

Inside FCA Podcast: Interview with Ed Smith on Consumer Duty outcomes monitoring

OI: Hello and welcome to the Inside FCA podcast. I'm Ozge Ibrahim and in this episode I'll be speaking to the FCA's Head of Competition Policy, Ed Smith, about outcomes monitoring in the Consumer Duty ahead of the rules coming into force in July. Welcome back, Ed.

ES: Hello. Good to be back here.

OI: We've spoken a couple of times about the Consumer Duty on the Inside FCA podcast. First, in an interview about the price and value outcome and more recently to outline what the FCA expects of firms on information sharing.

So, the Consumer Duty requires firms to assess, test, understand and evidence the outcomes their customers are receiving. Why did the FCA put this requirement in place and what do you expect firms to identify or achieve from outcomes monitoring?

ES: So, we want firms to harness the benefits of the data and technology that they have to improve the services and understand the outcomes they achieve for their customers. As you know, the Duty is outcomes focused and a key part of that is that firms understand and evidence the outcomes their consumers are receiving. And that is in order that they can monitor ultimately, their compliance with the Duty and tackle any potential breaches at an early stage. Without the information or the evidence, it's not really possible for firms to know that they're meeting the requirements under the Duty. So, firms should have a strategy in place to ensure they have the right data and intelligence. As part of that strategy, we expect firms to identify any risks that are there, to good outcomes for customers and spot where customers are getting poor outcomes and really understand and drill down into the root causes of those poor outcomes.

That will help firms to manage any risks that they identify, and firms should have the processes in place to adapt and change products or services to address those risks as appropriate and that's clearly a key part of the Duty, and we expect to see firms really tackle those risks or tackle those evidence of harms that consumers are having. And lastly, firms should be able to demonstrate to themselves and to us how they have identified and addressed issues leading to poor outcomes and that could include, for example, evidence of any interventions they have made, what the outcomes of those interventions are.

So, for example, if they're adapting or amending their product design, or changing their charges, or using communications to prompt consumer behaviour, the evidence that those changes are having an impact on consumer outcomes will be important to that.

OI: And what are your expectations when firms identify risks and issues through their monitoring or find that customers aren't getting good outcomes?

ES: So as I said, I mean we would expect firms to drill down into the root causes of those problems. So, when they see evidence in the data of potential poor outcomes, they're likely to have to do some more research into that and drill down into what's causing those poor outcomes. It might be a failure of communication. It may be that consumers don't understand the product and are using it in the wrong way, but really finding those root causes, and then coming up with a strategy and suitable changes to address those root causes and being able to demonstrate that those changes are having an effect, ultimately, in addressing that poor outcome.

OI: And what type of information should firms gather?

ES: That will depend on the context. It will depend on the size of the firm, for example, the client base that the firm has and the products and services that they supply. So it's really up to the firms to use their judgment to identify what the appropriate data sources will be to evidence that delivery of good outcomes, right? We're going to be pragmatic and open in working with firms to develop the data and analytics to demonstrate that compliance. We don't expect them to have all of it on day one. As long as they can evidence good outcomes from day one, but then have a strategy to develop the data that they need to really understand those better in the future, that's fine and they can work with us. We're very open to that and very willing to work with firms to develop that data strategy and understand it.

OI: And what does good look like?

ES: So, as I say it depends on the context. It does depend on the size; it does depend on the client base and the products and services that are offered. Our finalised guidance which was published alongside the policy statement last July gives examples of the types of data that firms can consider. And a lot of that information is data that firms should really already have. So, for example, business persistence data, like customer retention records. By analysing claims and cancellation rates and details of why customers leave. It's quite a good source of data or understanding of where poor treatment of customers might be happening and what are the root causes of that. So, understanding those complaints, that claims, those cancellations rates is, obviously a good source of data. And data that most firms will usually collect. Customer feedback is another great example of data or information that firms can collect. So formal or informal feedback from customers, examples of complaints that they make. Those again will help firms identify trends or areas for improvement.

And as I said before, complaints root cause analysis, so what is driving ultimately those complaints? Well, is it poor communication? Is it poor value? Is it that customers don't understand the product?

