LIVING WITH THE NEW CONSUMER DUTY - AN EMPLOYEE PERSPECTIVE

With the deadline for implementing the new Consumer Duty requirements only a matter of months away and with implementation plans already submitted and signed off by boards, firms' preparations for CD should be well under way.

Unlike the Senior Managers and Certification Regime (SM&CR), where culture being the catalyst for culture change, arguably only became a central theme in the Financial Conduct Authority's (FCA) dialogue with the industry after the regulation was live, the FCA has been upfront in talking about Consumer Duty being key to cultural change from the outset. While this has given firms clear sight of the FCA's expectations, it leaves firms with a real dilemma; that being culture is notoriously difficult to change. This is because, ultimately, culture is the sum of the behaviours of every employee. And, of course, underpinning behaviours are the values and beliefs of every individual across the firm. Hence notoriously hard to change!

Opinions on how best to change cultural have, and continue, to vary but the FCA provided a template for 'top down' change by laying out the three cross-cutting rules and four consumer outcomes they expect firms to adhere to. These will create new policies, practices and processes in firms and, so the protagonists of 'top down' change would argue, these changes will engender behaviour change and so cultural change. However, this 'top down' approach to change skirts over the fundamentals that drive behaviour, i.e. values and beliefs, and while their working practices may have changed, will this create the mindset change in employees that will deliver deep-seated and lasting change expected by the FCA? This creates a potential conflict for employees in that they may believe one thing but be asked by their new working practices to do another.

This leaves me wondering how many project leads and sponsors got to this level of thinking in the plans they presented to their firm's Board for sign off at the end of October?

1. CONDUCT RULES:

All employees are subject to the Conduct Rules governing the baseline level of conduct and good behaviour expected of everyone working in financial services. Indeed, as part of SM&CR, all employees should have received training in what the Conduct Rules mean for them in their role. In my experience, in the rush to get SM&CR 'over the line', despite guidance from the regulator that Conduct Rules training should be role based, many firms contented themselves with taking a broader brush approach. The Consumer Duty provides the perfect opportunity for firms to revisit their annual Conduct Rules training. Of course, this will take senior management focus and resource to achieve. However, if these updated sessions are based on peoples' roles, particularly if the training uses real world role-based scenarios, they will better make the connection between their current behaviour and that expected by the higher standards being set within the Consumer Duty. And in doing so, this will make individuals consider their underlying values and beliefs.

2. CUSTOMER FEEDBACK:

A key principle within the Consumer Duty is that firms gather information from consumers on their interactions with firms. Some of this data gathering will already be in place, but I suspect a lot more will be needed before organisations can truly be comfortable they have sufficient data to validate that they are behaving in a 'consumer centric' way. If so, firms should think hard about taking these opportunities to gather not only macro data, e.g. what were the age ranges of customers purchasing this product and how does this correlate with firms' intentions when designing the product)? But also 'micro' data, e.g. gathering immediate feedback from customers after they have interacted with a member of staff and/or been exposed to supporting processes. Although rating requests are becoming more common post any type of consumer/firm interaction, e.g. texts asking 'how did I do?', at the risk of saturation, much more data could be gathered to help organisations gain feedback about how individual interactions were perceived by the consumer. In my view, this is potential gold dust for firms to challenge themselves and potentially change behaviours where opportunities exist and are highlighted through feedback.

3. EXISTING EMPLOYEE PROCESSES:

Depending on their business model, firms will also have access to other sources of data that, if looked at with fresh eyes, can be a valuable source of information about consumer behaviour. For example, to what extent is Persistency data, such as customer retention, attributable to employee behaviour? And if there is a hint that 'drop off' rates are higher in one area of the business than the norm, then surely this is the perfect opportunity to follow up with the customer and delve into why they cancelled their product and/or service.

Another example is Training & Competence (T&C). Most T&C processes were designed over a decade ago and I doubt many have been given a fundamental rethink since. For example, in the context of the higher standards demanded by the Consumer Duty and behavioural economics, to what extent are questions being considered for inclusion in adviser assessments around the achievement of good consumer outcomes? What overlay is being considered around behavioural economics and consumer bias? I suspect none! However, shouldn't this be a key source of potentially excellent data about employees and therefore surely it would be crazy if firms aren't even considering potential changes here? I may be being a little harsh here, but hopefully you get my point. The same could well be argued about file reviews and even upheld complaints. Finally, to what extent are firms using the Consumer Duty to revisit and challenge both the data fed into performance appraisals and even the nature of the appraisal process itself?

I am picking these examples to illustrate that firms already have multiple processes in place and, for me, the Consumer Duty provides the perfect opportunity to revisit and reinvigorate these processes; bringing them up to date and so in line with the regulator's expectations about how they might support the delivery of good consumer outcomes.

While I suspect the priority for most firms will be rethinking and re-engineering their processes to ensure they are both more consumer centric, and that they are set to gather relevant data to ensure post engagement assessments of suitability, I am concerned that a focus on employees, their competence and performance (which will be a massive factor in a firm's success around the Consumer Duty) is taking a backseat. Helping employees both understand the higher standards required of them and making the transition to this higher standard is a key pillar to the 'bottom up' change that will complement the 'top down' process change. Only by focusing on both will firms deliver the customer centric cultural and, ultimately, the culture change expected by the regulator.

I hope I'm wrong, but I wonder how many firms are really looking at their people processes, like the ones I have outlined, as a key pillar of their preparations? If relegated to a secondary activity, firms are leaving themselves open to 'failure' because no matter how much 'top down' change is enacted, without employees' 'hearts and minds' the cultural change expected from implementing Consumer Duty simply won't embed.

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