For People Development and People Regulation Personnel within Financial Services

T-C NEWS

COMPETENCE • EXPERTISE • PROFESSIONALISM

OCTOBER 2017

Getting the Senior Manager & Certification Regimes 'over the line' – Learning from the banking sector

By Peter Griffiths from Worksmart

IN THIS ISSUE

T-CNEWS
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Welcome to the Autumn edition of T-CNews. The consultation papers in respect of the senior managers and certification regime were published a couple of months back and we took the opportunity of loading some articles on our new hub centre at www.t-cnews.com. This means that the articles that visit this topic do not focus on a summary of the points to be done but more on the practical next steps that should be taken. Other regulatory changes are planned through the General Data Protection Regulations (GDPR). MiFID II and the Insurance Distribution Directive. It promises to be a busy time. In addition to these topics we visit the topics of Ethical Behaviour and coaching/feedback. Plenty to keep you busy. Enjoy.

Jeff Abbott

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Quizzes for your training programmes

By Paul Archer from Archer Training

> “Give a big prize to the winning team, and as always, debrief the exercise by GLU’ing the whole thing together.

How to run a quiz to teach a subject

Many trainers run quizzes or tests during their training courses or at the end to help capture learning and events. But have you ever run a quiz to actually teach something from scratch? It works, is fun, and I’ve done it many times, so let me share with you how you can do it. It works especially well if you wish to teach something quite technical that’s contained in a booklet or workbook or textbook. First of all, you need to decide what you want to cover in your course. And you should have this within a handout or workbook. Then you announce the quiz to your group. You’ll want to explain to the pragmatic ones why you are doing this.

They will be thinking a quiz won’t teach them anything, but it does. As always, announce instructions in steps, keeping a tight control over the explanation so that everyone is listening. Next put them into teams. You decide the size and structure of these, but I have often worked with groups of forty people. Teams mustn’t be any bigger than four or five. Then set them the task of designing five or six questions based on the material in front of them. Give them index cards to write the questions on and ensure they appreciate the need for the answers on the reverse of the card. Give them time to create the questions. Suggest they don’t go for easy questions. Put the score cards on the white board or flip chart, clearly laid out, and begin round one.

When they have finished, ask them for a team name; encourage cool and funky names, such as the Winners or the Cool Gang, something humorous. Confirm that each team will ask one of their questions to another team and that there’ll be four rounds. You have fifteen seconds to determine the right answer, and you can refer to your textbook or brochure during this time. If you are incorrect, then you can allow a bonus to another team worth three marks. Begin round one.

Make it fun and quiz showy. Deduct marks for insolence; award extra marks for smiling, good questions, or because you can. Keep it moving; do scores after each round; promise a prize; make the event exciting. After a few times of running your quiz session, you’ll collect some good questions so you could have a “Paul Round” to tighten up on the learning objectives. Give a big prize to the winning team, and as always, debrief the exercise by GLU’ing the whole thing together.

G – What did you get from the exercise?
L – What did you learn?
U – How could you use it in your work?

Don’t be afraid to run a quiz session around a particular technical subject. Allocate a good hour; you’ll have

some fun, and they'll learn a whole lot more than if you forced a dozen PowerPoint slides at them.

Ready-made quiz

Give each learning team half a dozen index cards and ask them to write questions about the subject matter on the card with the answer on the reverse. Collect all the cards and run a quiz along the lines of a quiz show with points and prizes.

Answer search

Ask each learner to write three or more questions on a piece of paper. Ask them to wander around the room and find someone to ask one of their questions. If they know the answer, great. If not, then the pair needs to find someone who does. The aim is to have all the questions asked. To review ask some learners to read out their questions and confirm the answers.

Question marathon

Put people in pairs. Designate one partner "A" and the other "B". Have "A" ask "B" questions nonstop for five minutes, one question after the other. Questions can be a mix of ones the questioners know the answer to and ones they don't. Have them make notes of the questions neither "A" nor "B" can answer. After the allotted time, have the partners exchange roles. After this exercise the class as a whole, together with the facilitator, can field any questions that remain unanswered.

Question Post

Give learners several large Post-it notes and ask them to write on each one a question they have about the learning material. Ask them to post their questions anonymously on a question board on the wall or on a flip chart. During a break, ask learners to examine the questions and pick off those that they can answer. After the break, have learners read to the class the questions they have picked and give the answers. Learners and the facilitator can add to these answers as appropriate.

Question Ball

Give each person a full sheet of blank paper Ask everyone to write a question that they have on the paper. Ask them to print their question so someone can easily read it and to not sign their name. Have them ball up the paper. You can then collect the question balls in a bucket and redistribute them by throwing one to every person in the class. Or if the group needs a physical energizer, you can ask them to stand up and have a snowball fight with the question balls, seeing how many people they can hit in three seconds. Then, at a signal, ask everyone to pick up a ball, open it, and use any person or resource in the room to help answer the question on it. After a few minutes, ask everyone to read their question to the class and give its answer.

Put all your (question) cards on the table

Distribute blank index cards to learners seated five or six to a table. Ask each learner to write the questions they have about the learning material on the cards, one question per card. Then ask all the people at the table to combine their cards into one deck. Have each table select a dealer. The dealer then shuffles the deck and deals the cards face down to everyone at the table. Each learner in turn reads while you play music. Ask them to keep passing the question cards around the circle to the person on the right. When the music stops, they'll be given one to three minutes to formulate an answer to the question they are holding. They can use any person or resource in the room to help them answer it. Then everyone reads their question and gives its answer.

Hot potato question circle

Ask people to stand and form a circle. Have one of the learners start the play by asking a question and throwing a Koosh ball or other soft ball to anyone in the circle. The person catching the ball has to answer the question. If the person cannot answer the question immediately, they quickly throw the ball like a hot potato to someone else in the circle. The ball keeps circulating until someone can answer the question posed. The person answering the question gets to ask a new question and the process starts all over again. Instead of a Koosh ball, you could use an actual potato. (Variation: To prime the pump, the facilitator can give everyone in the circle a card with a question on it to be asked when it's their turn.)

Team question exchange

Divide the learners into two or more teams. Ask each team to devise a ten- or twenty question quiz for another team that would test their understanding of the learning material. Teams then exchange question sets. The first team to answer all their questions correctly wins a bag of peanuts or some other prize.

Stump your buddy

In the middle or at the end of a presentation, put people in pairs. Have partners ask each other five questions about the subject matter— both questions they know the answer to and those they don't, If neither partner can answer a question posed, the partners ask this question to the whole group at the end of the exercise.

Pass the hat

Ask everyone to put one or more of their questions on a card and put it in a hat. Then have each learner pull a question from the hat and read it to the class. The first person to answer it correctly gets a point, or a prize. The facilitator answers only those questions that none of the learners can.

Paul Archer's been hitting the flipcharts since 1991, training thousands of financial services advisers across the world and showing budding trainers what the profession is really all about and it's not about PowerPoint. You can reach him for your Train the Trainer needs at paul@paularcher.com or Twitter Rapportseller. Linkedin at www.paularcher.uk and Train Trainer blog at www.traintrainer.co.uk

What makes good people do bad things?

Research by the CISI reveals that individuals believe some misdemeanours are more acceptable than others. What drives our behaviour, and is there anything we can do to avoid falling into behavioural potholes?

By **Rebecca Aston.**

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Picture this – you attend the birthday party of a close friend. When you arrive, you notice your friend is wearing a new outfit and looks good. You compliment the outfit, and your friend says: "Thank you! The best part is that it's not going to cost me anything! I'm returning it tomorrow, as I only wanted it for today." How would you feel? Shocked? Disappointed? Neither?

Research from the CISI suggests that individuals believe some misdemeanours are more acceptable than others, and that certain personal attributes, such as age and gender, and external influences like monetary value and technology drive our behaviour and influence the choices we make in ways we may not be fully aware of. This article seeks to summarise some of the factors which drive our behaviour, and identify how we can modify our choices accordingly.

The CISI survey fieldwork was conducted by YouGov from 11 to 18 October 2016. The survey was carried out online and all figures, unless stated otherwise, are from YouGov. The total sample size was 2,056 adults aged 18+.

Personal ethics

If you felt shock or disappointment about your friend buying an outfit to wear at the birthday party before returning it for a full refund, it is likely that you are older than 29 years old, and possibly based in the East Midlands. If, however, you thought that "this sounds like something I have done/would do", then it's possible that you are between 18–29-years-old and live in London. At least, this is according to the results of the survey. One in three 18–29-year-olds said that this behaviour (sometimes called 'online wardrobing') is an acceptable thing to do while only 11% of 50–59-year-olds would tolerate this behaviour. Furthermore, 24% of respondents living in London said it is acceptable, compared to only 9% of people in the East Midlands.

This is not to say that all 'millennials' who live in London are commonly buying items online and returning them after one wear. But what the research does show is that age and location may play a part in determining our behaviour. For example, different generations have a split view on what behaviour is acceptable, and people living in a fast-paced, high-pressure and expensive city may, perhaps out of necessity, be more able to justify this behaviour to themselves (e.g. "I need that new outfit for an event, but my rent/train tickets are so expensive that I can't afford to keep it").

As well as our age and location, the survey suggests that gender may play a part in determining how we act and the choices we make. Of course, the results in the table below don't mean that all men are regularly inflating the value of insurance claims, or failing to pay the correct amount of income tax. But, what the findings do suggest is men are more likely than women to think this kind of behaviour is acceptable. They may more readily forgive a friend who fails to report a bank error in their favour, or be more lenient on a colleague

Action	Per cent of women who think this is acceptable	Per cent of men who think this is acceptable	Difference
Failure to report a bank error in your favour	19%	29%	+10
Failure to pay as much income tax as you should	8%	12%	+4
Inflating the value of an insurance claim	11%	17%	+6
Keeping a low value gift from a customer without declaring it	37%	44%	+7
If you come across confidential information belonging to a competitor, use that information for the benefit of your employer	33%	47%	+14
Allow a colleague to take the blame for mistakes they did not make	5%	10%	+5

who has kept a low value gift from a customer without declaring it.

