

THE COMPLIANCE JOURNAL

Regulatory Round Up - November 2021



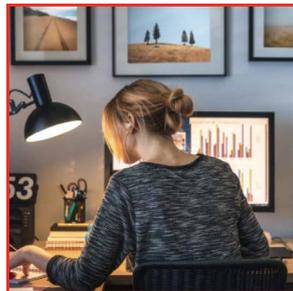
Welcome to this latest edition of the Commercial Express Compliance Journal, with just a few updates following FCA publications on unused permissions, culture and hybrid working, and some insight into awards of compensation by the FOS. We hope you enjoy this latest edition.

Helen Holyoake, Risk Compliance and Agency Manager

Click on any of the below to read...



Speech - A regulatory perspective



Hybrid Working



Awards for distress or inconvenience – what businesses need to know



Just for fun

Financial Conduct Authority

FCA to move faster to remove unused firm permissions

The FCA has published draft guidance on a new power that allows it to move faster to remove regulatory permissions that are no longer being used by financial services firms. The changes are intended to prevent scams and ensure consumers are not misled. The new power will streamline and shorten the process of removing firm permissions. The FCA will be able to start the cancellation process as soon as it considers permissions are not being used, by serving 14 days' notice on a firm. The FCA will then be able to vary or cancel permissions after 1 month. Being able to take quicker action is part of the FCA's transformation and drive to be more assertive, drawing on an innovative approach and using new streamlined processes to make important regulatory interventions.

As part of its transformation, the FCA recently announced separate changes to its decision-making and Governance to enable it to make faster and more effective decisions by streamlining the FCA decision-making and governance and giving greater responsibility for decisions to senior members of FCA staff close to certain matters. The consultation proposed that certain decisions will now be made by FCA staff including:

- imposing a requirement on a firm or varying its permissions by limiting or removing certain types of business
- making a final decision in relation to a firm's application for authorisation or an individual's approval that has been challenged
- making a final decision to cancel a firm's permissions because a firm does not meet the FCA's regulatory requirements
- the decision to start civil and/or criminal proceedings

The consultation closed on 17 September 2021. Following this consultation, the FCA will consider the feedback and aims to publish a Policy Statement in or around November 2021.

<https://www.fca.org.uk/news/press-releases/fca-move-faster-remove-unused-firm-permissions>

<https://www.fca.org.uk/news/press-releases/fca-proposing-changes-streamline-decision-making>

Speech - A regulatory perspective: measuring and assessing culture, now and in the future, the role of purpose and the importance of D&I

Sheldon Mills, Executive Director for the FCA recently gave a speech highlighting why the culture within a firm and across the financial services industry is so important from the FCA's perspective. The speech covered what the FCA consider to be some of the key characteristics of a healthy culture within a firm, and how the FCA assess culture in their supervision of firms. In the speech, it was highlighted that the FCA see healthy culture as critical both to consumer protection and to well-functioning markets, and in almost every instance of poor conduct, deep-set cultural issues have been present. It was explained that the FCA measure and assess a firm's culture against four drivers of culture: purpose, people, leadership and governance. This could cover a wide range of areas such as significant business model restructures, the approach to remuneration, speak-up culture, Board and ExCo composition, diversity, succession planning, the application of the SMCR, the effectiveness of a firm's controls environment or its governance structures. In particular the speech referenced 'Culture in the new normal' in light of the pandemic and the future of hybrid working, and how important it is to ensure people have a workplace where they can speak up and feel included. The FCA will monitor how firms continue to adapt to the new normal. In the speech, the importance of diversity and inclusion was also highlighted. The FCA see this as critically important as Firms that are diverse and inclusive deliver better outcomes for shareholders, consumers and markets. In July, the FCA issued a Discussion Paper on the subject of Diversity and Inclusion, to engage in a wider conversation about this issue. The FCA are expecting leaders to look hard at the culture of their business and ask how they can build greater diversity in the next generation of leaders, and how to foster a culture of inclusion that makes use of diverse views. The outcome of the Discussion Paper will lead to the FCA consulting on rules and guidance next year.

