

Session Two: Business Success in a Regulated World

HEADLINE SPONSOR



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Sarah Conway

FOS

Trending statistics and overview of
automotive complaints

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About us

- Set up by Parliament to resolve complaints in 2001
- Duty to resolve complaints on what we think is fair and reasonable in all circumstances of the case
- Our powers are set out in the Financial Services and Markets Act 2000
 - Part XVI
 - Schedule 17

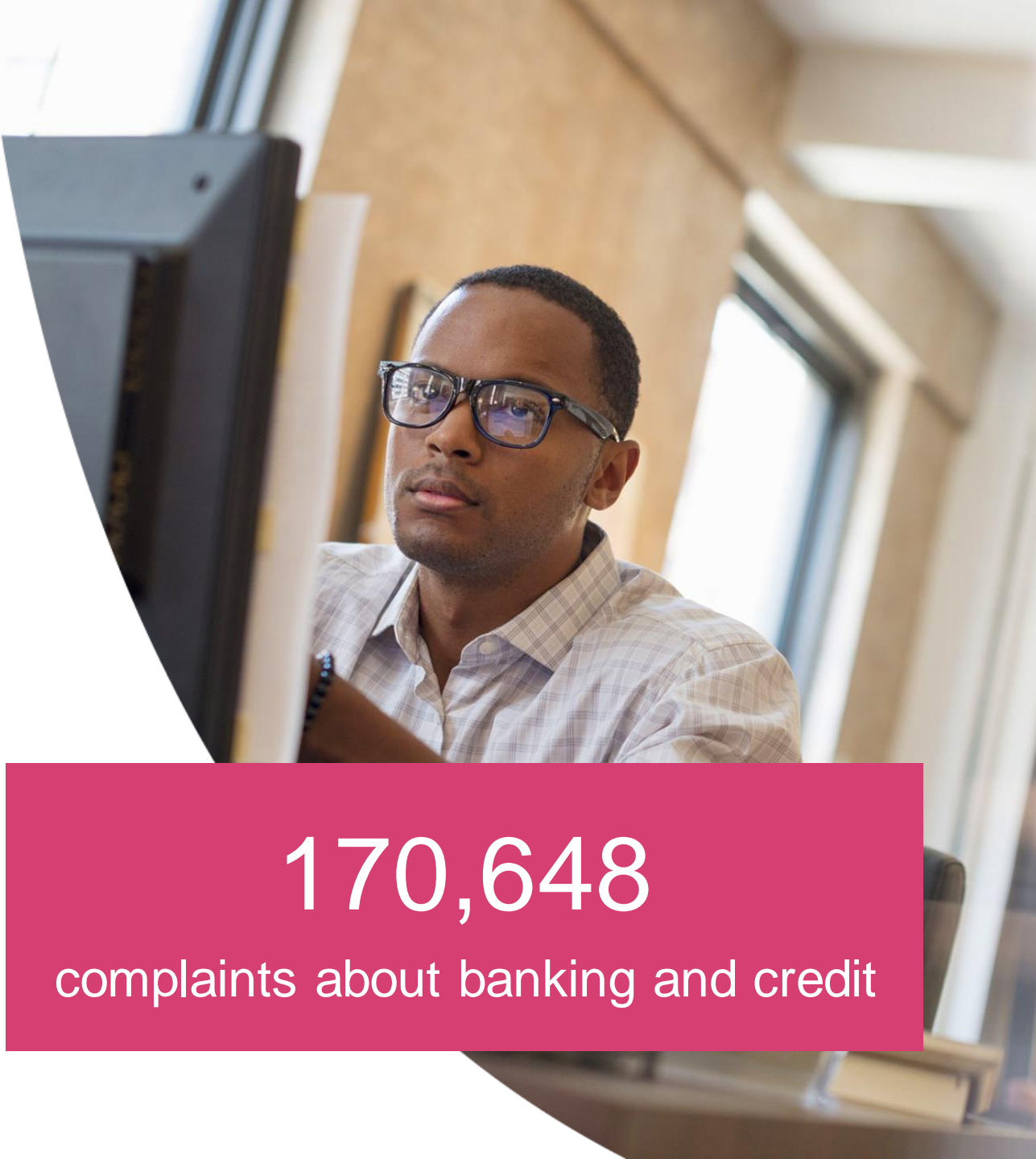


Annual Complaints Data 2020/21

278,033
New complaints

247,916
Resolved complaints

40%
Uphold rate excluding PPI



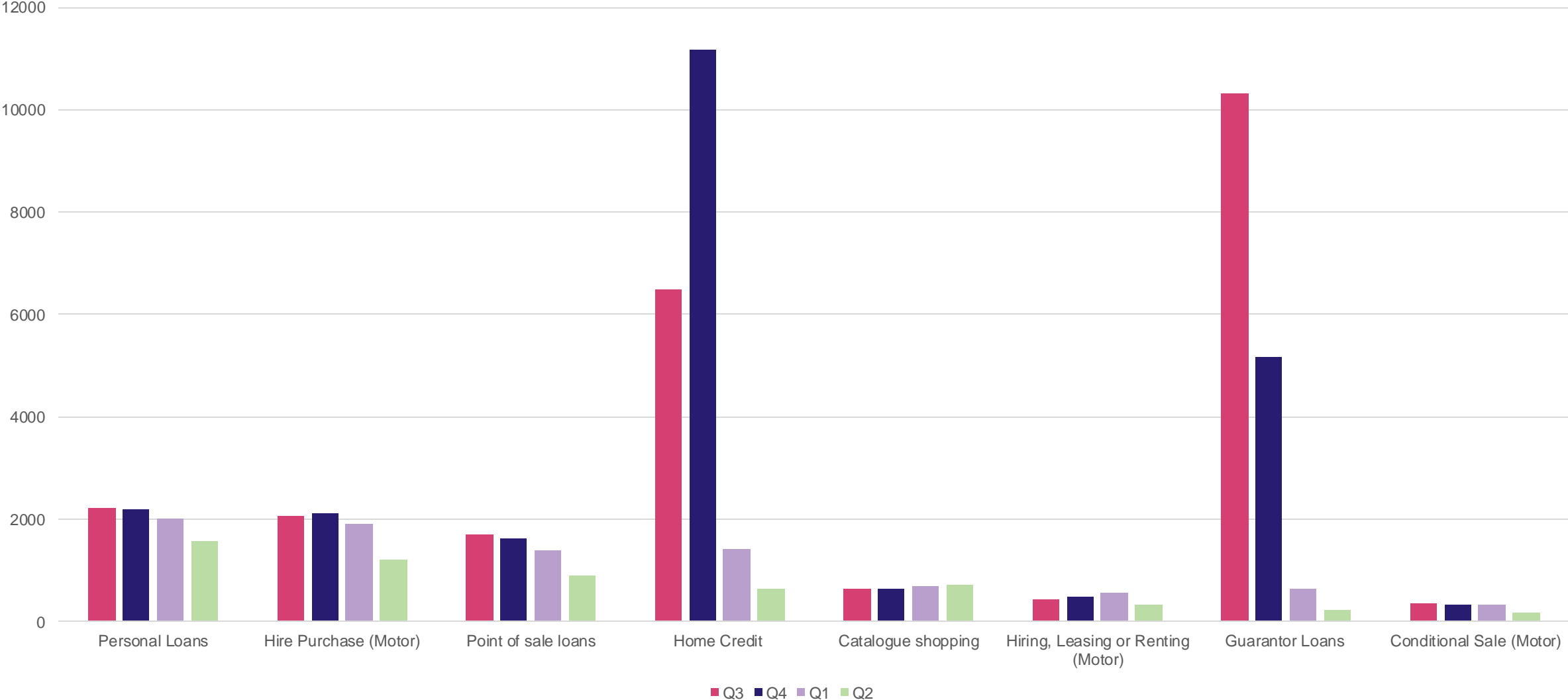
170,648
complaints about banking and credit