For professionals working in financial services, better (more ethical) decisions could be increased if we encourage self-reflection and cultivate an awareness of the way our personal traits affect our decision-making. For instance, the benefits of boards and committees with a more equal gender balance are already well known. Men and women bring different strengths and perspectives to the table, which results in better decisions being made. The results of this survey suggest that we can take this thinking further. For instance, if you are a millennial, it may benefit you to discuss your decisions with an older colleague before acting.

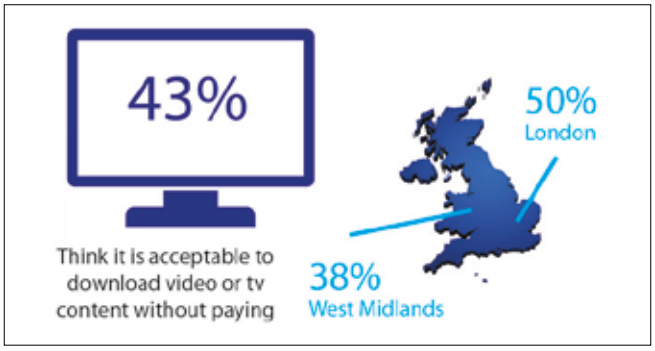
Non-'PC': the faceless nature of technology

Another factor which influences our behaviour is when we make choices online compared to in person. This phenomenon has already been well researched and documented, particularly around the behaviour of online 'trolls', who think nothing of leaving scathing comments and insults online, but would never dream of saying the same things to someone if they were face-to-face. This is also borne out in our research – while 17% of respondents overall said it would be acceptable to buy an item of clothing online, wear it once, and return it to the retailer for a refund, this statistic reduces to 11% overall when the scenario is changed to purchasing in person from a local retailer. Interestingly, however, the age difference remains – with more 18–29-year-olds noting that this behaviour would be acceptable when compared with responses from 50–59-year-olds.

It makes sense that our behaviour changes depending on whether we have online or face-to-face interactions. Dealing with someone in person brings certain qualities to the fore, including empathy, understanding and even a mutual like/dislike, which are diluted or non-existent when dealing with faceless technology. In fact, the more distant the consequences of our actions seem, the more likely we are to fall into one of these 'behavioural potholes'.

Consider, for example, the act of downloading or viewing content which has not been paid for. As the consequences or the 'victims' of our actions become less clear, we become correspondingly more willing to believe that the behaviour is acceptable:

- 20% of us think it is acceptable to watch TV without a licence. Perhaps we are put off by pop-ups asking us to confirm we have paid for a licence before we are able to watch the chosen programme?
- 39% of us believe it is acceptable to download software from a copied CD which we have not paid for. Using a tangible object such as a CD focuses our mind, and makes our choices seem more real and relevant, but we are not prompted to re-evaluate our behaviour, as we are when watching TV without a licence.
- 43% of us believe it is acceptable to download video or TV content without paying. It is possible that this is the action we deem most acceptable as it happens entirely online with no object or message to prompt us to reflect on our behaviour. Our actions therefore feel even less connected to us, and we are more likely to feel that bending the rules is acceptable.



A victimless crime?

This sense of distance we can put between our values and our actions can be seen in areas other than technology. Take transportation, for example. 14% of respondents said it is acceptable to avoid paying a fare on public transport. However, this number is far lower for other transport-related misdemeanours – half that number (7%) said it would be acceptable to fail to report damage they have done to a parked car,

and even fewer respondents (5%) said it would be acceptable to ask someone to accept a speeding ticket on their behalf.

Why should this be? One explanation could be our relationship with corporations compared to our relationship with individuals. Just as we are able to find technology misdemeanours more acceptable the more obscure the victims of our actions seem, so we seem to be able to distance ourselves from actions which disadvantage a corporation more willingly than we are able to distance ourselves from actions which disadvantage an individual. Not paying for public transport only impacts a large, faceless, corporation. But, damaging a parked car involves harming an individual and, even more directly, asking someone to accept a speeding ticket on your behalf impacts someone that you know.

Worryingly, for firms, this phenomenon also transfers from our personal lives into our professional lives.

> For instance, the benefits of boards and committees with a more equal gender balance are already well known.

Ethics at work

Only 9% of us consider it acceptable to take something of low value (such as milk from a communal fridge) from a colleague, but almost half – 49% – of us consider it acceptable to take a low value item, such as a pen or post-it notes, from our workplace and 20% think it is acceptable to take a medium value item from work, such as a stapler or hole-punch. Only when we asked about high value items, such as computer monitors or keyboards, did the levels of acceptability dip below our attitude towards taking milk from a colleague (only 3% of respondents said that it would be acceptable to take high value items from the workplace).

This suggests that our loyalty to our colleagues outweighs loyalty to our employer. Once again, the connection with individuals trumps a connection to a corporation. Admittedly, we have different types of relationships with colleagues and employers. Colleagues are our peers, team-mates and, often, friends, while we have a financial relationship with our employers – we put time, energy and creativity into the relationship and receive a wage (and other benefits) in exchange.

In fact, money often skews relationships and our behaviour in a negative way. While we may baulk at taking some of a colleague's milk, it seems as though the same cannot be said when cold hard cash is involved. 39% of respondents said that it would be acceptable to keep money found in a communal bathroom at work rather than return it to HR. Presumably that money has been left by a colleague, but that doesn't seem to matter when it comes to money.

Conclusion

So, what can we learn from all this, and how can professionals apply this knowledge in their working lives?

The research suggests that both personal factors (age, location, gender) and external factors (technology, value and corporate vs individual relationships) can have an impact on our behaviour and the choices we make. But rather than using this knowledge as a way of excusing our bad behaviour, we can use it to make better decisions. Part of ethical decision-making is the ability to realise when our choices may be being influenced by external factors or personal bias, and to check or amend our behaviour accordingly.

For professionals who manage people, this research can also help you understand how to get your teams to make better decisions. For example, it shows the importance of encouraging people with different traits to work together and share ideas, and shows that if your team works mainly online, you may wish to remind them of the clients who will be impacted by their actions.

Being a professional means having and demonstrating an effective combination of knowledge, skills and behaviour. While knowledge and skills are easy to measure, behaviour can be more difficult to quantify. However, learning more about what drives our behaviour can help us modify it, and to avoid behavioural pitfalls in our personal and professional lives.

Extending SM&CR – The devil in the details

By **Carl Redfern** from Redland Business Solutions

We have all now had a couple of months to enjoy the consultation papers published for Accountability 2, CP17-25 and CP17-26.

In this article I will highlight some of the key areas for firms to focus on when considering their response to these papers. I have avoided repeating a summary of the rules of the new regime, a lot of summaries have already been published but some areas are perhaps a bit less clear and deserve more attention.

I recently attended a briefing held by FCA for the benefit of professional services firms working with clients who would be impacted by the extension of the Accountability regime. This was a very useful session and similar (I understand) to the Regulated Firm briefings that FCA have also been running. I would strongly recommend attending one of these briefings near you, if at all possible.

For those who have not had chance to go to one, I will summarise below some of the useful clarifications and updates we received.

1) Send a Response

All the way back at the start of the Accountability initiative, the first formal Consultation Paper published was CP14-13, July 2014, which set out the concepts of Senior Manager Regime, Certification and Conduct Rules. We had to wait until March 2015, 8 months later, for the first draft of the resulting rules. The regulator

received approximately 70 responses to the initial consultation paper and a further 17 responses to the Transitional Arrangements CP. Given that this significant new world was going to affect over 1000 deposit taking firms the volume of this response from the industry was pretty poor.

The extension of SMCR is going to significantly impact approximately 350 'enhanced' firms and over 13000 'core firms'.

At the briefing FCA vehemently stressed that more than anything else, what they wanted was feedback to the CP.

Even if you or your firm don't want to publish a formal response and document answers to all of the questions asked, you can send any queries over interpretation or implications to the Consultation Response team. It will be useful feedback for them that you simply draw attention to the areas which are not clear or need more guidance and you should receive at least some additional clarity to help in your planning.

2) Technical Transitions Consultation

FCA confirmed that the Transitions Consultation Paper, which will set out the 'how' of the implementation of the SMCR Extension, including the timetable, will be published later this year but definitely not before this current consultation closes on November 3rd.

One positive note however was that FCA stated their intention for most Senior Mangers to be automatically transferred over to the new regime, without the 'form based' Grandfathering process which Banks and Insurers had to go through for Accountability 1. There will be some exceptions, for example NEDs and some others, but for most firms this should remove a significant administration effort from the 'technical transition' project.

3) Appointed Representatives

At the same FCA Briefing, they confirmed that the current proposed scope of the new SMCR will not cover Appointed Representatives (ARs) and therefore the Approved Persons Regime (APER) will persist for them. FCA suggested this was because there was some doubt that the current legislation in the Financial Services and Markets Act (FSMA) granted FCA relevant powers to apply the new regime to Appointed Representative firms. They acknowledged that this was not ideal and that they were consulting further and seeking subsequent changes to FSMA to allow SM&CR to be extended to replace APER for ARs.

This is very unlikely to happen in the same timescale as the implementation for everyone else, therefore, for a while Principal Firms will be subject to SM&CR but APER will persist for their ARs. The responsibility for ensuring ARs compliance with the requirements of the regulatory framework will remain firmly with the Principals.

This means that for a while at least, the CF30 role will persist alongside Certification, just like we have today for Bank staff vs. other sectors.

The potential confusion in the industry as a result could be significant. For example, it not clear if AR CF30 staff will remain on the FCA Register, or how the implications for Regulatory References will be resolved. It should be remembered though, that Accountability will eventually be extended to cover ARs, so Principals firms would be wise to consider the extension when designing their own solutions.

