

In confidence, with confidence: the importance of robust whistleblowing governance

March 30, 2021

Last week, the FCA launched a campaign, "In confidence, with confidence", to encourage individuals to report wrongdoing in the areas the FCA regulates.

The campaign encourages individuals working in financial services to report wrongdoing to the FCA and reminds them of the confidentiality processes in place.

As part of the campaign, the FCA has:

- published materials for firms to share with employees; and
- produced a digital toolkit for industry bodies, consumer groups and whistleblowing groups to encourage individuals to be confident in stepping forward.

Whistleblowers who report to the FCA can choose to remain anonymous, will have a dedicated case manager and will be able to meet with the FCA to discuss their concerns.

Whistleblowing in financial services

Last year, Protect, the UK's whistleblowing charity, published a report on the experiences of whistleblowers in financial services.

The report, *Silence in the City 2*, noted that despite improvements in whistleblowing governance generally, a significant majority of whistleblowers felt victimised or dismissed, or felt that resignation was the only option available to them in the circumstances. In relation to the reporting itself, breaches of legal or regulatory obligations now rank as the most-reported concern, and most whistleblowers were senior individuals with managerial responsibilities.

Set in this context, the FCA's intervention is perhaps unsurprising. It also highlights the importance of firms taking this issue seriously.

Culture and governance remain a priority for the FCA

When announcing the campaign, the FCA reminded firms that they must have effective arrangements in place for employees to raise concerns, and to guarantee those concerns are handled appropriately and confidentially. Firms are also required to appoint a whistleblowers' champion responsible for overseeing and reporting on the effectiveness of internal whistleblowing policies and procedures.

The FCA has made increasing use of campaigns in recent years, such as its ScamSmart and consumer harms campaigns. These have often served as a useful tool to inform behaviour in areas over which the FCA has less substantive regulatory influence, so it is notable that they are being deployed in directly regulated areas too.

The campaign highlights the importance of regulated firms having robust whistleblowing policies and procedures in place that can deal with reports in an appropriate manner.

Dentons has broad experience advising firms on the nature and scope of their governance obligations and in undertaking whistleblowing investigations.

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