So, really underlying root cause analysis will help firms to get to the bottom of where poor outcomes are happening and what's driving those. Finally, things like listening to staff feedback. So, often staff have very good, kind of frontline knowledge and understanding of where customers are finding it difficult to navigate a product, where they've got complaints or issues with the product or the processes that they have to work with. Listening to that staff feedback is often quite useful to understand, you know, what the customer outcome is and what the customer experience is. So there's a variety of things that most firms, I think, would probably collect or will have available to them that they can use.

OI: And you've spoken about what firms will use there. What about the documentation the FCA will be looking for?

ES: Well, we want them to be able to evidence good outcomes and as I said, there's a variety of data or evidence that they can use but we want them to be able to put that evidence into a clear compelling reasoning around why the customers are achieving good outcomes and where they have identified poor outcomes, what they're doing about that. You know, as I said before, we are open to working with firms, to our firms to develop their evidence base, and their information over a bit of time to make it more sophisticated. But, you know, even in the first instance of the Duty, firms should have some available data as I've just described to be able to evidence the outcomes that customers are getting.

OI: Will the rules apply proportionally to smaller firms?

ES: So, we recognise that firms will have different capabilities depending on their size, their resources, their activities. Some firms are much more sophisticated in the MI that they use and developed than smaller firms. So, while all firms should be able to deliver good outcomes for their customers, their approach to the Duty and the evidence that they use to demonstrate good outcomes can vary, and of course we don't expect a small firm to be able to apply the same resources or processes as a large firm will have access to the same sophisticated MI that a large firm would have. So, you know, our expectations for testing and monitoring customer outcomes are good examples of this. Clearly firms will be in different positions as to what they need to do and what they can do. Smaller firms often have simpler business models, would not apply the same sophisticated processes as large and more complex firms. So, in general, we'll expect firms with more sophisticated data strategies to have a more detailed approach and smaller firms that have less sophisticated processes, you know, but they will have access to some data which I had talked about before.

So, feedback from customers, feedback from staff, complaints data. Most firms will have that. One question a firm can ask themselves is whether they're using the same MI capabilities to evidence good consumer outcomes as they would to inform other elements of their business, such as product development, sales, marketing, revenues, profits. So, all of that data they collect to run their business and make sales, have they got the same level of sophistication to evidence good consumer outcomes?

OI: What does the FCA mean when it says firms need to monitor to see whether any group of customers receive worse outcomes compared to another group of customers?

ES: So, to answer your question, we do expect firms to consider consumers with characteristics of vulnerability when deciding which information to collect. So we have guidance already out on vulnerability and that does indicate, give examples of the sorts of information and data that firms can collect to monitor vulnerabilities in their consumer base. As well as that we expect firms to understand the differences in the outcomes across their customer base, right? So, they need to satisfy themselves that different groups of customers are getting outcomes that are compatible with the Duty and we expect firms to be able to monitor distinct groups of customers to see whether they might be receiving worse outcomes than others. So, for example, long-standing customers are often an area where customers get poorer outcomes, because they tend to be more inert. They may not switch around as much and therefore, they're more prone to getting what we call poor back book outcomes, i.e., they've sat on the product for a long time and not switched and as a result, the product value becomes less good for those. Sometimes customers from different socio-economic demographics can get poorer outcomes. We're very conscious of things like the poverty penalty, for example, where customers pay more because they haven't got enough available cash. That's a common issue as well in financial services. It may be that customers from different geographical regions might get different outcomes or customers who buy a product through a different distribution channel, you know, if they buy it through a broker or intermediary, they can often get different outcomes as a result of the commissions that they pay through the intermediary and that's part of the Duty, is that manufacturers also have an understanding of the value that that intermediation brings and that that represents fair value. That's not a definitive list. We want firms to use their judgment about how they monitor different segments and different customer cohorts, but, you know, look at the price and value outcome, for example, we've said in our guidance that the Consumer Duty rules don't require firms to charge all customers the same amount.

