



City HR

FCA and PRA's consultation papers on diversity and inclusion in the Financial Services sector

FCA & PRA consultation papers on diversity and inclusion

On 25th September 2023, the FCA published Consultation Paper 23/20, “Diversity and inclusion in the financial sector - working together to drive change” and the PRA published Consultation Paper 18/23, “Diversity and inclusion in PRA-regulated firms”



Details

These two CPs are broadly consistent in content and set out proposed requirements (subject to proportionality) that firms:

- Embed non-financial misconduct considerations into existing regulatory frameworks;
- Clarify D&I governance of and accountability, including through embedding D&I into existing Senior Management Function (‘SMF’) responsibilities, certain SMF remuneration, and the role of for risk management and control functions;
- Set a robust and data and evidence driven D&I strategy;
- Set D&I targets to embed this strategy; and
- Introduce new annual D&I monitoring, regulatory reporting, and public disclosure



Scope and proportionality

Firms in scope

The various proposals in the FCA and PRA CPs apply to different groups of regulated firms.

- FSMA firms and Part 4A permissions - All firms which have a Part 4A permission, i.e. carry on at least one FSMA regulated activity, are in scope of at least some of the D&I proposals.
- CRR firms and Solvency II firms - The PRA’s D&I proposals apply to all CRR firms and Solvency II firms

Proportionality and firms out of scope

- The FCA excludes Limited Scope Senior Manager and Certification Regime (‘SM&CR’) firms from all requirements except those related to non-financial misconduct.
- Organisations with an average of 251+ employees per entity over a rolling three year period (‘larger firms’) would be subject to all requirements. Those beneath these thresholds would not have to apply the proposed requirements related to target setting and data monitoring, reporting and disclosure (but would need to embed non-financial misconduct considerations into existing regulatory frameworks and submit data on the number of employees)

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Embedding non-financial misconduct into existing regulatory frameworks



- Extending scope of the Conduct Rules to cover serious instances of bullying, harassment and similar behaviour in the workplace
- Explicitly confirming that these are relevant to 'fit and proper' requirements, both in the workplace and personal life
- Additional guidance on how non-financial misconduct should be incorporated into regulatory references
- Expansion of Suitability Threshold Conditions to include discriminatory practice, to be applied in line with existing guidance.

PwC

Governance, accountability & risk management



- The Board have ultimate accountability for D&I and must be capable of explaining rationales
- Individual accountability requirements for firms in scope of the Prescribed Responsibilities including clarifying responsibilities for D&I within SoRs and linking performance objectives and remuneration outcomes of the SMF responsible for D&I strategy
- Risk Management and control function requirements where D&I should be considered and treated as a non-financial risk

Diversity & inclusion strategy



- A requirement to develop and publish a D&I strategy including an overview of the firm's core values and culture, clear objectives and goals on D&I, an action plan to meet these, an approach to monitoring progress and the role of all staff in doing this
- Data and evidence based approaches must underpin the development of D&I strategies and action planning
- The Board and responsible SMFs would be expected to be able to clearly articulate this

