expectations of the role and any challenges they were finding in fulfilling it. And we are hosting a series of [in-person events](#) for retail mortgage and retail investment firms across the UK between February and June 2023.

Our programme of communications on the Duty will also continue, with further events and updates to our dedicated [web pages](#). We are working with an external research agency that will soon be sending a short survey to a sample of firms. This anonymised survey will help us understand the progress firms are making in implementing the Duty and will inform our ongoing communications to firms.

For more information:

- Read our **Finalised Guidance** ([FG22/5](#))
- Watch the [Lending and mortgages webinar](#) and [other webinars](#) we held in November 2022
- Consider our [feedback](#) on our **review of implementation plans**
- Visit our **Consumer Duty homepage** (www.fca.org.uk/firms/consumer-duty) where you will find additional information about the Consumer Duty, on-demand webinars and [podcasts](#), and have the option to [sign-up for email updates](#)

If you still have questions, please **email us** at firm.queries@fca.org.uk.

Yours sincerely

David Geale
 Director, Retail Banking
 Supervision, Policy & Competition

Annex 1 – How the Duty applies to firms

The 'retail customer' definition aligns broadly with the scope of our Handbook or relevant regulations in each sector. For example:

- For deposit-taking activities, the Duty applies to consumers, micro-enterprises, charities with a turnover of less than £1 million and a natural person acting in a capacity as a trustee if acting for purposes outside their trade, business or profession (in line with the 'banking customer' test in the [Banking Conduct of Business Sourcebook](#)).
- For payment service or e-money providers, the Duty applies to business conducted with consumers, micro-enterprises and small charities (defined as for deposit takers above).
- For mortgages, the Duty follows the position in the [Mortgage Conduct Business Sourcebook](#) and therefore applies to all regulated mortgage contracts within the perimeter but not to eg unregulated buy-to-let contracts or commercial lending. Where the owner of a mortgage book is unregulated and the regulated party is an administrator, the Duty would apply in an appropriate and proportionate manner to the administrator's function.
- For consumer credit, the Duty applies to all regulated credit-related activities (see the [Consumer Credit Sourcebook](#)).
- For insurance, the scope follows the position in the [Insurance Conduct of Business Sourcebook](#). The Duty does not apply to reinsurance, contracts of large risk sold to commercial customers or other contracts of large risk where the risk is located outside the UK. Nor does it apply to activities connected to the distribution of group insurance policies or the extension of these policies to new members.
- For investments, the Duty applies to business conducted with a customer who is not a professional client, as set out in the [Conduct of Business Sourcebook](#).

Firms also need to consider the Duty when declining to take on a *prospective* retail customer.

The rules apply to products and services. Services include, for example, a distributor's sales processes, operating an investment platform, operating a model portfolio service, debt counselling services and arranging transactions, and carrying on a regulated activity or activities connected to providing a payment service or issuing electronic money.

The Duty applies across the distribution chain for a product or service that will reach a retail customer. The following are examples of some distribution chains common among mortgage lenders and administrators:

<i>Product or service</i>	Manufacturer	Distributor
Retail mortgages	<ul style="list-style-type: none">• Mortgage lender• A firm that funds mortgage products and influences the design• A mortgage intermediary firm offering a service (beyond distribution), such as providing borrowers with regular updates on whether they could better their current deal	<ul style="list-style-type: none">• A mortgage intermediary firm advising on/selling a mortgage• A mortgage packager• A master broker <p>(Note these firms could be a manufacturer too, eg if they are materially influencing the design of the product)</p>

Annex 2 – Key things for Mortgage Lenders and Administrators to consider

1. This section discusses the retail mortgage activity of lenders and administrators.

Consumer understanding (FG chapter 8)

2. The consumer understanding outcome aims to ensure that firms' communications enable customers to understand their products and services, at the point of sale and throughout the life of the mortgage. Customers should also be supported by firms in their understanding of the options available to them and in their decision-making. In the context of the current economic environment, we highlight three examples where this is particularly important:
 - i) *Where customers are experiencing or anticipating mortgage payment difficulties.* Our mortgage rules already set out information that must be provided to customers in payment difficulties. But the Duty requires firms to go beyond compliance with this and to test, monitor and adapt communications to ensure they support customers' understanding and good outcomes.
 - ii) *Where customers are coming towards the end of an incentivised rate (eg a fixed rate).* For customers currently coming to the end of a fixed rate, the decision about what to do next is likely to be more difficult than it has been in recent years. So, firms need to challenge themselves about how well these customers truly understand the options available to them and the trade-offs to be made. For example, between cost and security when comparing rate type, and between shorter and longer-term fixed rates. Firms should also assess how easily these customers can find out more, and what more could be done to help and support them in this, both by the firm itself and through other firms such as mortgage intermediaries.
 - iii) *Where customers are considering consolidating other debt into a mortgage.* In the context of current cost of living pressures, it is particularly important that consumers fully understand the implications of consolidating debt into a mortgage. For example, these borrowers will typically be increasing the term over which interest is to be paid and putting their home at risk if they are unable to repay. And for products such as lifetime mortgages, where interest is 'rolled-up', their debt will further increase as interest compounds.
3. The Duty expects communications to be *tailored* according to the complexity of the products and the characteristics of the customers intended to receive them, including characteristics of vulnerability. So, firms need to: think hard about their customers and the information and support they need to make informed decisions about their mortgages; test that information to see how it is likely to work; and subsequently monitor how well it is working in practice.
4. Firms that distribute products through other firms will need to think about how their responsibility for consumer understanding applies throughout the distribution chain. While manufacturer firms are not responsible for the activities of their distributors, they are required to take all reasonable steps to ensure that their products are distributed to the identified target market and to review whether the distribution strategy remains appropriate. Where foreseeable harm is identified, firms must take appropriate action to mitigate that harm.