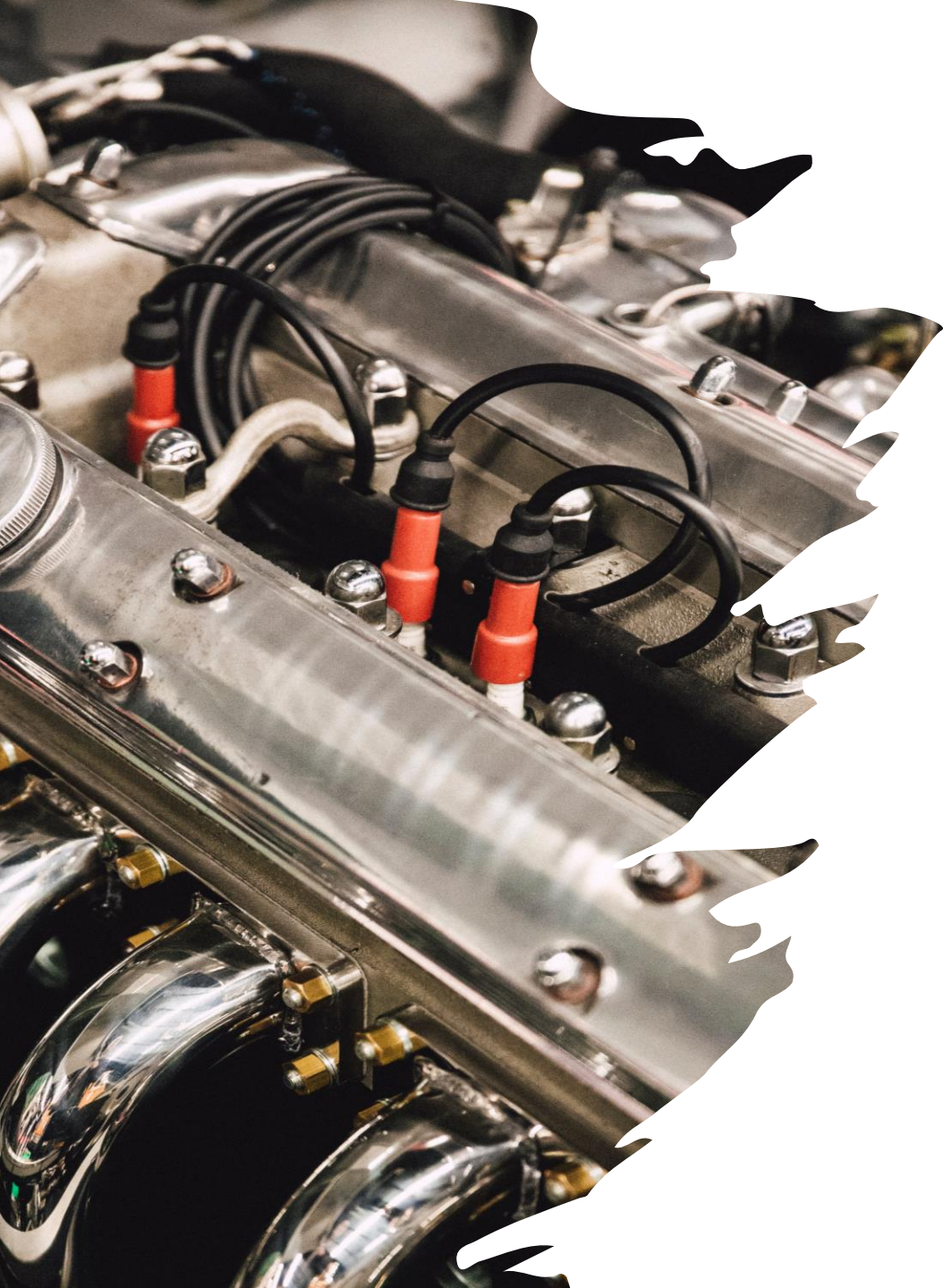
Trends in consumer credit

- Complaints about consumer credit continue to account for a large proportion of our work
- Sharp increases in other forms of high cost credit complaints
- Increases in mainstream lending complaints