Diversity & inclusion targets



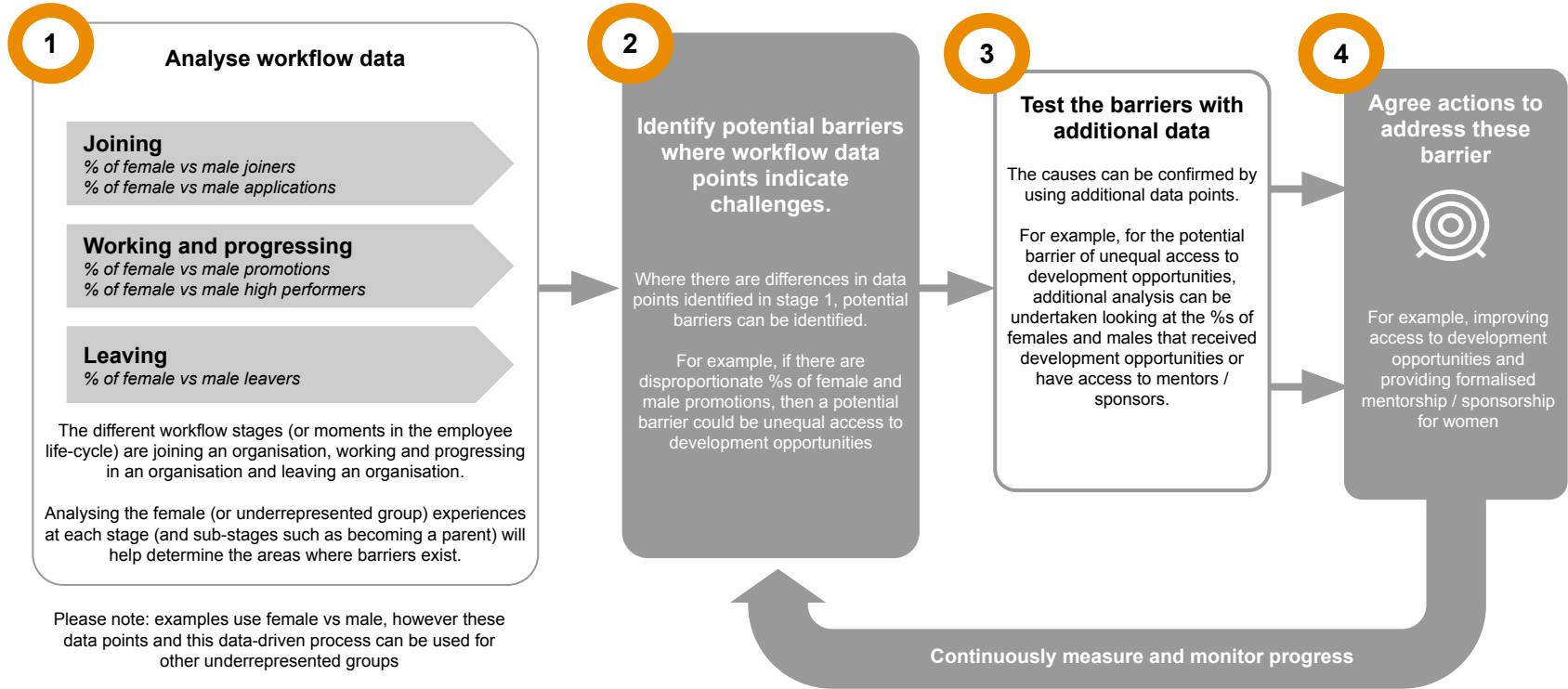
- Larger firms (251+ employees) must set demographic diversity targets. Targets should cover the Board, senior leadership and all employees
- Targets would need to be over a set timeline (unspecified) and regularly (biannually under PRA rules) reviewed.
- Targets, the rationale for setting them and progress against them would need to be publicly disclosed and reported to the regulator annually

Diversity & inclusion data monitoring, reporting & disclosure



- Firms would be required to annually collect, report and disclose a range of D&I metrics on an entity level. This includes data on sex or gender, ethnicity, disability, sexuality and faith.
- Firms would also be required to annually ask employees six specific inclusion questions and publish responses. Data would be reported by entity for the Board, senior leadership and all employees

PwC's methodology for a data-driven approach to D&I



What's next?

The FCA and PRA will each publish their final rules and guidance as part of a Policy Statement ('PS') in 2024. They propose to bring the rules into force 12 months from publication of these. Reporting and disclosure requirements would be on a 'comply or explain' basis for the first year only.

What should organisations do next?

- Review current D&I practices, strategies and data to identify any gaps and priority areas to address;
- Engage with key stakeholders such as the Board, HR, risk and senior leaders to discuss any gaps and agree strategic priorities;
- Consider starting work on any gaps that may take time to address (such as collecting diversity data); and
- Consider whether to respond to the CP by the deadline of 18 December 2023.



Companies are and should be starting to think about the following areas...

Identifying current gaps and future priorities compared to the CPs

Collecting workforce diversity data and/or improving data collection systems

Setting robust diversity targets

Preparing for measuring and addressing inclusion issues

Creating or improving any D&I strategy, including to embed D&I data

Any training/process changes required to meet non-financial misconduct requirements

Creating consistent and clear narratives to support D&I disclosures

Thank you

For further information, help or support...

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