If your firm will be impacted by this issue, please include comments about these issues in your responses to the Consultation.

4) For Core firms – PR6

If you expect that your firm is going to be a 'Core' firm, then you probably have already had some initial discussions about Prescribed Responsibility No.6:

PR06 - "Responsibility for ensuring the governing body is informed of its legal and regulatory obligations"

This is probably the most commonly asked question across the firms that I have been engaged with. Many Core Firms have been asking who is expected to take on this PR, with some citing that they have a Compliance Director who is not a lawyer and therefore not able to fulfil the 'legal' obligations.

At the FCA Briefing this exact question was raised and their response was very clear – they are **not** expecting firms to have or recruit formal legally trained resources in-house.

FCA went on to say "…..for Core Firms, looking at the probable populations of Senior Managers, it is likely to be someone like an Executive Director or one of the Partners, or it could be a Compliance officer who takes it on. We don't have a particular focus on who that role (the PR for Legal and Compliance) should be but it's got to be someone who can genuinely discharge that responsibility." "……it was not intended to be more 'onerous' than the corresponding obligations for Enhanced Firms"

> "At the briefing FCA vehemently stressed that more than anything else, what they wanted was feedback to the CP

For Enhanced Firms, they confirmed that the current 'status quo' of their forbearance regarding Legal Function and General Counsel would persist under the extension of SMR until the results of the Discussion Paper had been finalised. See the link below: https://tinyurl.com/FCA-Statement

FCA did take away that maybe more guidance around this particular PR would be welcomed but until then, it may be that 'Sharing or Dividing' this is a PR needs to be considered.

> It is clear from the experiences in the Banking sector that successful implementation of the Certification Regime and the Fit and Proper assessment process belongs in the 'Front Line'. It is not a back office or HR only responsibility

meaning of the current guidance to change – they will review that it makes sense under the extended regime but there are no plans revisit the detail or modify the sense of it.

This is useful clarity, particularly where so many firms are seeking opinion about 'Reasonable Steps' and what it might mean. In essence, we can expect the current published guidance to continue to apply.

6) Certification

The Certification regime is going to apply to both Core and Enhanced Firms and it in itself contains several of the most complex elements of Accountability 2, down in the details. The following is a list of some of the key aspects of Certification that were challenging for Banking firms:

- Definition of 'Roles' subject to Certification
  - Particularly the Significant Management Function
- Definition of 'Employee'
- Fitness and Propriety Assessments
- Regulatory References
- Breach Investigations and Reporting

There is clearly not time or space to cover these issues in detail in this article but if anyone is interested in discussing these details, please do contact me.

It is clear from the experiences in the Banking sector that successful implementation of the Certification Regime and the Fit and Proper assessment process belongs in the 'Front Line'. It is not a back office or HR only responsibility.

Implementing SMR and Certification are intrinsically linked and need to work closely together. We are at the very early stages of the timeline and a long way from final rules or deadlines but projects responding to the CP need to be set up on the right footing.

SMR and Certification are all about the day to day 'Behaviour' of people in their roles – it is not an MOT, done once a year and forgotten.

Senior Managers will need support from Risk and Oversight monitoring of compliance with the new regime obligations.

The 'devil is in the details' and the history of this idiom is interesting. Although no one knows for certain where it originated or who first coined the phrase, the belief is that originally the phrase was 'God is in the detail'. This seems to be a contradiction but probably is a deliberate difference born out of timing and attention!

If you think about the details in advance, give the details sufficient attention you can plan for them. If you work through the implications and consequences, from the details it is possible to create a great solution, which is efficient and effective.

You can create value out of getting the details right – in early 18th century you could justifiably claim that 'God is in the Detail'.

If you don't plan and consider in sufficient depth, details which appear insignificant may very well contain hidden problems that threaten the overall feasibility of your solution – the little devils!!!!!

5) Duty of Responsibility and Reasonable Steps

On page 22, Section 4.25 of CP17-25, reference is made to a further consultation for guidance on the Duty of Responsibility. The section states that they expect the current guidance to apply to non-banking firms but that this will be reviewed in the technical 'transitions' CP later this year. FCA clarified at the briefing that they do not expect any material review of the contents or

- Certificates for Trainees
- Interaction with SPS processes
- 'Territoriality' Rules
- Definition of 'Client Dealing'
- 'Temporary UK Roles' and 'Emergency Appointments'
- Material Risk Takers
- 'No Gaps' rule
- Consistency of decision making and handling 'exceptions'

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Feedback – how do you take yours?

By **Jane Pitt** from RedTree Training

It is a tricky subject feedback; sometimes it is wanted, at other times it is not. Sometimes it is helpful, at other times not. Sometimes it needs to be caring and encouraging, whilst at other times a strong arm suffices. How, when and by whom feedback is delivered has a massive impact on how it is received and acted upon.

Take my sons' teachers for example. Generally when it comes to parent teacher interaction, it depends on who has requested the meeting that determines who gets to speak first. In the case of parents' evenings, it is my job to sit there (and do my best) to keep quiet whilst the teacher gives me a run-down of how my boys are doing. I listen intently whilst I am told if they are meeting their targets, what their behaviour is like, whether they are a willing pupil etc. The format is exactly the same for all the parents. I know what is coming next as I will have heard the previous parents go through the same thing. Only once they have completed their list of things to cover do the teachers ask if I have any questions – sound familiar? But, how does that work for my boy who still experiences some learning issues because of his expressive speech delay? It can be very depressing to hear the reality of how far behind he is compared to his peers. To be quite honest, how either of my boys is performing against his peers is not what I want to know. I want the teacher to simply talk to me about *my* boys, to demonstrate what that they know about *my* children and tell me how they interact with them. Probably most importantly, I want what they chat to me about, to be current, relevant and accurate. I have come to expect comments regarding my son's (lack of) academic ability to be sandwiched between compliments on his 'sunny disposition', that is the reality of being a parent of a child with learning difficulties, but woe betide the teacher who fails to meet my basic requirements.

If you were to take the time to reflect on your last few feedback sessions, in both giving and receiving, how similar would they be to a parent teacher interview? If you were giving the feedback, did you speak first and say everything you needed to say before you invited the receiver to comment? Was what you were saying current, relevant and accurate, or was it a few days old which meant you could not remember specific facts or you did not have the notes to provide the evidence for your observation? Did the feedback session demonstrate your knowledge of the person and how they communicated or did it simply cover all the points necessary to meet the assessment criteria?

Good feedback allows both parties to reflect on what they have both learned from the experience. For the receiver, they can use the information about their reactions or their performance of a task, as a basis for improvement. Praise as part of a feedback session frequently results in a desired change in the recipient's behaviour. Why then can giving good productive feedback be so problematic? We frequently hear of the dislike of giving feedback and how many do not think they are as effective as they could be. Those on the receiving end say they do not get enough feedback they can actually use – just as in my parent teacher interviews. I already know my son has a sunny disposition; what I want to focus on is how the core requirement of written English is improving on paper, as this has a direct bearing on the improvement of his grades across all subjects. So what can we do to change this?

Give feedback often

Feedback works best when it is a continual process, rather than a formal session once or twice a year. In fact, experts agree that the yearly performance appraisal is the worst time to surprise an employee with negative feedback. You are nervous and so is the employee. Emotions are running high, with pulse rates up and adrenaline flowing, the natural response is fight or flight, not the thoughtfulness an effective feedback session requires.

Practise giving feedback often; soon it will become a habit. Praise good performance right away. When negative feedback is required, talk with the employee within 24 hours. Do not let any previously drawn conclusions about a person lead you astray in a feedback session; a character attack provides no

information and does not offer any actionable ideas for change.

Before a feedback session, find concrete data that may or may not support your conclusions. Your goal is to gather evidence that will allow you to describe the specific behaviour upon which you are providing feedback. Focus on what the person has done or not done, without judging their intent. Avoid statements that begin "You always. . ." or "You never. . .". Next describe the impact of that behaviour. Tell the person how their behaviour is affecting you, the team or the business. Finally, describe what you want the person to do differently. People cannot read your mind so be explicit about what needs to change.

Do not assume you are right

Approach the feedback session with the goal of getting a complete and accurate picture of the situation. Just as you want your employee to listen with a willingness to be influenced by what they hear, you need to be willing to be influenced by what you hear. Even after you have collected your information, be aware that you may still not have the complete picture. Other people may not see this person's behavior as you do. Furthermore, the employee will have their own side of the story. Reasonable people do differ about all these things!

Ask questions

To make this a learning conversation for you both, ask questions to get them (and you) thinking. How do they see the situation? How do they want to do things differently next time? What do they think works, and would could have gone better? Questions like these establish a supportive atmosphere in which the employee can explore alternative approaches that might produce better results. The more an individual thinks about improving their performance, the more committed they are to making it happen as they feel like they are making the decisions – they are in control.

> "Practise giving feedback often; soon it will become a habit

Follow through

If you dread giving feedback, you can feel that once you have had the conversation, you are done. There is a big difference between understanding and changing; follow through is vital if you want your employees to make the leap. Ask them what they think the next steps are, and how you can support their progress? Plan to meet again – soon. Consider yourself a catalyst for the change you would like to see.

Feedback needs to be neither a tricky subject or unwelcome. However, the timing of and the manner in which feedback is delivered has a massive impact on how it is received and acted upon. Whatever structure you use and whatever the feedback session relates to, remember these key elements and you will be well on your way to giving effective feedback all the time, every time, whatever the circumstances.

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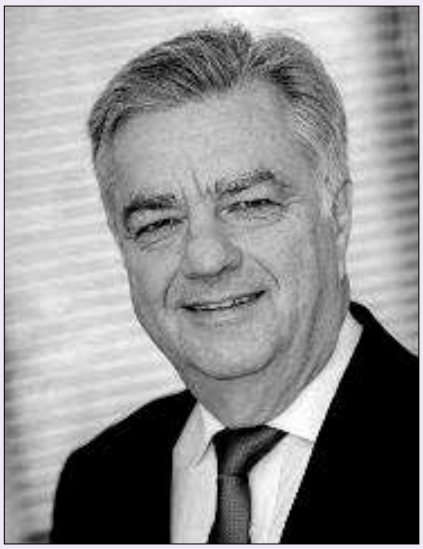
Complaints – will we ever link dissatisfaction to treating customers fairly?