However, where there are differences in prices charged to different groups of customers, firms need to consider whether the price charged to each of those groups provides fair value to those different customer groups. So, you know, they need to be aware of those differences and understand those differences and satisfy themselves that those differences are appropriate for fair value. Each of those customer groups is getting fair value. So that's important and therefore, it is important for firms to be able to identify those different groups and be able to monitor those different groups through the data.

OI: Does this just apply to those with characteristics of vulnerability, or does it go wider? Because it sounds like it does go wider.

ES: It does go wider, yes. As I said, we have specific guidance around vulnerability, and we definitely do expect firms to consider customers with characteristics of vulnerability in the data they collect. But as I said before, there's going to be different groups of customers outside vulnerability. Long-standing customers, back book customers, customers that might come from different socioeconomic demographics that also need to be understood. And firms need to reassure themselves that those different cohorts are each getting kind of good value, good outcomes from the products and services. So there are definitely different cohorts of customers that firms should be monitoring as to their outcomes.

OI: And to what extent do you expect firms to proactively monitor customers' protected characteristics?

ES: So, you know, obviously there are legislative requirements under the Equality Act, under data protection and firms should clearly ensure they're aware of their obligations under that legislation and collect data in line with those obligations. We're conscious, for example, that collecting and monitoring data about customers' protected characteristics is not always going to be possible. However, where firms do already collect that data, you know, we would expect them to use that to monitor differences in outcomes between different groups with different protected characteristics. So, where possible, you know, where they have that data, firms should be using it to monitor any sort of poorer outcomes amongst different groups. The requirement to monitor outcomes doesn't interfere with the requirement to comply with the relevant legislation, be it the Equality Act, or the Data Protection Act, but firms should really assure themselves that they are complying with the legal obligations under, under the other data. As I said in relation to vulnerable customers our guidance FG21/1 also includes some further data protection considerations in relation to vulnerable customers.

OI: And how do the rules apply when services have been outsourced to a third party or when firms don't have a direct relationship with the end customer for example?

ES: So in general, when firms outsource activities to third parties under our rules, the firm remains responsible for compliance and that applies to most of our rules as well as the Duty. But they should, first of all, when outsourcing services consider the Duty and whether or not that act of outsourcing in and of itself does create the potential for impacting on customer outcomes. So, the processing itself of outsourcing should be thought of through the Consumer Duty lens. Beyond that, the firm's themselves that are outsourcing these activities are responsible and accountable for complying with the Duty and applying the Duty to outsourcing and third-party arrangements. So, this means that firms will need to have arrangements in place with our outsourcers to capture any data that they need to demonstrate good outcomes and they'll need to monitor that data and ensure that the third-party outsourcer is collecting it. Whether the third-party provider is also an authorised firm carrying out a regulator activity, so an example might be debt collection. Both the firm who are monitoring that activity and the third party, both of those will need to be able to demonstrate good outcomes. So the outsourcer and the third party firm will both be required to demonstrate good outcomes.

OI: How do rules interact with existing reporting and management information requirements on product governance in certain sectors?

ES: So, that's a really great question. It's a question that's come up throughout the implementation period from many firms. So, where a firm is subject to existing requirements which already meet our expectations under the Duty, and those rules include monitoring requirements, then firms can follow those existing monitoring requirements to meet the requirements under the Duty for those outcomes. So, monitoring should form part of the wider assessment of whether firms are delivering good outcomes. So, for example, the Duty's products and services and price and value outcomes shouldn't be new to firms in the general insurance sector or pure protection firms. So, if those firms are already complying with the PROD rules and for general insurance firms, if they're already complying with our general insurance pricing practices interventions, then they'll already be meeting our expectation under these two of the Duty's four outcomes. So, the price and value and the products and services outcomes. So, under PROD and under our GIPP interventions, they already capture two of those monitoring requirements under the Duty.

OI: And what governance do you expect firms to have in place then surrounding outcomes monitoring?

ES: So, we expect firms or equivalent bodies to ensure that the interests of their customers are central, really embedded into their organisations. So, boards, governing bodies should ensure that the Duty is really considered in all relevant context. So all decision making which can impact on customers, be it marketing decisions, product decisions, pricing decisions, the Duty should be embedded throughout all of that, and we would expect boards to ensure that that's the case.

