

Mastering remediation: commitment, planning and consistency

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The Jersey Financial Services Commission (JFSC) published guidance on **Remediation Action Plans** in April of last year, marking a clear line in the sand as to its expectations in relation to remediation and offering practical suggestions on the structure and content of remediation plans.

The JFSC has clearly highlighted in the guidance and subsequent examination feedback papers, that where remediation is not found to be effective or sustainable, supervisory strategy will be considered. Regulatory action will be taken, where appropriate.

Businesses will be required to give attestations to the regulator in respect of the completion of remediation. In addition, assurance will be required on the effectiveness and sustainability of the work undertaken, once the changes have been embedded.

Repeat findings, reoccurrence of past regulatory issues and ineffective remediation have been considered aggravating factors by the regulator, as recent public statements have revealed.

With the stakes set high, it is important to ensure that mistakes are not made twice. Incorporating commitment, planning and consistency into a remediation strategy will ensure that a successful outcome is achieved.

| Commitment

Regulatory remediation is not the sole preserve of the compliance function. Whilst compliance subject matter experts will play a key role in a remediation project, the responsibility for delivering effective and sustainable change rests with the board of directors/senior management (together, senior management).

A firm commitment to embed the change is required from the outset, or there is a risk that good work will become unravelled in future. Securing the right level of sponsorship and

accountability, along with the right mix of people in key roles, helps ensure quality decision making, good governance and establishes the tone.

Senior management commitment - to, and sponsorship of the remediation project, along with an acceptance that the business needs change. Tied in with this is the identification and understanding of the nature, extent and root cause of the issues. The guidance suggests appointing a board member (or equivalent) as the overall lead for remediation.

Organisational commitment - engage staff early and bring them on the journey, making them aware of the role they play in the success of remediation. Be transparent with staff as to what is ahead - challenges presented by remediation reverberate across the organisation - keep them invested or you run the risk of staff becoming disillusioned, with a potential resulting flight risk of key talent.

Resource commitment - of time, people, finance and effort. Adequate resourcing will be dependent on the scale of the remediation. With larger projects, consider project management and resources to run the project outside BAU. In addition, it may be beneficial to engage third-party support in an advisory capacity, to ensure that the planned work addresses the issues identified. Secure adequate budget, investment and where relevant group buy in.

Planning

Successful remediation requires robust planning, including an oversight and governance framework. The remediation plan itself is the central document of any remediation project, which will be shared with and scrutinised by the JFSC. The guidance provides detail on the suggested structure, format and content.

The first step at the outset of planned action necessitates looking back, to investigate and understand the root cause of the identified deficiencies and assessing whether the issues are isolated or systemic in nature. It is only when this is understood that the scope of remediation and the corresponding corrective actions can be determined and detailed planning can begin.

Timeframes

Understandably, where deficiencies are identified, a business will wish to return to a position of compliance and expedite remedial work as soon as possible.

However, even with the best intentions, it is easy to underestimate the time commitment required for a successful outcome. It is preferable to take longer to remediate and ensure that it is effective and sustainable than rush to completion.

Timeframes will depend on the severity of the issue identified. Where issues are more systemic in nature, it is likely that considerable resource will have to be applied, to ensure completion within

a reasonable window.

Proposed timeframes require balancing against JFSC expectations: in the guidance a low tolerance is indicated for plans extending beyond 12 months, although it is conceded that there may be instances where this is not achievable.

- Consider the sequencing of actions; some elements of remediation are dependent on others, impacting overall planning
- Allocate each remedial action a target date for completion, on a risk based approach
- Build in a contingency buffer at the outset for any potential slippages
- Track work against original target (baseline) completion date allocated – revisions to this date should be a subject to the appropriate scrutiny and approval of senior management
- Be proactive with the JFSC where delays are anticipated - provide a robust rationale and request an extension from the agreed completion date

Resourcing

The impact of remediation on employees should not be underestimated, with careful consideration given to the most appropriate resourcing arrangements; remediation cannot successfully be undertaken off the side of the desk.

Some aspects of BAU may need to be scaled back or paused, with existing resource pivoting to remediation or additional resource allocated. In cases where BAU is set aside to focus on remediation, for example periodic reviews and compliance monitoring, backlogs can be created, leading to other regulatory issues.

However, additional resource should not be viewed as a silver bullet in itself. A successful outcome will depend on the right blend of the number of dedicated people along with the appropriate skills and experience. Whilst an experienced compliance professional should be able to provide the regulatory SME knowledge, they may not be sufficiently skilled to manage the project.

- Review the potential impact of remediation on BAU processes
- Determine resourcing requirements, including internal and external resources
- Evidence the consideration of relevant knowledge and experience of resources
- Deliver training to resources where required

The JFSC suggests drafting a resourcing schedule to assist you to identify, consider and where

appropriate address the following:

- Key dependencies on a particular staff member
- Personnel required to complete the plan – consider whether they will have capacity or is there conflict with their other responsibilities

Communication

Engagement and communication with all key stakeholders are essential, including the regulator, group and staff.

Typically, the JFSC will require periodic updates on the progression of the remediation plan. When significant milestone actions are considered complete, attestations will be required from senior management. As discussed in a previous article ([The power of openness and trust: engaging with the regulator](#)), adherence to agreed reporting commitments is critical, as not doing so will potentially raise a red flag.

Regular scheduled reporting will enable senior management to exercise oversight of the remediation. In addition, communicating with staff at appropriate intervals, to keep them updated on progress and engaged in the process, will in turn help embed lasting change.

| Consistency

If life is a marathon rather than a sprint, the same can be said of remediation – lasting change does not happen overnight. Marathon runners describe hitting the wall, referring to that point in the race where the body simply runs out of energy. Similarly, remediation fatigue can set in, particularly towards the end of the project. For example, where remediation involves customer outreach ensuring that the cycle is appropriately managed to conclusion is key – having a process to deal with partial or non-response is vital to get such sticky actions over the line.

The consistent application of planned resources will keep momentum going in the right direction, with oversight exercised by senior management critical in ensuring that the finish line is crossed.

- Ensure clear terms of governance and accountabilities – set up steering committees to keep up momentum and focus
- Monitor and evaluate progress through the remediation lifecycle – ensure management information is clear and adequate to exercise oversight
- Close actions through the governance process to evidence the basis on which decisions and approvals are made

- Anticipate blockers and deal with change transparently
- Adopt the lessons learned from evaluation, to make improvements in real time
- Train BAU staff in new processes and lessons learned throughout the process

Remember – completion of the planned remediation actions is the beginning of the end, not the end itself, with assurance of effectiveness and sustainability the finish line.

Conclusion

Completing remediation is challenging, particularly where combined with close regulatory scrutiny and significant consequences for not getting it right.

However, remediation can be an opportunity to promote a cultural shift towards an organisational mindset of continual improvement, driving the ongoing proactive identification and management of issues before they become a problem. As most with experience of remediation can attest, prevention is cheaper than cure. One of the main goals of any remediation project is to ensure that the same mistakes do not happen again.

Please contact [Sarah Valerkou](#) if you would like any further advice.

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