Nick Baxter from Baxters Business Consultants

> The million-dollar rhetorical question is what percentage of decisions in favour of the customer indicate that the firm is not considering complaints effectively

The six-monthly release of Financial Ombudsman Service ['FOS'] complaints data to the end of June 2017 have just been issued. Any business that prides itself on how it deals with customers who complain will be disappointed to see that the Financial Conduct Authority ['FCA'] messages on treating customers fairly ['TCF'] are not reaching those that matter. Maybe, the messages are reaching the compliance departments, but the power bases in those businesses are not significant enough to change business behaviours. Of course, there are many firms who are performing well, but the outliers dominate the headlines and get the rest of the financial service industry a bad name.

What do I mean? There were five major businesses where, in respect of Payment Protection Insurance ['PPI'], FOS found in favour of the customer in more than 75% of the cases referred to it (three firms where findings were above 90%). In the banking and credit category, eight firms were found against in more than 60% of their cases. Where firms did perform well were in the mortgages and home finance section and life and pensions section – probably because those areas are dominated by building societies and independent financial advisers rather than PLC businesses.

Let's go back to basics, the services of FOS are engaged only when a firm and customer cannot resolve their differences between themselves and then call on the services of FOS to help resolve the dispute. It's natural, therefore, that sometimes FOS will agree with the customer and sometimes the business. Firms should not be criticised simply because cases are referred to FOS or that FOS find in favour of the customer in a percentage of cases. The million-dollar rhetorical question is what percentage of decisions in favour of the customer indicate that the firm is not considering complaints effectively. Although I do not really expect an industry wide answer to that question I would expect the compliance teams and boards of financial businesses to have an answer for their business and to have the wherewithal to carry out a root cause analysis when a certain percentage is breached. This analysis, of course, should go beyond the learning analysis that should take place on every occasion when a decision in favour of the customer is found.

If the regulatory TCF message has not persuaded firms to look at complaints in a more customer focused way, what might make change happen? Maybe, firms need to focus on the positive financial performance of a business that gets its complaint handling right rather than the cost of processing unhappy customers. You don't need to search far to find significant amounts of research in this area to convince the most sceptical bean counter. Just think about it; businesses will only hear from less than 5% of its dissatisfied customers – that will leave a high percentage of customers who don't tell the business that they are unhappy, but those customers are more than happy to tell their friends how poor the business is. Social media makes this outpouring of discontent easier than ever! More than 90% of unhappy customers will not do business with a firm again, whereas if a dispute is satisfactorily resolved there is a greater than 70% chance that the customer will do business with the firm again. On top of that, depending on what business you are in, it could cost five times more to get a new customer than it does to keep an existing customer. The financial impact of a business of getting complaint handling right, or wrong, is not rocket science.

So what conclusion can we draw from the FOS six-monthly update? Some firms are improving, but others need to re-think how they deal with customers who complain. The data should be a wakeup call to many in the financial service industry. Firms need to take a wider more in-depth view when undertaking root cause analysis.

Nick Baxter is a Partner with Baxters Business Consultants. Baxters Business Consultants is a business consultancy offering training, marketing and expert witness services within the lending industry

Getting the Senior Manager & Certification Regimes 'over the line' – Learning from the banking sector

By **Peter Griffiths** from Worksmart

The new SM&CR Regimes are aimed at bringing greater transparency and individual accountability into the wider financial services market place. It promises to deliver considerable change to firms across all the different sectors. As the industry tries to ready itself, it does so against a backcloth of uncertainty about the final rules or a fixed deadline to aim for. The banking sector faced similar challenges in 2015, although the start date of 7th March 2016 was known.

Worksmart has worked with a whole variety of banks of all shapes and sizes since 2015, helping them to get ready and implement the new rules. Since then, we have been busy helping firms already subject to SM&CR transition from paper based systems onto our software to enable easier management of the ongoing activities and provide accurate record keeping and 'point in time' reporting. So all in all, we have over two year's experience of helping firms transition to the new rules from a number of perspectives. In this article, we have distilled this experience into some key messages for a smooth and timely transition to the new regime.

My role in Worksmart has been to work with our 15 plus customers to implement our SMCR software. Practically, this has meant me working with customers to configure the software to replicate their Responsibilities Map and complement their business processes. Once configured, I train the different user communities ahead of launching the system. Finally, I continue to stay close to customers to iron out any teething problems and help embed the new software. Because of this, I have experienced a wide range of situations – not to mention a few challenges!

By now most firms in the wider financial services market will have started to think about the new regime But knowing the rules is one thing, translating them into an appropriate response for each firm (as every firm is different) is another. Putting in place a timely and efficient plan for implementation is an entirely different matter. In this article I would like to share with you the key things that I have learnt along the way.

Put Your SM & CR Regimes 'To Bed' Early

Sounds easy, but from the experience of the banks, this takes time – usually much more time than is originally thought. So what causes the time delays? Of course it varies, however, experience has taught me that the delays will fall into two areas;

- **Within the firm:** allocating SMFs and committee memberships is usually straightforward, however, working out which Prescribed Responsibilities are relevant to the firm can take time. Most firms will accept the definitions provided by the regulator for each Responsibility, however because business models vary, these definitions may need to be amended. Luckily, the proposed SMFs, Responsibilities and Control Functions for the wider financial services market are clearer, so should be easier to understand and allocate between the executive team. However things are seldom straightforward, and sorting out your Responsibilities and Control Functions will be no different.

  However, a task that is consistently underestimated involves senior executives

scrutinising the detail of their proposed Responsibilities and reviewing, even renegotiating, their personal T&Cs in return for this greater accountability. As a Programme Manager in a major Building Society said "we've only just got agreement on what we proposed to the exec team a year ago". So be warned!

- **With the regulator:** once agreed internally, the second area of delay was with the regulator. Not only did banks suffer delays due to the backlog of submissions, they sometimes received unwelcome surprises particularly when executives, who were previously unregistered, had their applications for approval refused. Refusals had knock on effects into reallocating Responsibilities within the exec team, resubmissions and, sometimes, even external recruitment. So the message is clear, avoid delays by getting your submission in early. That way you will get decision ahead, not months after, the regulatory deadline.

-

Clarifying Certification and Conduct Rules

If the message about getting started early with the SMR community, it is equally true of Certification. Many firms in the banking sector simply underestimated the amount of time it would take to define and gain agreement as to what roles were caught by Certification. When we ask customers how many members of staff are in their Certification Regime, we often got answers like, "anything between 40 and 250, we're still deciding". And of course, a second time delay is then allocating Significant Harm Functions (Certification Functions) to those roles. Again, the guidance appears clearer for the wider financial services market, but deciding what roles are caught by Certification and what roles fall into Conduct Rules should not be underestimated.

Once decided, planning the design and delivery of training activities for certification staff will take time. Not only will there be the need to design, organise and deliver the training to provide evidence of understanding of the conduct rules, following the regulator's guidance for training to be as role specific as possible, more specialised training also need to be designed. Experience over multiple implementations has taught me that training is often an afterthought on the project plan. If this is the case, then your training will probably be delivered late, leaving you exposed to the risk that staff are not fully aware of their responsibilities under the new regulations.

Finally, because the regulator's expectations are for competent, not just compliant, behaviour there will also be a debate about what evidence will you need to demonstrate competence. If your firm has a fully functioning performance appraisal process, then this may well be enough, (certainly this is the view taken by most firms). However, if your firm does not have a robust performance appraisal process in place, I suggest the new regulation should be the 'tipping point' to implementing one.

NEDs

This article would not be complete without recounting my experiences of working with NEDs. In short, I've found NEDs a challenge and I warn you to expect the same! For such a small group, they often take a huge amount of project time. The reasons are many but the most common are; they are part-time meaning they are difficult to get hold of. Secondly, they are busy and so difficult to gain their full attention. Thirdly, they are not employees and so they have to be treated on an individual basis when it comes to IT. For example, they usually do not have a company email address and in one company, the firm's IT security blocked external email addresses from accessing anything within their firewalls. Meaning they couldn't access their records and complete their activities. And if they are based outside the UK, e.g. based in India, the Middle East or Africa, the access problems are made worse and are compounded by culture. For example, one Worksmart customer had a NED based in India that was 'so important' that he simply 'did not have the time' to formally accept his Responsibilities or complete his annual Fit and Proper return. When challenged, the NED's offer was for one of his staff to complete his activities on his behalf! So be ready for NEDs when it comes to transitioning onto the new regulation.

Processes and Records Management

The new rules will challenge your record keeping and force rethinks in a number of areas. From experience, the most common areas are;

- **Job descriptions:** make sure your job descriptions are up to date and, for execs in the SMR, aligned to their new responsibilities.
- **DBS / credit checks:** be clear about the regularity of these checks, where you store these and who

has access to them. For example, most Worksmart customers store these checks against each user ('so everything is in the same place') and use the security within the software to control access.

- **References**: the process of obtaining positive work references for the last 6 years is mandatory. Ensure your internal processes don't slip up! Also, be prepared for reference requests from other firms and be able to supply these references quickly and easily.

> "By now most firms in the wider financial services market will have started to think about the new regime But knowing the rules is one thing, translating them into an appropriate response for each firm (as every firm is different) is another.