Trends in consumer credit, last 12 months

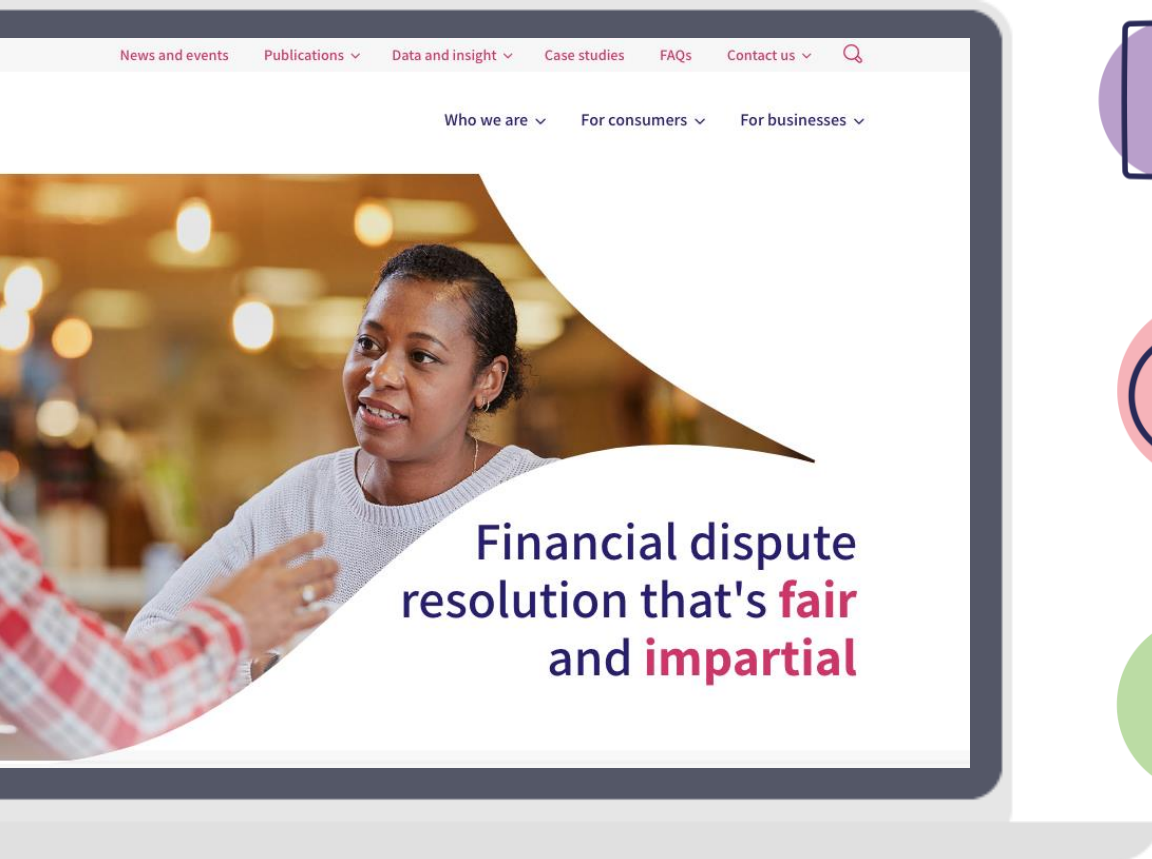




Trends in Motor Finance Complaints

- Quality of goods
- Covid-19
- Commission

Business Engagement and Support



Our website

Information on our complaint handling processes and what to expect if a complaint against your firm is brought to our service.



Our publications

We regularly publish data on the complaints we receive which you can find on our website and annual reports. We also publish case studies and decisions we've made in the past.



Technical advice

Firms can speak to our technical desk informally about complaints prior to them being brought to our service – we might be able to help resolve the problem at an early stage. These conversations are not recorded to any complaint that is logged with us.

Amanda Brandon

BVRLA

Alternative Dispute Resolution - Trends

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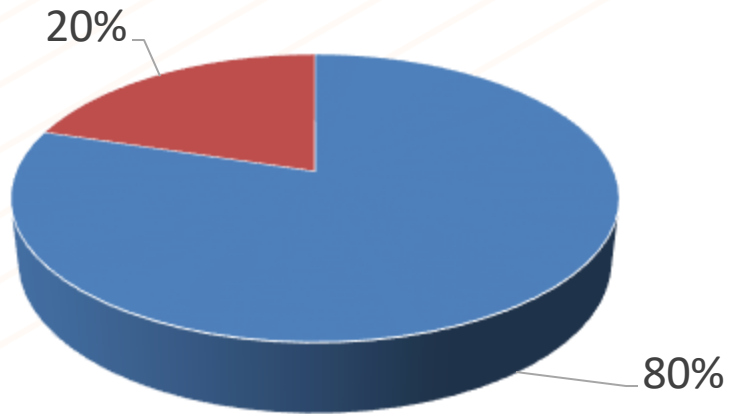
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Volumes, Reasons & Outcomes

2019	2020	2021 (YTD)
52	86	57

Outcomes



■ Member ■ Complainant

Reasons for Complaint

- Condition of Vehicle – 39%
- Service – 36%
- Charges/Cancellation – 19%
- Damage – 5%
- Additional Cover – 2%



- Still low volumes
- Service: communication issues, delivery delays, customer satisfaction
- No serious Code of Conduct breaches

Case Study



- Customer ordered a tipper truck with a tow bar as per his order form
- When he used the tipper truck feature it bent the tail gate on the tow bar.
- Customer believed that the vehicle should have had a drop plate fitted as standard to stop this happening
- ADR team examined the workings of a tipper truck to understand how the tail gate was bent and determined that the customer, if they were using a tow bar, should have ordered the drop plate.





