

## Question Set G

### For Current and Former Financial Conduct Authority Employees

#### Your Details

Name:

**REDACTED**

Company/Business (if applicable):

**FINANCIAL CONDUCT AUTHORITY**

Address including postcode:

**REDACTED**

Email address (preferably non-FCA):

**REDACTED**

Mobile telephone number:

**REDACTED**

#### Permissions

- Do you give permission that your name is put into the public domain?  
**NO**
- Do you give permission that your response is put into the public domain?  
**YES**

## Questions

Are you a (i) current or (ii) former, employee, contractor or agency-supplied worker at the Financial Conduct Authority?

### **FORMER EMPLOYEE**

In what area of the FCA do/did you work??

**Customer Contact Centre**, Supervision - Retail Authorisations ("SRA")

**Asset Management Department**, Supervision - Investment Wholesale Specialists ("SIWS")

Briefly describe the functions you perform or have performed at the FCA.

1. **Reg-A Junior Associate, Customer Contact Centre:** Handling inbound telephony, email and live webchat contact from firms across all sectors of financial services and other external stakeholders (regulated, as well as non-regulated i.e., those seeking authorisation, appointed representatives, compliance firms, and legal firms etc.) I would provide guidance across a wide breadth of issues including, but not limited to;
  - Systems help e.g., Connect (for regulatory applications and notifications) and Gabriel (for regulatory reporting)
  - Regulatory reporting technical guidance from more simple consumer credit regulatory returns, to more complex AIFMD regulatory returns.
  - Regulatory applications: Authorisations, Approved Persons, Change in Control etc.
  - FCA Handbook guidance (e.g., rules and guidance in relation to sections of the Handbook such as PERG, FIT SUP, COBS, SYSC, BIPRU, MIPRU, IFPRU etc)
  - FCA website guidance, including policy statements, consultation papers, discussion papers. In addition to FCA Register guidance about their own and others' Register entries.
  - Escalating SUP 15 regulatory breach notifications from firms to the relevant areas of Supervision e.g., Events Supervision, CASS, or Fixed Firm Supervisors
  - Online invoicing and fees issues and queries
  - Liaising with other relevant business areas e.g., Approved Persons, Change in Control, Authorisations to check status and provide application updates
  - Training of other Associates in specialist areas e.g., AIFMD-related authorisations & general regulatory reporting requirements.
  - Other voluntary ad hoc input e.g., representing and marketing the FCA and its Graduate Scheme on university campus open days.
  
2. **Reg-B Associate Supervisor, Asset Management Department:** Supervising Fixed-Portfolio and Flexible-Portfolio firms, primarily custody banks and bank-owned asset managers. Responsibilities included;
  - Proactive supervision of a Global Systemically Important Bank ("GSIB")
  - Reactive supervision Flexible-Portfolio firms
  - Contributing to a Firm Evaluation (FE), as part of a proactive supervision strategy, and providing Supervisory oversight over the course of a firm's FE cycle to ensure that the firm are tracking and achieving across their respective FE focus areas.
  - Analysing monthly MI, including minutes of Board, Committee / Sub-Committee meetings, Compliance Risk Tracker etc.

- C-Level and Board meetings
- Assessing a P1-classified, IFPRU 730K firm's Recovery & Resolution Plan: providing feedback etc.
- Processing and investigating SUP 15 regulatory breach and Principle 11 notifications
- Providing front-line Supervisory liaison and input to other relevant business areas e.g., to Approved Persons when they assess a candidate's Form A application to hold Controlled Functions (CFs) or Senior Management Functions (SMFs) and Non-Executive Directors; or to Prudential Supervision in relation conducting liquidity monitoring exercises; or to CASS Supervision in relation to any concerns or risks with a firm's client assets systems and controls etc.
- Investigating reportable concerns and external whistleblowing intelligence
- Preparing briefing packs for CEO and Executive Committee level meetings with their C-Level counterparts of custody banks and/or bank-owned asset managers.
- Other voluntary ad hoc input e.g., assisting HR in marketing the FCA at university campus open days, and interviewing, assessing, and sifting through potential graduate scheme recruits.

In broad terms, what has your experience of working at the FCA been like?

### 70% of FCA tenure was spent on fighting discrimination

3. **I had been with the FCA for 6 years from 2015-2021 as a former front-line contact centre associate before joining the Asset Management Department as a Supervisor.** I entered the organisation from a non-finance background, and was optimistic to learn, network, increase my social capital, as well as my social and economic mobility, whilst focussing on building a fulfilling financial services regulation career in service to the public.
4. Unfortunately, **70% of my tenure at the FCA was spent on standing up for my rights, defending myself and fighting discrimination** on the grounds of my protected characteristics; both through internal and external processes to the immense detriment of my psychological and emotional wellbeing.
5. On the positive side, the work I was involved in was intellectually stimulating and some of the wonderful people I interacted and worked alongside with were genuine, sincere and intelligent. However, there are also some **nasty, malicious and malignant individuals within the FCA** – they know who they are, and others do too.

