

# Consumer Protection Working Group - A Conduct Practitioners View

**Author: Andy Coulson**, is a Certified Ethics and Culture Advisor (CECA) and has worked in financial regulation and the banking industry in Ireland and the UK for 25 years.

As we digest the detail of the strengthened regulatory powers as part the Central Bank of Ireland (CBI)'s Enhanced Framework for Individual Accountability (EFIA), some might believe we have finally reached peak focus on Conduct risk in financial services. Twenty years working in this space, however, tell me this is unlikely, and that attention and intervention will remain at present levels while there is still a necessity for the cultural shift in financial services to progress further. What is true is that some 10 years after robust Fitness and Probity assessments were introduced over industry appointments in Ireland, there will be more action against and expectation on us as senior individuals in the sector throughout our tenure.

This evolving working environment understandably creates some trepidation among some - but for the many, who work so diligently in the sector on behalf of Irish consumers, it can be seen as a welcome move towards helping us to embed the culture that we would all like to see. In this piece, I reflect on progress made and what remains for us to do.

While Prudential compliance focus fluctuates throughout global financial boom cycles, Conduct focus (on banks in particular) has been more of a relentless creep. When I entered the industry in the nineties it was very different. Though customer relationships were always highly prioritised; shareholder-value driven approaches took precedence, and competitive cultural norms emerged. Even with advances in regulatory oversight, we saw long-term customer outcomes becoming outmuscled as the priority.

So - it is acknowledged that Conduct needed attention. Conduct risk as a unique concept, has gained traction among regulators in the past decade; most visibly with the separation of financial regulatory structures into distinct Prudential and Conduct operations. This made it harder for regulators to slant resources towards Prudential when there is a financial crisis, as we saw in the back end of 00's. The result is a continuous focus from dedicated supervisors on Conduct matters.

Obviously, Conduct failures in the market have accelerated supervisory oversight - but it is interesting to this ex-FCA<sup>1</sup> and CBI staffer at least, that the CBI Conduct purpose - to serve the best interests of consumers and ensure they are treated fairly - still resonates as work not complete, some 15 years after "Treating Customers Fairly" (TCF) principles were first promoted. Indeed, as the recent Irish Banking Culture Board (IBCB) Éist Trust Survey<sup>2</sup> shows, Irish consumers are still a long way from feeling that banks are treating them fairly.

The CBI's interventionist approach post its Behaviour and Culture report;<sup>3</sup> greater enforcement activity; scrutiny of bank strategies and insurance fair pricing for example, as well as the advent of the IBCB - has in my view, influenced Irish financial services to experience rapid cultural change. We are set on the right course. This had to happen. Top talent is increasingly attracted outside the industry to more appealing propositions, at the very same time when demand for skilled resource in the many parts of the sector increases post-Brexit. The churn we are seeing - including at senior management level - will help with accelerating pace of cultural change as will the much-touted "brain gain" in Ireland.<sup>4</sup> If we are to face ongoing Cultural challenges in the sector as well as transformational priorities of Sustainability; Technological overhauls; Gender and Diversity and security enhancements - an influx of new thinking and approaches is much needed. Indeed, as a hiring manager; I have successfully hired consumer advocates; engineers and scientists alike to broaden that thought pool.

Looking back at the Culture and Behaviour report of 2018, can we as an industry be content with progress? The CBI talked of the need to develop a shared 'consumer compass'; embedding consumer focus in structures, processes and systems; ensuring organisations are sufficiently diverse and inclusive to prevent groupthink, over-confidence; and promote internal challenge. It warned of 'firefighting behaviour', focussing on short-term issues; reversal to 'command



and control' leadership styles over inclusivity and collaboration; and over-optimism regarding transition to a consumer-focused culture.

While a personal view, my engagement with Conduct colleagues suggests that much good progress is being made without yet being totally transformative. Indeed, the pandemic temporarily may have revived some of the behaviours noted by the CBI - short-termism and firefighting.

Examples of what is changing fast are for example, the embedding of industry-wide behaviour and culture MI and reporting; specialist internal roles in Culture or Ethics being created; and governance committees overseeing customer protection and outcomes becoming de rigeur.

An ongoing strategic challenge will continue to be that demonstrable culture where customers' best interests is the doctrine that fundamentally drives operational capability and strategic decision-making in order to deliver financial performance. Compliance and Legal colleagues will recognise the ask from business colleagues to ensure that a decision or change is compliant against Conduct standards and regulation, rather than the other way round.

As someone who has bridged the divide between industry and regulator, I know there is no magic button to press, but our role as industry Conduct leaders can be to instil in all colleagues and stakeholders what Christine Lagarde has described as 'the goal of the

financial sector....must be not only to maximise the wealth of shareholders, but to improve the well-being of people'. To do this, an authentic self-integrity is required to commit to that principle across the sector and I see Compliance professionals as key ambassadors in that respect working in tandem with the new EFIA regime.

When we think where this might go next, it is worth looking at the UK FCA's recently introduced "Consumer Duty" which is behavioural focused in tone, but directive in what it wants to achieve.<sup>5</sup> It calls for consumers to receive communications they can understand, products and services that meet their needs and offer fair value, and customers getting the support they need, when they need it. The aim is pragmatic and industry-focused allowing for more flexibility for firms to compete and innovate in the interests of consumers, while also enabling quick identification of practices that don't deliver the right outcomes for consumers and action before they become entrenched as market norms. The interesting element here is the extension of this duty to closed books of business - albeit the FCA is allowing another 12 months in this space - but this will prevent firms and individuals declining to take responsibility for mistakes of the past.

So, my take is that we are not done yet but there is nothing to fear. Conduct and culture remains a growth area in the financial services sector and I would recommend it heartily as a career option for diverse and progressive talent.

#### REFERENCES:

- 1 FCA - UK Financial Conduct Authority
- 2 Éist Report on Public Trust in Banking - July 2022 - Irish Banking Culture Board publishes 2022 éist Report on Public Trust in Banking - Irish Banking Culture Board
- 3 Behaviour and Culture of the Irish Retail Banks July 2018 - <https://www.centralbank.ie/docs/default-source/publications/corporate-reports/behaviour-and-culture-of-the-irish-retail-banks.pdf>
- 4 <https://www.breakingnews.ie/business/ireland-experiencing-brain-gain-as-workers-flock-from-abroad-1346662.html>
- 5 <https://www.fca.org.uk/news/press-releases/fca-consumer-duty-major-shift-financial-services>