- **Competence**: because the regulator's expectations are for competent, not just compliant, behaviour there will also be a debate about what evidence will you need to demonstrate competence. If your firm has a fully functioning performance appraisal process, then this may well be enough, (certainly this is the view taken by most firms). However, if your firm does not have a robust performance appraisal process in place, I suggest the new regulation should be the 'tipping point' to implementing one.
- **Early implementation:** finally, in my experience the most savvy firms run their first cycle well ahead of the regulatory deadline. Whilst this creates pressure for the project team to complete preparations early, if anything untoward is identified, e.g. issues with an individual's F&P, these issues can be dealt with ahead of the deadline.

The last two years have certainly been interesting. I have worked with some very capable people and seen evidence of genuine best practice. However, if I could offer a single piece of advice, it would be to start early and don't expect things to be straightforward.

And this is just implementing the new rules in your firm. Finally, the whole subject of moving beyond simple record keeping and making the regulation what it is intended to be, i.e. an agent for culture change, will, I suspect, be the lessons for the next two years...

To charge or not to charge? – that is the question

Julia Kirkland,
Partner in FSTP

> "Hmm, so it's a tall order to comply with point number two, which might explain why we are seeing so many firms choosing to absorb all research costs

Is the panic starting to set in with the deadline for MiFID II looming on the 3rd January? Recently it feels as though a day doesn't go by without a new report outlining firms' readiness. In this edition I'm returning to a topic I touched on earlier in the year, and providing an update on it. Research.

Research has been one of the most hotly debated aspects of MiFID II. It is a topic affecting firms on both the buy and sell side. The key questions are:

How do we charge and then pay for research? and

When does it become an inducement?

It is these aspects of research which both the regulator here and in Europe have sought to address.

Article 13 (1) of MiFID II states that research received from a third party shall not be regarded as an inducement if it is received in return for either of the following;

1. Direct payment by the investment firm out of its own resources, or
2. Payment from a separate research payment account (RPA) controlled by the investment firm, provided a number of conditions are met.

In order to comply with the second point above, the RPA run by the investment firm must ensure that they meet the conditions below;

- The RPA can only be funded by a specific research charge to the client
- Regularly assess a research budget
- The firm will be held responsible for the account
- Regularly assess the quality of research purchased against a robust criteria and are able to demonstrate said research it able to contribute to better investment decision

Hmm, so it's a tall order to comply with point number two, which might explain why we are seeing so many firms choosing to absorb all research costs. The list of firms already choosing this option include JP Morgan Asset Management, T.Rowe Price, Vanguard, JO Hambro Capital Management, Rathbone Fund Management, Jupiter, M&G and Woodford Investment Management. Others are likely to show their hand over next few weeks and months during the run up to the compliance deadline. It has become clear that firms either didn't know enough about how they paid for non priced research or find the requirements of running a RPA too onerous. Of the few firms that have come forward to say they will be paying and recharging clients for research, many have boosted their internal research capabilities and therefore dramatically cut their research costs already. This is likely to mean we won't see dole queues increase with surplus Research and Investment Analysts. The only change will be that they are likely to have one employer for whom their research is exclusively reserved for.

What does it mean for customers? Is the unbundling of "charges" going to produce the transparency that is intended by the regulations? Research will need to be priced competitively and independently of other services from now on and buyers of research will need to factor in the return on the investment. Our pension funds as well as our retail customers should benefit from this but call me an old cynic, I can't help feeling firms who absorb the research costs will look at how those funds can be recouped. Maybe the pressure on fund pricing through the Asset Management Review will really start embedding TCF into providers' future thinking.

fstp
financial services training partners

Embedding complex concepts using microlearning

They say that small is beautiful. So, when it comes to embedding complex concepts that have a direct impact on staff behaviour – such as the new General Data Protection Regulation (GDPR) – microlearning has a vital role to play. **Simon Mercer**, Head Of Business Development at Unicorn, explains how.

Your data is your most valuable asset – your competitors know it, criminals know it and your customers know it.

That is why GDPR will enforce every individual's privacy rights and the transparent disclosure of personal data breaches way beyond the scope of the current Data Protection Act 1998 that it will replace on 25 May 2018.

The scale of GDPR is huge. It impacts anyone who handles or processes customer data within an organisation. In financial services that equals pretty much everyone!

In the previous edition of this publication, our partners at financial services training experts, FSTP, explained that HR departments are under increasing pressure to support projects such as GDPR, with their role moving towards providing integral and critical business support.

For example, in addition to their 'day job', HR departments are being asked complex questions about the data held on employees, and who sees what and when.

GDPR is also bound to be a favourite topic on which the regulator will probe firms, and senior managers will need to be able explain a firm's approach to GDPR and how it fits in to the wider training and competence culture demanded under the Senior Managers and Certification Regime (SMCR).

Then there is the due diligence required on third party service suppliers, who might see your data and vice versa, to make sure these interactions do not leave your firm at risk of non-compliance with GDPR. Who leads on that?

FSTP confirmed project work around GDPR is underway. But although most firms' gap analysis will have mapped the 99 articles and highlighted those affecting them, getting their systems and controls for data management right remains a huge task.

After all, while your business may have the systems and controls in place for GDPR, unless your people know what's expected of them, achieving compliance will be difficult. So how are you training them?

The need to knows

Forget your day job for a second; outside of work you too will be a customer of multiple organisations.

When you are speaking to an organisation with which you have a contractual agreement, you will want to know your data is being handled and processed correctly; that the person you are dealing with understands and follows the latest rules and regulations; and that your personal information will be safely guarded.

So what will that person need to know to ensure this is the case?

Anyone who handles or processes customer data must understand the principles of GDPR and any exemptions that apply; be able to recognise the lawful conditions that can be used to justify processing data; explain your rights under the GDPR, and know what to do in the event of a data breach

These are complex issues, and with the GDPR deadline looming, embedding this knowledge, and even more importantly, new behaviours in your staff and senior managers is critical.

After all, under SMCR, set to come into force for a further 52,000 firms next year, senior managers are accountable for the ongoing competence of their staff.

Making this information digestible and effective in motivating behavioural change is key and is where microlearning can make all the difference.

Take a bite

The growth in the use of mobile technology in our personal lives has raised expectations around the user experience in the corporate learning environment.

Even if a learner is completing training on their desktop at work, the expectation will be that content is bite-sized, engaging, relevant to their role and features a blend of high-quality graphics and video /audio.

They want learning activities available at the point of need, accessible from any device, with reinforcement to support behavioural change.

Apply this to GDPR and here's how might it look…

Begin with a short video to give context and engage the learner, followed by a series of eLearning modules to raise awareness of what they need to do differently under GDPR, and practical case studies and scenarios where learners can apply the new knowledge and see the consequences.

Further interactive eLearning modules focusing on lawful processing and consent and individuals' rights would follow, before a final assessment to demonstrate understanding. To reinforce the learning and provide the opportunity for refresher training, a summary of the key points helps to embed new behaviours.

All bite-size learning activities organised into one learning pathway, which can be taken at the desktop or via a mobile device and/or an app when and where the individual wishes.

The big picture

The growth in microlearning is all part of a broader shift from 'push' to 'pull' in terms of learning content, whilst continuing to recognise that with regulatory topics, the organisation must drive the process so learners know what is expected of them.

Even the most heavily regulated firms now recognise the key to changing behaviours and embedding a compliant culture is to encourage more informal and flexible learning opportunities.

Mobile technologies are the ideal medium for continuous learning and apps can play an effective role in driving engagement given their ubiquity in our every day lives.

An interesting point to note at this stage is this more self-directed approach to learning is, by default, encouraging learners to carry out activities in a BYOD environment where they have all their favourite distractions close to hand and other mobile alerts and notifications fighting for attention.

> "Anyone who handles or processes customer data must understand the principles of GDPR and any exemptions that apply;

Working closely with our games division, Amuzo, has given us a strong focus on making sure our microlearning activities fit with the way people already use their mobile devices, to provide a seductive user experience on a par with their other apps.

For financial services firms, getting GDPR right is business critical and with good reason; a potential fine of up to €20m or 4% of worldwide annual turnover of the previous financial year for the severest breaches is a hefty threat, not to mention the reputational damage and loss of customer confidence that comes from damning headlines.

Yet before letting the seriousness of the subject cloud your judgment on how to best train your staff in GDPR, really consider how they want to learn.

Of course you will have to maintain some centralised control and give them what they need to know. But leveraging the potential of microlearning, and the personalised, collaborative and informal learning experience it creates, can augment and enhance the traditional learning approaches to everyone's benefit.

Give me some feedback

By Len Horridge from The Skills Exchange

One of the most powerful weapons (really, weapons?) that a manager has is the ability to give people positive and motivational feedback... stop sniggering, it's true. Sadly, we are currently British and we, as Brits, don't like that nice sort of thing. We prefer cynicism and satire and self-deprecation. If somebody says something nice to us we get all defensive, blush, have no eye contact and basically send all those messages that say "don't do that again, say something nasty".

> "look at a "strength switch", looking at the positive side even if they do something negative

There's a great story about a Brit starting work with an American company and on his fist day he is called in by the CEO who asks him to tell him his top 3 strengths. "Strengths?" he replied, "strengths? I'm British, we don't do that!". And we don't. Well, not enough.

In our training, and in our research, we find that people actually DO like compliments and recognition; this is no great surprise at all, but most delegates complain that they don't get enough of it in the workplace (recognition, that is). Which is also understandable, though funny when it's managers who say this and, when asked if they do it for their staff they avert their gaze and mumble "Maybe now". It's often a small thing that gets overlooked in the stupid speed that is life but often it's the small things that matter. Well done, thanks, that's good are all words that we should all utter more, both in life, but also in work.

And some recent research backs this up, which is what we already know but I like new stuff, especially new stuff I agree with.

We have always known the impact of positive and negative feedback (as was quoted in "How To Win Friends and Influence People") which showed us that we would need 4 good things to say to balance one bad thing. Which is almost obvious; if I say 12 nice things to you and one bad thing, you will probably recall the bad thing, this being a survival trait of the brain (remember the bad things and avoid them). Though it is, of course, easier to be critical than constructively positive.