“Brilliant sounding board for damages/any potential complaint issues.”
- **Member**

“Over the moon the conciliation team backed us with a major dispute. Worth the fee alone!”
- **Member**

“Thank you very much for your help in this matter. It is a great support to know there is a body that has sway to challenge and correct the sometimes dismissive decisions of large corporations.”
- **Customer**

“Thank you for your response, and while I still disagree with the outcome, the position that you have highlighted within your response is much more clear than the tone and the detail received from XXX”
- **Customer**

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Jo Davis Auxillias

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**Leasing
Broker
Conference**

**A review of the
FCA proposals on the
new Consumer Duty**

JOANNE DAVIS

PARTNER & CO-FOUNDER OF AUXILLIAS LIMITED

21 October 2021

A new Consumer Duty

- On **14 May 2021** the FCA introduced new guidance on Consumer Duty.
- The consultation is open for comment until **31 July 2021**. The FCA expects to consult again on proposed rule changes by the **end of 2021** and make any **new rules by the end of July 2022**.
- The FCA is also consulting on the potential benefits of attaching a **private right of action** to the new Duty
- The new guidance is to counteract against firms misleading consumers with often difficult to understand information and thus hindering consumers ability to properly assess the product or service on offer.
- Firms are to ensure the products and services on offer are fit for purpose, represent fair value and are clearly communicated and understandable.
- Relates to products and services sold to 'retail clients'. Definition of 'consumer' includes all clients other than professional clients (such as large corporates and government bodies) and eligible counterparties. **Consumer Duty will apply to financial services offered to SMEs.**



A New Consumer Duty – brings a new Consumer Principle

- A new principle of business to be introduced will go above and beyond Principle 6 (TCF principle) and is intended to reflect the behaviour the FCA expects from firms.
- The principle consulted upon is 'A firm must act in the best interests of its customers or a firm must act to deliver good outcomes for its customers'
- The principle is 'Would I be happy to be treated in a way I treat others'
- This is a new principle to set a higher standard than Principle 6
- The principle requires firms to play a greater or more important role in their customers' lives.



A New Consumer Duty – the Cross Cutting rules...

Three Key behaviours from firms called the Cross-Cutting rules:-

- Firms should take all reasonable steps to avoid foreseeable harm to customers
 - Take all reasonable steps to enable customers to pursue their financial objectives and
 - To act in good faith
- A suite of rules and guidance is expected with detailed expectations for firm conduct in relation to four specific outcomes. These are Good Communication, Products and Services, Customer Services and Price and Value.



Consumer Duty – What it does not do:-

Remove consumers' responsibility for decision making or, in itself, prevent consumers from making decisions that are not in their interests.

Require that all consumers of a product or service obtain the same terms or outcome.

Impose an open ended duty that goes beyond the scope of the firm's role and its ability to determine or influence consumer outcomes or protect consumers from all potential harms.

Remove or supersede the need for specific rules or guidance, which may be necessary to mitigate specific consumer harms.

Specify exactly how firms should act. Firms would have flexibility in how they act to avoid harm to consumers and put them in a position to achieve their financial objectives.

Apply retrospectively to past business. Nor do the FCA intend to judge practices with the benefit of hindsight.



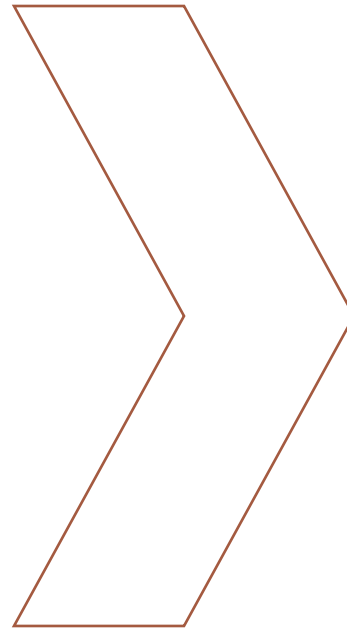
Consumer Duty – what are the four outcomes?