We have also stipulated that boards should have a Consumer Duty champion who helps to ensure that the Duty is being discussed regularly, raise relevant questions, you know, probes the data, ensures that actually outcomes are good for customers and where necessary correcting any breaches.

So, for example, firms should be considering the impact of remuneration policies on delivering good outcomes for customers, ensuring customer outcomes, so it's a key lens for the risk and internal audit function in the firm. So those functions should be carrying out compliance activities in relation to the Duty and looking at customer outcomes. Firms should also ensure that for example, staff incentives, or performance management frameworks are designed in a way that is consistent with ensuring good outcomes for customers. Finally, and this is really important actually, there's a requirement for boards to regularly review an assessment of whether the firm is delivering good outcomes for its customers. So, on an ongoing basis, boards need to be engaged with the Consumer Duty and looking at the assessments of whether they are meeting those good consumer outcomes.

OI: And we've spoken about monitoring, but not the frequency. How often do you expect firms to undertake outcomes monitoring and when should they start?

ES: So, we will expect boards to review the assessment of Consumer Duty compliance at least once a year. So, that needs to be on an annualised basis to be reviewing that assessment of good consumer outcomes. That assessment should include the results of the monitoring. So, the evidence that the firm and data that the firm is using to evidence those good outcomes. So, it should also consider evidence of poor outcomes, right? So, where customers are receiving bad outcomes or where there's differences in the outcomes that different groups are getting, there should be an evaluation of the root cause of that and what the impact of that is on the customers. And finally, you know, what are the corrective actions that the firm is taking to address where they see those poor outcomes? What's the solution to that and how are they monitoring that solution?

So, we expect really that, as I say boards have an ongoing monitoring function and role. And finally, the board should be considering how the firm's future strategy is consistent with the Consumer Duty. So clearly one of the functions of the board is to consider the strategy of the firm. How does that actually impact good consumer outcomes? And are they satisfied that that strategy is consistent with their requirements under the Duty?

OI: And finally, do you expect firms to have the capability in place to monitor outcomes from day one? Which is, of course, the 31st of July.

ES: So, when it comes into force, and that's not far off, firms should be able to show us that they are acting to deliver good outcomes and protecting consumers from harm. So, they need to show they're equipping customers with the communications that they can understand, they're providing products and services that meet their needs and offer fair value. That's all of the outcomes under the Duty. Because it's outcomes-based, you know, a key part of the Duty is that firms understand and evidence those outcomes. So, that will enable them to monitor the compliance on an ongoing basis and to tackle any breaches at an early stage. So, as I said before we want firms to use their data, use their technology to improve those services. So, we do expect firms to have the capabilities to monitor outcomes when the Duty comes into force. However, we also recognise that firms will have longer-term ambitions to improve things like data capture, systems functionality.

We also recognise that the speed of technological change is very fast in some of these areas, and particularly in the areas of data, data capture, data analysis. So, what we think is that, you know, firms will also have a strategy going forward to be able to improve their data and monitoring capabilities and use better types of data over time, and we're very open to supporting firms to develop that data, to develop monitoring capability over time. And we're very open to the discussions and we should really have discussions as part of that exercise about how firms intend to make data capture more sophisticated, more granular to understand those outcomes better. So, we don't expect, you know, brilliance from day one, you don't expect anything perfect. But firms, from day one, should be able to use some types of data to monitor and assure themselves that customers are getting good outcomes or identify where they're not getting those good outcomes. And then, on top of that, have a strategy for developing their data, their systems over the long term to be able to monitor those.

OI: You mentioned support there. How would the FCA do that?

ES: So, we would expect within the supervisory relationship, supervisors to be having conversations with firms about the sorts of data that they are collecting and that they can use now, and the sorts of data that they anticipate they will be able to develop in the future as, you know, as their systems change or as they get more sophisticated data in. So, those conversations need to happen with supervisors as part of the ongoing supervision of the Duty within firms. And as I say we are open, very open to having those conversations.

OI: Thank you for your time, Ed. You can find more on the Consumer Duty on the FCA website. For now, I'm Ozge Ibrahim. Join us again soon on the Inside FCA podcast.

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