Consumer support (FG chapter 9)

5. We expect firms to provide support that meets their customers' needs at the point of sale and throughout the mortgage lifecycle, so that customers can use their products as reasonably anticipated, without unreasonable barriers, and with sufficient opportunities to understand and assess their options. We also expect the support firms provide to meet the needs of customers with characteristics of vulnerability, who may have additional needs or be at greater risk of harm if things go wrong.
6. So, firms need to be able to provide appropriate support to these customers through different channels or by adapting their usual approach. For example, some customers may be supported better through face-to-face or telephone channels, rather than online, when switching mortgage rate, or experiencing mortgage repayment difficulties.
7. There are some segments of the mortgage market where customers are more likely to have characteristics of vulnerability. One example is second charge mortgages, where customers may be more likely to have characteristics of financial vulnerability if, for example, they are unable to get a further advance from their existing lender due to affordability constraints or credit impairment. Another example is later life lending, through products such as lifetime mortgages and retirement interest-only mortgages. Both these product sets can have features which customers may be unfamiliar with (eg interest roll-up and drawdown facilities in the case of lifetime mortgages). In addition, a customer's needs may change over time. So, it is vital for firms to consider how best to provide appropriate support, both at the point of sale, and over the whole term of the product.

Products and services (FG chapter 6)

8. It is important that all mortgage products and services are fit for purpose and designed to meet the needs, characteristics and objectives of the identified target market. The target market should be identified at a sufficiently granular level. Firms should carry out regular reviews to ensure mortgage products and services continue to meet the needs, characteristics and objectives of the target market.
9. Firms should ensure the distribution strategy for the mortgage product is appropriate for that target market, and that the product is distributed to the customers it was designed for. Extra care should be taken, especially at the point of sale, if the product is being offered or sold to individual customers outside or on the edge of the target market. For example, if lifetime mortgages are offered or sold to customers at the younger end of the age range and where alternative products exist that may lead to better customer outcomes (eg where interest is serviced, rather than rolling up).
10. Firms should ensure that their relationships with other firms in the distribution chain do not serve the needs of the firms over customers and lead to poor customer outcomes, such as product recommendations or sales that are driven by commercial arrangements eg commission levels.

11. Firms should also consider how fee structures might incentivise poor conduct or poor customer outcomes. Chapter 5 of the FG sets out more detail on expectations around firms acting in good faith towards customers, including the use of incentives and remuneration structures where these are likely to cause detriment to customers, including via the distribution chain.

Price and value (FG chapter 7)

12. Lenders must be able to demonstrate that their mortgage products and pricing, including any associated fees and charges, provide fair value to customers in the identified target market.
13. Lenders should ensure that products don't have features which exploit customers by, for example, charging unjustifiably or unreasonably high fees or interest rates to groups such as those with a poor credit history, or older customers.
14. The Duty does not require lenders to carry out a separate fair value assessment for each distributor they use, but lenders should be able to form a view of the value impact of distributor fees from information they already collect (eg for the purpose of calculating the APRC in the mortgage illustration).
15. If this information causes a lender to have concerns about the impact on its own fair value assessment of the fees of a specific distributor, then the lender should share its assessment and concerns with that distributor and consider the need to alter its distribution arrangements (compare paras 9-10 above).
16. Lenders should also share relevant information with their distributors to help those firms discharge their own obligations under this price and value part (and other parts) of the Duty.
17. Given both the increased interest rate environment and potentially greater uncertainty about residential property market values, we expect firms active in the lifetime mortgage market to be actively considering whether these propositions are priced and structured to offer fair value overall.