This, research has shown, is known as the "negativity bias" which focuses on what's wrong rather than seeing what's right and balancing it out. After all, apart from your current author, nobody's perfect (and a great finishing line to one of the top 5 comedy films of all time, answers on a postcard, please).

This new research, which was published in The International Journal of Applied Positive Psychology (go on, you know you want to get a subscription), shows that this is true of parenting and of managing (as both are pretty much close relations). Instead of being critical of children, as most parents can slip into (to protect their off-spring), parents are advised to look at a "strength switch", looking at the positive side even if they do something negative. It will just get a better response. (Yes, parenting, like managing, is tricky but at least when you are a parent you can hit your kids. Yes, that's a joke.)

Strengths, according to this research, aren't just things that somebody is good at; often, they are talent based, giving a focus to whatever people can do well. Research with teenagers showed that they had a greater life satisfaction if their parents looked at their strengths rather than trying to correct weaknesses.

Teens who were told about these strengths, rather than where they fell short, performed better over longer periods.

Instead of just telling the teenagers what they did wrong, which they probably knew anyway, the trick is to look at what they did well and what they could do in the future (to avoid failure or falling short of standards required). It's balancing; if you focus on the negatives this can turn people of or make them negative later in life, hence carrying on the vicious circle.

Getting people to feel good about themselves, the research has shown, makes them perform better. Or, "No ****, Sherlock", as you may say, "isn't that common sense?". But common sense may not always be common practise.

We have a slide in our coaching training that simply says "Catch them doing something right" and it's so true. It always has been. It's just not "natural" for us humans. Well, not us that were born in Britain.

The research suggests that you shouldn't be in "fix-it" mode all of the time, it suggests that you slip into "complementary mode" and see what happens. Okay, it's not very UK (or us) but, you know, try it. It may just have an impact.

Oh, thanks you for reading this. You read it really well. You hardly moved your lips at all. Sorry...

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Helping insurance firms prepare for IDD implementation

Ian Jerrum from Searchlight Insurance Training

> The FCA has made clear that it will be taking a distinctly dim view of any deficiency in their knowledge or competence.

One of the key drivers for change within any training organisation is the need to anticipate, absorb and keep our customers up to date with forthcoming legal and regulatory developments.

Along with the EU's General Data Protection Regulations (GDPR) and the FCA's Senior Managers and Certification Regime (SMCR), one key concern right now for our clients in the insurance and financial services sector is the introduction of the Insurance Distribution Directive (IDD) in February next year.

The IDD is an EU regulatory initiative aimed at encouraging cross-border competition whilst ensuring consistent and appropriate levels of protection for insurance customers - from private individuals to multinationals - EU-wide.

Just as with GDPR, the prospect of Brexit by no means signifies that firms who 'distribute' insurance in the UK (i.e. insurance firms - along with other distributers of insurance like banks and retailers for whom it is not their core business) don't need to bother with IDD. Consequently our training around this new directive is currently in great demand.

Although the precise details around how the FCA and HM Treasury will implement IDD have yet to be fully buttoned down, it is certainly not too soon to give firms a good of idea about how to prepare. This is just as well, with implementation now just a few months away!

One key consideration is that UK insurance distributors must ensure all staff involved in sales and product development complete 15 hours of properly evidenced training and CPD each year. The FCA has made clear that it will be taking a distinctly dim view of any deficiency in their knowledge or competence.

Specifically, staff in these roles will need to know about the structure and workings of the insurance market (including its legal aspects), basic financial competence, assessing customer needs, claims handling, and the ethical dimensions of the business, including treating customers fairly and avoiding conflicts of interest.

The IDD also requires that firms offering insurance products on a 'non-advised' basis ensure these genuinely meet the needs of those to whom they're sold. A particular concern is that add-ons are (demonstrably) only sold where the customer has made a fully informed and deliberate decision to purchase them.

Also included are new requirements to make clear the precise basis and extent of any commission earned by insurance intermediaries on a sale and on any fees that will be charged. There is also a strengthened focus on potential conflicts of interest. Wherever these cannot be entirely avoided, they must be spelled out clearly to the customer.

Product documentation requirements have also been expanded, with firms now required to provide a new Insurance Product Information Document (IPID, or just PID). This should be a two-to-three page document produced to a prescribed format, featuring infographics-style icons for maximum clarity, telling policyholders as plainly and unambiguously as possible what is and is not covered.

There are also new duties and responsibilities relating to the sale of insurance through businesses not directly authorised by the FCA, so-called Ancillary Insurance Intermediaries (AIIs). In essence, the IDD brings what's expected of such intermediaries very closely in line with what's expected of firms whose primary business is insurance.

Where product governance is concerned, the IDD's requirements shouldn't come as too great a change for firms already up to speed with the FCA's current requirements, but there are a number of innovations to note in terms of product development, review processes and clarity on

intended target markets (with a view to deterring the sale of unsuitable products).

Naturally, there is a great deal more to IDD than that. We are busy delivering workshops covering a full range of IDD related topics including conduct of business requirements, pre-contract disclosures, transparency and avoiding conflicts of interest, distinctions applicable to advised and non-advised sales, considerations applicable to cross-selling and working with AIIs.

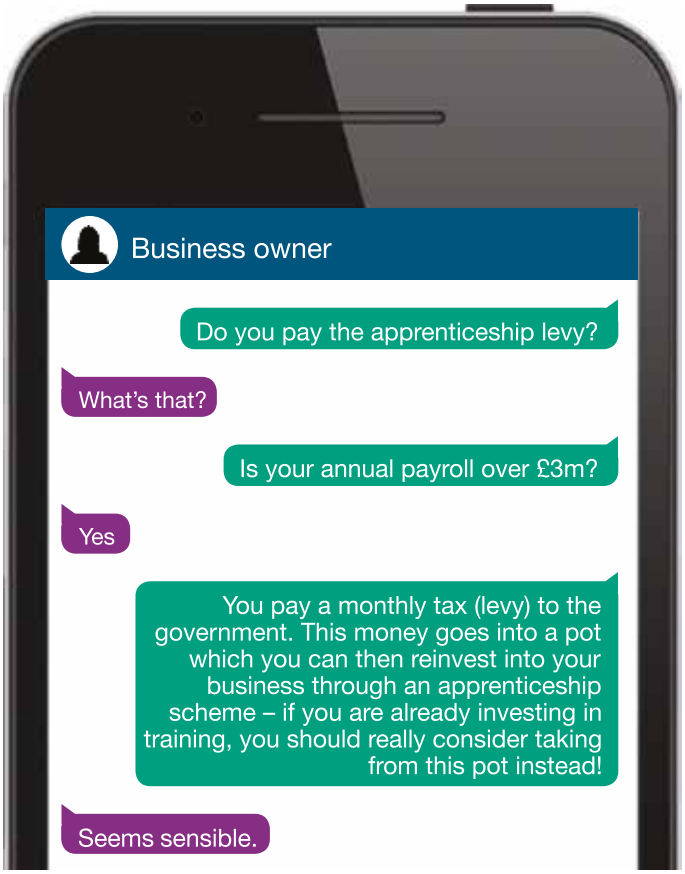
Beyond this, we are also working with a number of our clients on a consultancy basis to help them prepare their organisations more broadly for IDD implementation.

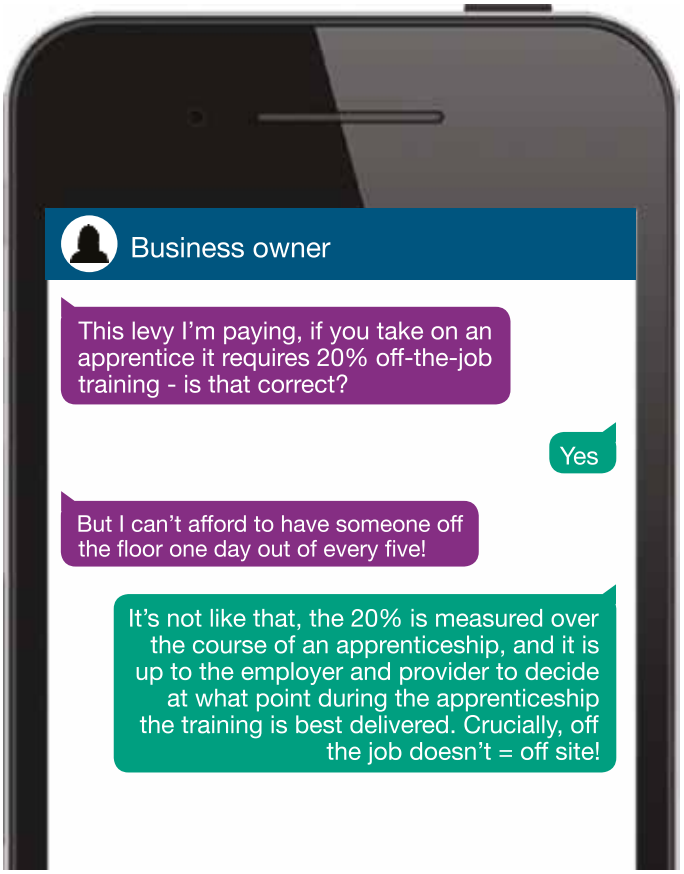
We are assisting some clients to create customised e-learning and blended training materials to help them ensure their sales and product development staff are fully up to speed and competent - along with e-learning assessments to test whether they have the requisite levels of knowledge and competence.

Whenever something like IDD comes along to change the insurance landscape we need to move fast to offer our clients the solutions they need, when they need them. Our customers may not always experience unalloyed delight when rules and regulations change, but it keeps us busy and on our toes!

You're paying the Levy, now what?

Use it to grow your own compliance talent.





As a Main Provider on the Register of Apprenticeship Training Providers, the Credit Services Association is your perfect partner ideally placed to supply apprenticeship training to those at the frontline of your business.

Specialising in debt collection, compliance and leadership & management, CSA apprenticeships provide a return on investment and deliver high-quality training - bringing benefits to both your company and employees.