<https://www.fca.org.uk/news/speeches/regulatory-perspective-measuring-assessing-culture-diversity-inclusion>

[DP21/2: Diversity and inclusion in the financial sector - working together to drive change \(fca.org.uk\)](#)

Hybrid Working

In a recent publication, the FCA has issued its expectations of firms who are continuing to work remotely or adopting a hybrid approach following the pandemic. In the publication, the FCA make it clear that firms must be able to continue to meet their regulatory responsibilities and must still be capable of engaging with the FCA. Firms are expected to prove that working remotely or a lack of a centralised location does not impact the firms ability to:

- Meet the FCA's Threshold Conditions
- Engage with and provide information to the FCA
- Maintain accurate data on the Financial Services Register (i.e., firms contact / address details)



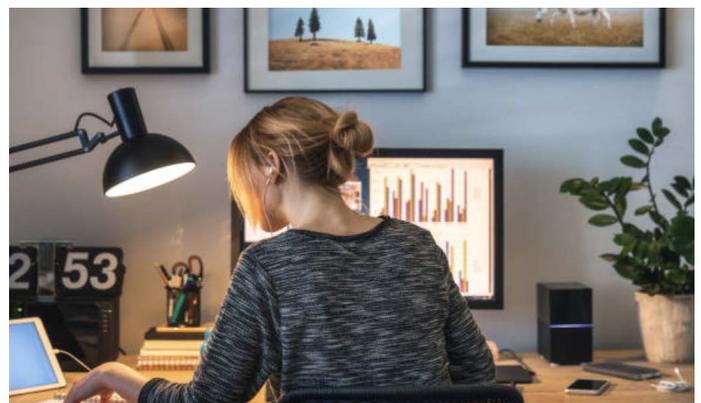
- Oversee its functions including any outsourced functions
- Meet customer needs and ensure there is no customer detriment

The FCA also reminds firms that working arrangements should not damage market integrity, increase the risk of financial crime or reduce competition.

It is expected that firms properly plan and assess any risks before making changes to working arrangements, and that appropriate oversight and governance by senior managers can be maintained. Firms should still be capable of adopting an appropriate culture, ensuring appropriate systems and controls are in place, and control functions such as risk, compliance and internal audit should be able to carry out their duties unaffected. Data, Cyber and IT security risks should also be considered particularly as staff may transport confidential material and laptops more frequently in a hybrid arrangement.

Firms are also reminded that any material changes to how a firm intends to operate may require notification to the FCA, updates to the Financial Services Register and that the FCA should still be able to access firms' sites, records and employees, regardless of location.

The full publication can be viewed at <https://www.fca.org.uk/firms/remote-hybrid-working-expectations>



Financial Ombudsman Service

Awards for distress or inconvenience – what businesses need to know

In its latest Ombudsman News the FOS provided details of its refreshed guidance for making awards of compensation for distress and inconvenience. This follows on from stakeholder feedback that firms required more detailed guidance to help reach a fair outcome for customers as a result of complaints. The refreshed guidance includes new award ranges, with more detailed descriptions, helping bring to life the reasons behind the levels of awards the FOS make. Not only does it provide guidance for firms, but it also helps customers understand what may be considered as fair compensation.

The FOS highlight that to decide a fair offer of compensation it hinges on understanding the impact a mistake has had on an individual, so not just the financial impact but the emotional impact too due to the stress, worry and practical problems

caused by financial disputes. Therefore, the FOS are providing more information and insight for financial businesses about complaints that involve making an award for distress or inconvenience. This includes case studies both at the lower and higher end of the award ranges, and examples where other types of impact than distress and inconvenience have been considered, such as instances of pain, suffering or damage to reputation. In addition, the guidance also provides information about when an apology, without financial compensation, is appropriate.

You can find out more at:

<https://www.financial-ombudsman.org.uk/data-insight/blogs/awards-distress-inconvenience>

<https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-for-distress-or-inconvenience>

Just for fun



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Fill in the blanks below and find the associated word in the grid. Once complete, you should be able to spot another key topic for the FCA among the remaining letters!

FCA Principles

- 1) -----
- 2) ----- Care and -----
- 3) ----- and Control
- 4) Financial -----
- 5) Market -----
- 6) Customers -----
- 7) Communications with -----
- 8) ----- of Interest
- 9) Customers: ----- of trust
- 10) Clients -----
- 11) ----- with Regulators

Hidden Answer – Diversity and Inclusion.

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