Monitoring outcomes

18. Firms should expect to be asked by us to evidence how their business models, actions and culture are focused on the consistent delivery of good customer outcomes under the Duty. So, we will expect firms to monitor and regularly review the outcomes that their mortgage customers are experiencing in practice. This is fundamental to firms understanding whether their mortgage products are working as expected and consistent with the Duty and, if not, to enabling them to make prompt interventions to improve the borrowers' outcomes.
19. Firms need to identify relevant data to assess and monitor mortgage customer outcomes. Like other aspects of the Duty, we recognise that richness of data will vary according to the activities and size of firm. For mortgage lenders, helpful information includes the wealth of transaction level sales and book data that they report to us through Product Sales Data.
20. Other possible sources of data include customer switching and retention records, customer complaints and root cause analysis, customer feedback and survey data, feedback from other

firms in the distribution chain regarding the value of the product, the cost of providing the product or service including credit risk, and staff feedback.

21. We turn now to some broader considerations which firms should carefully consider from the perspective of the Duty across all their mortgage lending and administration activities.

Data analytics

22. Firms should carefully consider the requirements of the Duty as they make more use of artificial intelligence (AI), advanced analytics, and big data, including, among other things:

- The cross-cutting rules on acting in good faith and avoiding foreseeable harm, with a consequent likely need for firms to have a prior detailed strategy for these developments in analytics and for due diligence on such tools and their use which takes careful account of customers' interests (as well as all other relevant ethical, legal and regulatory considerations). See for example FG para 5.12 which discusses good faith in relation to AI.
- The consumer understanding and consumer support outcomes and consequent need for analytics-driven decisions to be communicated to impacted customers in a way that is understandable to them, with appropriate support provided to them (FG chapter 11).
- The rules and guidance on monitoring outcomes and consequent need to provide for thorough monitoring and understanding of customers' outcomes from such analytics, and for swift intervention if poor outcomes emerge.

23. From the perspective of the Duty, especially the cross-cutting rule on good faith, firms should also ensure that they:

- give customers a clear understanding of, and informed choice about, the use and/or monetising of their data by the firm and/or any third-party; and
- consider carefully the potential need, including from the fair value perspective, to compensate customers for that use and/or monetising of their data (see eg FG 7.30).

24. In this general area, firms will also wish to have regard to the joint supervisory authority Discussion Paper on artificial intelligence and machine learning ([DP5/22](#)), in particular:

- paras 3.9–3.11 and 4.7–4.25 which discuss considerations around consumer protection and fairness, including the risks of potential bias, vulnerability, discrimination, and financial exclusion, and issues around privacy and consent; and
- paras 3.12–3.14 and 4.26–4.28 which discuss potential adverse impacts on competition that in turn could impact the fair value of customer offerings.

Further considerations around fair value

25. From the perspective of the Duty, firms in the sector should carefully consider how they generate their revenue and profits (or intend to do so in the future) and the potential

implications of that for their customers' outcomes, including the value and treatment they will receive. This should include considerations such as, for example:

- whether revenue or profits are being (or will be) generated disproportionately from specific groups of customers (eg identified from inherent characteristics or behavioural ones)
- the potential impact of any plans by the firm to cross-sell to customers; we have seen cross-selling where the promoted products were appropriate for the original target market but not necessarily appropriate for all of a wider group of customers, creating a risk that the latter customers purchase products which do not meet their needs
- the potential impact of any cross-subsidies (intended or inadvertent) across, for example, products/services, customer groups, or business units, which firms should take care to understand, assess and monitor
- the potential implications of seeking to deploy more 'personal pricing' (eg through advanced analytics) and the potential effects of this (see the example under FG para 7.43)

Other general considerations

26. Firms in the sector will also wish to consider the following from the perspective of the Duty:

- The need to ensure that retail mortgages (or other products/services) which purport to be 'ethical', 'socially responsible', 'green' etc, or 'Sharia compliant' (or equivalent), are genuinely designed and run as such and match the claims made in promotions and distribution. Failure to do so would likely breach the cross-cutting rule on acting in good faith. However, even where the claims for such mortgages are genuine and delivered, the firm must also be able to demonstrate under the Duty that these mortgages provide fair value. In this context, firms will also wish to have regard to our proposal to add (to the ESG sourcebook) a general 'anti-greenwashing' rule for all FCA-regulated firms, products and services (see 6.9-6.10 in [CP22/20](#)).
- The need, in their design of consumer journeys, to avoid 'sludge practices' where these can cause bad outcomes by increasing friction (see eg FG paras 5.46, 9.19-9.27, 11.24). This is important in online choice architecture (but not only there) as firms move increasingly to digital channels.
- The need to continuously improve complaints handling and root cause analysis, but also to be more proactive than in the past in correcting and, where appropriate, redressing bad customer outcomes promptly.

27. Lastly, we note the foundational importance for the Duty and everything in this letter of building and maintaining the availability, stability and security of systems and processes – see, for example, our 2021 [policy statement on building operational resilience](#).