Standards include

Financial Services

- Credit Controller/Collector - Level 2
- Advanced Credit Controller/Debt Collection Specialist - Level 3
- Compliance/Risk Officer - Level 3
- Senior Compliance/Risk Specialist - Level 6

Leadership & Management

- Leadership & Management - Team Leader/Supervisor - Level 3
- Leadership & Management - Operations/Departmental Manager - Level 5

To learn more about apprenticeships from the Credit Services Association please contact us:

T: 0191 217 3073
E: apprenticeships@csa-uk.com
W: www.csa-uk.com/corporate/apprenticeships

csa
voice of the collections industry

20:20 Vision

By **Fiona Macaskill**, Head of Learning and Development at the Credit Services Association (CSA).

Since the Government introduced the new Apprenticeship Levy, barely a day has gone by without a call coming through to CSA headquarters wanting further details on what it all means and how the Association can help its members use the Levy.

Part of this was prompted by our inclusion on the Register of Apprenticeship Training Providers (RoATP). This has led to a number of very exciting conversations, not only with CSA members and those working within our own specific niche within financial services, debt collection and debt purchase, but also with businesses further afield – well-known High Street names who see real value in harnessing the very specific (and niche) learning skills of the CSA. Working both with NOCN (for our Compliance Apprenticeships) and the Chartered Institute of Credit Management (for our Credit Control and Collections Apprenticeships) as our End Point Assessment Bodies, it is a powerful proposition that is already being well received.

This is where apprenticeships are particularly exciting. There is a dawn of realisation among firms, including various blue-chip organisations and even government departments, that they can use their levy to create apprenticeships in areas that have typically been under-invested.

There is also a realisation that Apprenticeships can be very broad in their scope, to take into account new initiatives from the likes of the Financial Conduct Authority (FCA) such as the Senior Managers and Certification Regime (SMCR). Brought in to replace the Approved Persons Regime, SMCR is designed to bring even greater accountability to the conduct and behaviours of individuals within a business, and ultimately reduce the likelihood of harm or detriment to the consumer. SMCR encourages a culture among staff at all levels to take personal responsibility for their actions, and firms must be able to clearly demonstrate where responsibility lies.

Understandably, perhaps, SMCR has caused more than a little angst not only among those individuals who will now be accountable, but also among the firms responsible for ensuring those individuals have the proper training and support they need to do to do their jobs. This is where Apprenticeships can again play an important role, helping to develop staff in the context of what the new regime demands.

But as much as we are excited by the opportunities that apprenticeships present, and the interest that has so far been generated, some levy paying employers are still cautious about the value of apprenticeships given their interpretation of some of the conditions that apprenticeship's need to follow.

A big area of confusion surrounds the requirement that 20% of an apprentices' training must be what is called 'off the job'. This has led some within our industry to interpret this as being the loss of an employee for one day a week, which given the current economic challenges and uncertainties, is not an attractive proposition, especially if translated across not just one but perhaps upwards of 20 employees. But is this really the case? And what does 'off the job' actually mean?

Off-the-job training

Off-the-job training is defined by the Department of Education as learning which is undertaken outside of the normal day-to-day working environment and leads towards the achievement of an apprenticeship. This can include training that is delivered at the apprentice's normal place of work but must not be delivered as part of their normal working duties.

The off-the-job training must be directly relevant to the apprenticeship framework or standard and could include: the teaching of theory (for example: lectures, role playing, simulation exercises, online learning or manufacturer training); practical training such as shadowing, mentoring, industry visits and attendance at competitions; and learning support and time spent writing assessments/assignments. What it does NOT include is training which takes place outside the apprentice's paid working hours.

Crucially, this 20% off-the-job training requirement is measured over the course of an apprenticeship (a minimum of 12 months), and it is up to the employer and provider to decide at what point during the apprenticeship the training is best delivered.

This does not, therefore, mean 'losing' an employee a day a week if it does not suit the business need. It could be a proportion of every day, one day a week throughout, one week out of every five, or a proportion at the beginning, middle or end. This will depend on what is best for the organisation, and the apprentice and on the technical or theoretical requirements of the apprenticeship standard. Crucially, also, 'off the job' does not mean 'off site'. It is the activity, and not the location, that determines whether the training meets the funding rules definitions. And it is neither the employee nor the government who is dictating when, where and how this training is delivered. It is up to the levy payer themselves.

For firms who have understood the importance of apprenticeships, but are nervous about the disruption that 'off the job' training may cause, then think again. 'Off the job' does not mean out of site or out of mind. The CSA has developed its apprenticeships through the direct involvement of employers who have shaped the apprenticeships to meet their business needs and crucially deliver better qualified employees that will add value to their business and bottom lines.

What are the implications of the pension provisions being introduced in FA2017?

John Reynolds from Expert Pensions

> Employers must be careful not to 'pick and choose' who receives the benefit

The second Finance Bill 2017 passed its second reading on 12 September and as I write this the committee stages are expected to conclude no later than Thursday 26 October.

The Bill was published on 8 September (named Finance Bill 2017-19, being the first Finance Bill of the 2017-19 parliamentary session).

It reintroduces most of the provisions dropped from the first Finance Bill 2017.

Retrospectivity

As I write this, the government has confirmed that all policies dropped from the Finance Act 2017 will be given retrospective effect from the original intended date. This isn't something that happens too often – with many of us scratching our heads and asking why? It's not the first time, but with the time it is taking to pass through parliament (with no apparent disadvantage to either HMRC or pensioner members), it has been a very confusing and uncertain year. That is not good for pension administrators, advisers or members.

MPAA reduction

The government has made it clear it believes that retaining a £10,000 MPAA is inappropriate and no evidence had been submitted to persuade it otherwise.

The retrospective MPAA £4,000 limit (from 6/4/2017) for individual members should be taken into account when advising on requests to access benefits flexibly or indeed, where benefits have already been accessed, particularly where a UK relevant individuals are potentially still saving for retirement or using a pension scheme for accumulating tax-efficient funds.

The £500 pension advice exemption

The increase in the pension advice exemption from £150 to £500 results from the findings of the Financial Advice Market Review: which identified that those approaching retirement were making increasingly significant decisions on pensions and would benefit from taking proper advice.

This is a significant change and will be very helpful for employers, trustees, pension members and financial advisers.

The provision of pension advice will be a valuable benefit for the employee considering their plans for the future. It could be very useful to help members access professional financial advice, when previously they may have considered it inaccessible.

I'm sure that this is an exemption that will be taken up in whole or in part to enable employees to best consider their retirement plans.

Employers must be careful not to 'pick and choose' who receives the benefit. As mentioned above, in order to fall within the exemption, the benefit must be open to all current employees.

One of the ways in which an employer could choose to restrict the benefit is by confining it to those within five years of pension age (which will generally mean employees aged 50 and above).

It's an interesting development and it's one which needs a good look at – particularly when there are large auto-enrolment schemes with members who need to review their future plans, putting Financial advisers time at even more of a premium than it is currently.

Next time we'll have a look at a retirement planning tool which could help employers, trustees and financial advisers with that planning.

We need more than a 'pin-stickers guide to workplace pensions'

By **Henry Tapper** from First Actuarial

Steve Bee once told me that all workplace pensions are the same. In the context of the conversation (getting small employers to choose the right one), I knew what he meant, it is as hard for small employers to pick a winning pension provider as for me to pick the winner of the grand national.

The point of pension governance is not to guarantee winners but to reduce the chance of your horse falling and ensuring you get a run for your money. That may sound brutal, but it is clear to me that there will be market failures in the workplace pension and the first thing we can hope for is that we have no fatalities.

That is why it is important that we have the FCA and PFA ensuring that the insurance companies participating in the workplace are solvent and why large parts of the Pension Schemes Bill 2016 were given over to giving powers to the Pensions Regulator to oversee the running of trust based workplace pensions (most especially multi-employer master-trusts).

But to continue the horse racing analogy, most punters want more than a horse that makes it to the finishing line, they want that 'run for their money,' the elusive hope – that their horse will make it to the winners' enclosure rather than sloping back to the stables an also-ran.

Not all horses can be winners every race, but over the course of a horse's career, you'd hope he or she would spend some time as a success. So with workplace pensions, we cannot expect our 'Workie' to be number one every time , we can expect it to be a consistent performer. That is what we pay our providers for. That is how we measure value for the money we put to keeping our funds in training.

Ok, so I've pushed this racing conceit as far as it can go. The matter arising is just who the average Joe is relying on for his information and what responsibility should be placed on the army of intermediaries that stand between him and the management of his money.

Despite the thousands of pages that now sit on the Pensions Regulator's website, there is little consensus on the fiduciary obligation. The FCA's main thrust at present is to create sufficient disclosures to ensure people can make informed decisions. The FCA define the people who should be in the know as institutional investors, the Asset Management Market Study tells us an institutional investor is 'An investing legal entity which pools money from various sources to make investments.'

That definition could apply as much to an employer as to an asset manager or pension provider and that is the problem. The democratisation of pensions brought about by auto-enrolment has brought over one million new employers into the equation. Each has had, as part of the employer duties, the obligation to choose a workplace pensions. But it is unclear what that choice leads to by way of further obligations.

At one extreme, an employer might be considered to have had a duty of care towards its staff. This implies some kind of responsibility to ensure that bad things don't happen and that the employer uses best endeavours to ensure outcomes of all the saving are as good as possible. This definition was trialled by the Labour Party in a draft amendment to the Pension Schemes Bill but rejected by the Government on the grounds that provided the employer chose a qualifying workplace pension with due consideration to the guidance on the Pensions Regulator's website, it could feel satisfied it had done its duty.

> "what responsibility should be placed on the army of intermediaries that stand between him and the management of his money.

At the other extreme is Steve Bee's assertion that all workplace pensions are the same and that no amount of pension governance can reduce the chances of failure or improve the chance of success. Is there an implied obligation of good faith?