1. COMMUNICATIONS

2. PRODUCTS AND SERVICES

3. CUSTOMER SERVICE

4. PRICE AND VALUE



These will represent the key elements of the firm-consumer relationship regarding products and services: how firms:

- Design
- Sell
- Service

The FCA proposes to set expectations for each of these four outcomes in a suite of rules and guidance.



- The FCA wants consumers to be given the information they need, at the right time and presented in a way they can understand.
- To make effective decisions, consumers need to be able to understand and assess:
 - The features of products and services
 - The costs they are likely to incur, risks they might take and the benefits they are likely to derive from products or services
 - Whether products and services will meet their needs.

The FCA clarifies that they do not want to see:-

- Communications that are framed. For example, communications that focus on daily rates rather than the whole cost of borrowing.
- Key information hidden in a large volume of material or hard to find.
- Insufficient information being provided to consumers or provided at a time when consumer's have time to reflect and consider.
- Firms failing to draw customers attention to key changes in an agreement.
- Communications not being tailored to the channel used.



- Products and services should be fit for purpose, designed to meet customer needs and targeted to the right consumer.
- Examples of insufficient consideration:
 - Consumer credit products designed to generate a high proportion of profits from late payment fees or re-lending.
 - Unreasonable exit fees which discourage consumers from leaving products or services that are not right for them, or accessing better deals
 - Sludge practices that discourage exit, for example requiring customers to go into a branch to close a product
 - Firms having insufficient controls to prevent products, such as packaged accounts, being marketed to consumers for whom the benefits are unlikely to be justified by the price.



Firms would be required to:

- Design processes in a way that actively takes the consumers' needs into account.
- Consider the customer service needs of their customer base, and the target market for their products and services and make sure their customer service meets the range of those customers' need
- Monitor the performance of processes, looking for information that may indicate areas where they fall short of the outcome, and act promptly to address these.
- Regularly review processes to ensure they remain fit for purpose, and do not disadvantage particular groups of customers, including those who may be vulnerable, particularly as innovation and technology develop.
- Take responsibility for meeting the FCA customer service standards where they outsource customer service activities to other parties.

“Customer service to meet the needs of consumers, enabling them to realise the benefits of products and services and act in their interests without undue hindrance”.



- Products and services should be fit for purpose and represent fair value.
- The FCA wants firms to assess the price of products and services at the design stage, and through ongoing monitoring. They should ensure that the benefits of the products and services offered to consumers are reasonable relative to their price.

This does not mean the proposals:

- Set levels at which firms should price their products or services.
- Nor should they intend to use the proposed rule itself to introduce market interventions such as price caps or other price interventions.





Consumer Duty – Key Takeaways

1. PRODUCTS

Check how they are described and how they are sold. Make sure that they do not seek to exploit customers' vulnerabilities, behavioural biases or lack of knowledge.

Ask yourself the following questions: –

Are they fairly describing the benefits and risks of both your products and services, Are there any misleading framing?

Are there any omission of information that need to be made transparent?

Are you burying key terms in documents that you know the customers won't read?

Do your customers best understand their own circumstances and financial needs and objectives?

Are your customers empowered to make choices for themselves and remain ultimately responsible for their decisions and actions?

Are you creating an environment in which consumers can act in their own interests?

Are you taking reasonable steps to understand behavioural biases and the impact of vulnerabilities and know how consumers behave to enable and support them to make good decisions?



Consumer Duty – Key Takeaways

2. COMMUNICATIONS, DESIGN, CUSTOMER SERVICES, PRICE & VALUE

Do they equip your customers to make effective, timely and properly informed decisions about financial products and services?

Are your communications framed in a way that is reasonably likely to be understood and that facilitates decision-making?

Can you demonstrate that you take proportionate steps to review your products and, where appropriate, test and adapt your communications to ensure they are likely to be understood by your target customers?

Design
Are products and services specifically designed to meet the needs of consumers and sold to those whose needs they meet?

Are they designed to benefit your customers and perform as you would reasonably expect?

Customer Service
Does these meet the needs of consumers, enabling them to realise the benefits of products and services and act in their interests without undue hindrance? Is it as easy to exit a product or service as it is to purchase it in the first place?

Price and Value
Do the price of products and services represents fair value for your customers and is this price relative to its expected benefits?

ANY QUESTIONS?



If you have any questions or would like more information on any aspect of this presentation, please contact:

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