

Anonymous – Written evidence (EGC0004)

I am writing in strong support of the Financial Conduct Authority's (FCA) initiative to enhance transparency and improve communication regarding its investigative processes.

As a former director of a large FCA-regulated company and a whistleblower, I have firsthand experience with the critical issues that currently impede effective oversight and accountability within the financial sector.

My submission aims to highlight these challenges and demonstrate how the FCA's proposed changes can help address systemic flaws, thereby bolstering the role and protection of whistleblowers in uncovering and preventing misconduct.

Background

1. I resigned my directorship from a large FCA regulated company due to a repudiatory breach of contract by my employer, following my whistleblowing on large-scale financial misconduct.
2. My concerns were ignored by the company and the misconduct continued. Accordingly, I made a Protected Disclosure to the FCA. I have seen no evidence that any action was taken in response.
3. Subsequently, a dispute emerged when the company tried to compel me to identify other whistleblowers and guarantee that I had not made, nor would I make, any disclosures—including Protected Disclosures—to any regulatory or law enforcement bodies.
4. Threats were incorporated into a settlement agreement that aimed to hold both me and my uninvolved, uninformed family fully liable for any consequences or penalties resulting from past or future Protected Disclosures.

5. Under duress from these threats, I signed a Non-Disclosure Agreement (NDA) that prevents reporting to regulatory and law enforcement agencies.
6. It is notable that one of the senior individuals involved was also connected to a then-recent multi-million pound fine levied by the FCA against another organisation for similar misconduct, which had also been uncovered by a whistleblower.

Non-Disclosure Agreements

7. The Solicitors Regulation Authority (SRA) has spent more than 5 years investigating the solicitors involved in drafting and enforcing the NDA which prevents disclosure to the FCA and other regulatory or law enforcement agencies.
8. The SRA has identified several instances of regulatory misconduct, and claims to have issued a private warning to the Managing Partner of a top 50 UK law firm involved.
9. However, solicitors continue to enforce the NDA, blocking the reporting of their and their client's alleged criminal and regulatory misconduct. My repeated requests to be released from the NDA to disclose these allegations have been consistently denied, even under the observation of SRA.
10. Despite its findings and the ongoing enforcement of the NDA, the SRA has refused to refer this matter to the FCA, the police or any other law enforcement agency. It has asserted that the NDA is enforceable. Furthermore, it has deemed the clauses that sought to hold me and my uninvolved family liable for the consequences of Protected Disclosures as 'appropriate in the circumstances'.

Conclusion & Wider Considerations

11. Despite their critical contributions, whistleblowers often face severe repercussions, including career damage, as they lack sufficient institutional support and protection.
12. Although intended to protect whistleblowers, the Public Interest Disclosure Act (PIDA) only offers remedies after detriment has occurred, providing little comfort or practical preventative measures. Moreover, it has been exploited and weaponised by legal professionals to intimidate whistleblowers, severely restricting the scope of their disclosures and often preventing them from reporting to regulatory or law enforcement agencies effectively.
13. Far from being unique or even unusual, my experience reflects a broader regulatory culture that too often allows, and seemingly endorses, practices that silence whistleblowers, thereby undermining the integrity of our regulatory framework and indicating a systemic tolerance for obstructing crucial disclosures.
14. While additional measures are necessary to fully protect whistleblowers, the FCA's proposal for early transparency in enforcement investigations is a commendable and crucial step forward, setting a positive direction towards enhanced accountability and whistleblower support within the regulatory framework.

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