We have two legal avenues which can help us. The first concerns the implied obligation of good faith from employer to employee. For this, I turn to a much quoted statement in a judgement by Sir

Nicolas Browne-Wilkinson VC in 1991 on the Imperial Tobacco pension dispute In every contract of employment there is an implied term: *"That the employers will not, without reasonable and proper cause, conduct themselves in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between employer and employee;"* Woods v WM Car Services (Peterborough) Ltd *[1981] ICR 666, 670, approved by the Court of Appeal in* Lewis v Motorworld Garages Ltd *[1986] ICR 157.*

I will call this implied term 'the implied obligation of good faith.' In my judgment, that obligation of an employer applies as much to the exercise of his rights and powers under a pension scheme as they do to the other rights and powers of an employer. Say, in purported exercise of its right to give or withhold consent, the company were to say, capriciously, that it would consent to an increase in the pension benefits of members of union A but not of the members of union B. In my judgment, the members of union B would have a good claim in contract for breach of the implied obligation of good faith: see Mihlenstedt v Barclays Bank International Ltd [1989] IRLR 522, 525, 531, paras 12, 64 and 70.

In my judgment, it is not necessary to found such a claim in contract alone. Construed against the background of the contract of employment, in my judgment the pension trust deed and rules themselves are to be taken as being impliedly subject to the limitation that the rights and powers of the company can only be exercised in accordance with the implied obligation of good faith.

The judgement has been heavily relied upon in recent judgements concerning IBM and the BBC and is relevant here.

Does the employer have a duty to provide staff with pension information?

Again, I have to play the barrack-room lawyer as precious little has been said on this subject (so far).

But it is likely, as the balances of workplace pension pots start to exceed the cost of the cars of those who own them (a generally accepted measure of engagement!) that people who have been saving, will want to know a little about where their money is invested.

The case law surrounding the employer's obligations in this respect centres on a judgement made in favour of a certain Dr Scally. The key principles of the Scally judgement have been laid out for us by Eversheds (who have asked me to point out that this is not a legal opinion)

- In Scally v Southern Health and Social Services Board (1991), the House of Lords held that an employer has an implied contractual duty to take reasonable steps to inform an employee of a contractual term in order for them to take advantage of it where:
- the terms of the contract have not been negotiated with the individual but result from negotiation with a representative body or are otherwise incorporated by reference
- the particular term in question makes available a valuable right contingent upon the individual taking action to avail himself of its benefit, and
- the employee cannot, in all the circumstances, reasonably be expected to be aware of the term unless it is drawn to his attention

Dr Scally was disadvantaged by not being able to make pension decisions because his employer did not give him the basis on which to take the decision.

Picking winners.

Clearly employers should not be held responsible for the member outcome – that is why we have not established workplace pensions as a defined benefit. But equally clearly (to me), there is an implied obligation on employers to do their best. There is also a clear duty on employers to make available relevant information for staff.

We are woefully lacking in the information we need to decide whether the workplace pension in which we are investing is going to be a winner.

The Government are taking steps to ensure that proper disclosures are made which enable that information to be available.

However, it is one thing to disclose, it is another to get those disclosures noticed. Greater clarity is needed to ensure that people can pay attention to their pension.

Worth reading if you want more on this;

Employer's duty to provide information to employees about pensions.
https://tinyurl.com/FirstActuarial-01

So who IS accountable for your pension returns?
https://tinyurl.com/FirstActuarial-02

Why employers must understand the value for money of their workplace pension.
https://tinyurl.com/FirstActuarial-03

The absent assessor

By **Andy Snook** from Performance Evaluations

Times are changing and more and more firms seem to be adapting their T&C schemes to accommodate moving from the traditional live competency assessments where the assessor accompanies the adviser to a client meeting into assessing meetings where the assessor is absent from the meeting but the meeting is audio recorded, with the client's agreement, or where the meeting is both visually and audio recorded for training purposes.

Costs are the primary reason for the change, but there are other reasons too. For example some national organisations who run regular centralised employee training courses for roles covered under their T&C Scheme may find it more practical as well as less expensive to run virtual training sessions and therefore assess remotely as well. Other firms may decide that for both assessment and for audit trail purposes, as well as more practicality and costs, to record all client meetings due to the geographical locations of their client base, and also those firms who already automatically record all telephone calls might now include recording all client meetings, and incorporate this into their T&C Scheme.

This is a game-changer in a number of ways for those carrying out the requirements of the T&C Scheme for assessing competency. Assessors like myself who previously had been used to travelling to different locations around the country to conduct live competency assessments will now experience two significant benefits from these changes. For starters we won't, for the most part, have the travelling element and the potential issues that travel can bring. This is a good move since who needs the challenges of trying to find suitable parking, trying to find a location that the satnav can't, sitting in unexpected traffic jams or public transport delays etc. Even careful planning can go wrong sometimes! We can now conduct assessments remotely, either from an office or even by working from home, and the considerable amounts of time that the travelling took up which is unlikely to be justifiable from a commercial perspective in today's market can now be used to conduct more assessments in the same period of time, or to undertake other T&C tasks. Planning for assessments may become easier since previously the assessor needed to be available when the adviser had a meeting upon which they could be assessed, but with recorded meetings the assessment can take place within a reasonable time period post-the meeting, so the assessors' diary becomes more flexible and accommodating the needs to the business.

The other significant benefit is the change in the actual assessment itself. In a traditional competency assessment the assessor records what is "seen" and "heard". We'll come onto the "seen" element in a moment but with regard to what is "heard", if something that either the adviser or client has said is unclear there is no means of recovering that statement, since an assessor can hardly interrupt the meeting and ask the adviser or client to repeat what they just said. But with a recorded meeting the assessor can have the recording replayed to capture or clarify exactly what was said, and even to ensure that the exact words used are documented, if necessary, for the purpose of later discussion and if necessary, training or coaching.

Whilst these benefits may seem to be a very positive move, there are always going to be elements of the assessment process that don't benefit from the changes, so the absence of the assessor in a live competency assessment meeting may have certain drawbacks.

When the assessor is not present in the meeting certain potential useful information can no longer be captured and used in the post-meeting feedback session. This is

the "seen" element and might include the adviser to client (or clients) seating position, which is useful to note from a delivery perspective, for example whether the client(s) can clearly see what is being shown to them, or whether the adviser has to read upside down because they've sat opposite rather than beside the client(s). The level of eye contact between the adviser and the client(s) cannot be noted, and neither can the clients' physical reactions and responses to what the adviser is asking or saying. That said it is still possible to pick up on language employed and vocal tone to make an interpretation on the clients' verbal reactions. There may be other changes too, for example the pre-meeting discussion may now have to be held by telephone, and similarly feedback post-meeting feedback may now have to be held by telephone, unless the adviser is based in the same office as the assessor.

> "This is a game-changer in a number of ways for those carrying out the requirements of the T&C Scheme for assessing competency.

There are advantages for the adviser as well. It's probably fair to say that very few advisers feel comfortable with an assessor being present at a client meeting, so providing the client(s) agree to the meeting being recorded, the physical absence of the assessor should help the meeting feel more "natural". Plus the adviser also won't have to ask the clients permission in advance to the assessor's presence.

Does it work? In my opinion, yes it does. For some processes, such as telephone advice, this is the only way to assess competency in this area, particularly when there are a number of advisers conducting a bulk exercise. For individual advice the absence of the assessor at the meeting allows greater scope for assessment, since it would now be possible to assess meetings that might not have been practical to attend before.

So is this the future of assessing in our industry? Well, that very much depends on individual firms. There is, obviously, a cost to setting up a recording facility, but the cost savings will quickly cover the costs of setting it up. The change of the assessing element within the T&C Scheme is straight-forward. As for rolling out the change of process to the advisers? You'll know how well it is received when the cheering stops!

Introducing our SMCR Panel – here to answer your questions

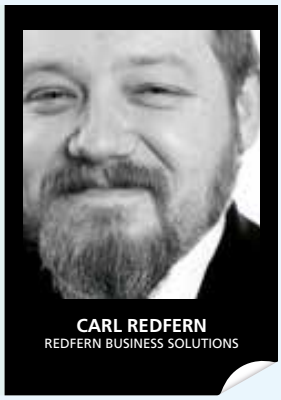
We are delighted to announce that four representatives from four companies have stepped forward to form our SMCR panel. Each representative is highly experienced and expert in their field and is willing to answer questions you may have in relation to the Senior Manager and Certification Regime.

Questions should be addressed to the panel as a whole rather than a specific representative. As demand for their time is high this approach will help ensure getting a prompt response. Questions should be based on the regulations and their practical implementation. This may clarify your understanding of a regulatory requirement or validate, within reason, the approach you are taking.

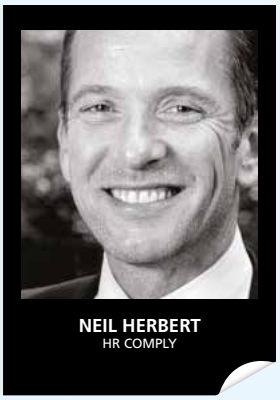
This service cannot provide detailed specific advice but each of our panellists are happy to be approached should you wish to engage their firms for practical consultancy support.

To ask your questions email ask@t-cnews.com

Ask our SMCR Panel – *your frequently asked questions answered*

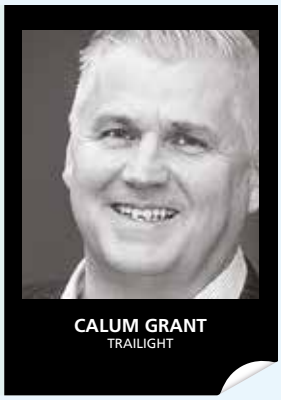


CARL REDFERN
REDFERN BUSINESS SOLUTIONS



NEIL HERBERT
HR COMPLY

JULIE PARDY
WORKSMART



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