

Insurance industry Consumer Duty update – Fair value, FCA Dear CEO letters and multi-occupancy buildings

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On 31 July 2023, the Consumer Duty came into force setting a higher standard of consumer protection in financial services.

FCA

“We are bolstering our resources to ensure the Consumer Duty is embedded effectively within firms and central to their technology.”

FCA

“Our headcount has grown from around 3,800 at the beginning of 2022 to nearly 4,500 at the end of March 2023.”

The FCA has said that the Consumer Duty means that consumers should get:

- The support they need, when they need it.
- Communications they understand. Timely and clear information which does not bury important information in lengthy terms and conditions.
- Products and services that meet their needs and offer fair value.
- Helpful and accessible customer support.
- Firms to consider if they are in a vulnerable situation when dealing with them – for example this could be due to poor health or financial troubles.

The FCA has been closely monitoring how firms put the new rules into practice. Here is the whistle stop tour of the latest from the FCA and its plans for the future relating to [insurance](#).

Supporting customers in financial difficulty

With many consumers across the UK struggling with the cost of living earlier this year the FCA allocated more staff to ensuring firms support consumers who are struggling financially. ([FCA sets clear plan for next 12 months](#)).

[Customers in financial difficulty and the cost of living crisis](#) →

FCA

“Alongside the Consumer Duty, we are also planning to allocate additional staff dedicated to working with firms as they support consumers struggling with higher costs of living.”

Focus on fair value

Fair value is the relationship between the amount paid by a retail customer for the product and the benefits they can reasonably expect to get from the product. A product provides fair value when the amount paid for the product is reasonable relative to the benefits of the product.

On 20 September 2023 the [FCA called on insurers to take action on fair value and published its latest data](#).

Price and value is an area that needs to be delivered and assessed under the Consumer Duty. Firms must undertake fair value assessments as a way of demonstrating if the price a consumer pays for a product or service is reasonable compared to the overall benefits they can expect to receive.

The [FCA will continue its focus on how firms are implementing fair value requirements](#). Is your firm clearly considering where bundling does, or does not, provide value to consumers? For example, are bundles being priced higher than their constituent parts where there is no value to the customer from the convenience of the products being bundled together? Do your firm's fair value assessments refer to all relevant factors when assessing its value? The FCA has reviewed assessments that did not make any reference to the firm's profit margins on different products and services and has said that profit margins of an individual product or services are likely to be a relevant factor in assessing its fair value. Do your firm's fair value assessments consider the types of non-financial costs and benefits that consumers may reasonably expect to pay or receive? Benefits can include the quality of the product or service and level of consumer service. Non-financial costs might include factors such as the time and effort to make a decision about a product, such as amending or cancelling it.

Multi-occupancy buildings

Occupants of the Canary Riverside complex in London unwillingly paid £1.6M in secret commissions to a third party through its [insurance broker](#). This was part of a wider problem, where freeholders were incentivised to chose insurance policies, which leaseholders paid for, that offered them the biggest payday. £80.7m of broker commissions for multi-occupancy buildings was passed on to third parties in less than four years.

The Department for Levelling Up, Housing and Communities announced that it would ban the payment or sharing of insurance commissions with property managing agents, landlords and freeholders. Brokers were expected to immediately stop paying commissions to third parties where they do not have appropriate justification and evidence for doing so in line with its rules on fair value.

From 1 January 2024, insurance firms will be required to act in leaseholders' best interests, treat leaseholders as customers when designing products, and will be banned from recommending [insurance policies](#) based on commission or remuneration levels. Insurers will also be required to ensure their insurance policies provide fair value to leaseholders and provide important information about their policy and its pricing, including the detail of any commission paid to leaseholders. Leaseholders will have a new policy stakeholder status and there will be increased transparency requirements around insurance arrangements and remuneration.

This will be an area closely monitored by the FCA to ensure transparency and fair value for leaseholders.

Undervaluation of claims and long settlement delays

In December 2022 the FCA warned insurers about undervaluing cars and other insured items when settling claims. The FCA referred to evidence that consumers who have had their cars written off after an accident are being offered a lower price than the vehicle's fair market value. The FCA says that in some cases, this offer is only increased to the fair market price by claims staff. when a consumer complains. Offering a price lower than fair market value is not allowed under FCA rules.

In July 2023 the FCA sent a further warning about lengthy claims and complaints handling times and people not given appropriate settlements. This warning also referred to firms failing to show that they are adequately identifying vulnerable customers – including customers who are in financial difficulty. The FCA has said “Timely and fair claims handling is especially vital during the cost of living squeeze.”

The FCA will continue to focus on claims handling in firms.

20 September 2023 'Dear CEO' letters

On 20 September 2023, the FCA sent a series of 'Dear CEO' letters highlighting its priorities for retail insurance, wholesale insurance, life insurance and funeral plans.

The retail insurance letter highlighted key priorities, including:

Consumer understanding

- Ensuring that sales practices do not cause poor customer outcomes – concern that consumers may not understand that some ‘essentials’ home and motor policies offer lower levels of coverage than they may be used to. The FCA is focused on ensuring that material conditions or limitations for policies should be clear to the target market and, where appropriate, firms should test consumer understanding.

Fair value

- The continued sale of products not providing fair value. Including low claim costs as a proportion of premium and high commission levels where it is not clear how these have been assessed as being consistent with fair value.
- The payment of significant amounts of commission to third parties where it was not clear how those commission levels had been assessed as being consistent with fair value.
- Discriminatory pricing practices. Including firms earning higher margins from longer tenure customers.
- Failure to implement general insurance pricing practices rules.
- Substantial increase in insurance costs for leasehold property owners – rule changes to ensure that leaseholders are properly considered when products are being designed.

Vulnerable customers

- Weak identification of vulnerable customers. Ensuring firms are monitoring outcomes to ensure that they identify where customers who share protected characteristics are getting worse outcomes than other customers.
- Access to insurance for consumers with characteristics of vulnerability – consumers with serious pre-existing medical conditions and their access to the travel insurance market is highlighted. The FCA reminded Firms that sell travel insurance that in some circumstances they must signpost consumers to a directory of specialist firms.

Claims handling and consumer support

- Poor service or communication during claims processes - The Financial Ombudsman Service's data for April to June 2023 shows that complaints relating to motor and buildings insurance have reached their highest level in five years, with a rise in claim delays contributing to the rise.
- Undervaluation of motor claims. Issues with motor total loss claims, where cars are judged total write-offs.
- Poor business interruption claims handling.
- Instances of very long waiting times/settlement delays.

Oversight

- Operational resilience – particularly the level of governance, oversight and contingency planning on outsourced services.
- Improving oversight of Appointed Representatives and ensuring that firms are properly embedding the new rules regarding Appointed Representative, which came into force on 8 December 2022.

- Climate change risk impact – the FCA encourages firms to challenge the inputs and outputs of climate change models.
- Weaknesses in insurer and intermediary MI, especially failures to share information with the FCA and distribution chains which are longer than necessary.

For more information on how we can assist your firm in complying with the Consumer Duty, please contact us.

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