During your period of employment did you witness any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.

6. One cause of major contention within the customer contact centre (stemming from my own negative and detrimental experiences as well as those of others) was the **annual pay and award, and the behind-the-scenes appraisal dynamics which were happening involving team leaders, managers, Heads of Department ("HoD") and members of the Employee Relations team** who would conduct 'moderation meetings' to discuss employees' rating, bonus and pay rise amount in what was meant to be an objective, evidence-based exercise.
7. In 2019, in preparation for an Employment Tribunal hearing I made a Freedom of Information Act ("FOIA") request as I had reasonable suspicions that race-based discrimination was occurring within the department; with **BAME employees receiving lower ratings (therefore lower bonus payments and lower pay rises,**

**if at all), compared to non-BAME employees.** Results from my request showed that non-BAME employees were indeed given the higher "3" and "4" ratings, which meant that as a minimum the rating would mean eligibility of a 15-20% bonus for the employee, whereas BAME employees would be given the lower "1" and "2" ratings which mean that an employee could be eligible for a bonus of between 0-10%. From memory, **the gap between a non-BAME employee receiving a "3" or "4" rating compared to a BAME employee was c.25-30%** I believe, whereas compared to the rest of the organisation, there still was a gap, however it was c.8%.

8. It's been reported that since 2016 the FCA paid £125m in bonuses to its staff – for two consecutive years in 2016 and 2017 some employees within the customer contact centre received **£0 out of that £125m**; and this was not due to any lack of performance on their part but purely due to the discriminatory approach and the perverse influence exercised by others within the department and the Employee Relations team.
9. The contact centre was (and still is) one of the largest departments within the FCA with c.150 people and has a large population of BAME employees compared to non-BAME employees – yet despite this, the **non-BAME employees were consistently being given higher ratings, higher bonuses, higher pay compared to non-BAME employees.** The management and HR individuals involved in an employees' annual appraisal/moderation were from a non-BAME background – if all of the aforementioned is not an example (or at the very minimum an *indication*) of **discrimination, systemic, departmental and/or institutional racism within a public authority body**, then I don't know what is. At one stage it became evident, not only to me but also to other fellow contact centre colleagues, that during the ad hoc and seasonal recruitment of new junior associates (**there was an extremely high level of attrition and therefore loss of talent and knowledge within the contact centre**), there were more blacks, Asians and other minority ethnics being recruited into this entry level role (even though most employees were degree-level educated across various disciplines whether law, economics, politics and other social sciences) – this **led many of us to believe that the contact centre department was at one point –and most likely still is – actually being used as a 'tick-box exercise'** to increase and meet the FCA's below-standard diversity target, recruiting BAME employees into lower-paid, entry-level and less senior roles.
10. Since my intense challenge and pushback in relation to my own bonus and pay issues between 2016 and 2019, both internally through equality complaints, grievances and FOIAs etc., as well as externally through Employment Tribunal action, I have heard *anecdotal* reports from current colleagues that the contact centre has in fact improved in the manner in which they approach and decide on an employees' appraisal, moderation, bonus and pay etc, and that overall, there is less controversy about this issue. I am glad that it seems as if the department is now taking a more cautious stance in the manner in which it conducts its business with these matters; however, I myself have not had a chance to test this and **cannot ascertain whether these changes within the department are going to be short-term or meaningful and permanent.**
11. The FCA is currently under intense scrutiny in relation to its Transformation programme and the most controversial element at this moment in time is that of an FCA employee's pay and bonus. One element of this programme is **trying to fix the gender and ethnic pay gap between BAME and non-BAME employees** which the FCA is now attempting to be execute in an excruciatingly painful way.

12. On the one hand I commend the organisation trying to take action in the attempt to tackle the ethnic and gender pay gap issue, however on the other hand I say that **the organisation had damned themselves into this difficult position in the first place because for years there had been a discriminatory approach in the way BAME and non-BAME employees are paid and rewarded**, with those salary decisions being initially taken at recruitment stage, annually during bonus and pay appraisals, and decisions made when it came to internal promotions etc. **Had this toxic and discriminatory culture not been allowed to incubate for so long and on a systemic and institutional scale**, had the required steps been taken to identify this issue, as well as mitigating and remedying at the first opportunity – then the organisation wouldn't currently be in this position where action is being called to recognise Unite, and employees being left severely demoralised and leaving in droves, losing talent, knowledge, and experience, and where **innocent employees are now having to pay (pun intended) for the failure of the organisation and its approach to the remuneration and rewarding of staff members**.
13. In 2019 the organisation **voluntarily published its first ever ethnic pay-gap report without being required by an act of law – this is commendable**. However, what I don't think is commendable is the organisation attempting to explain the *reason* for the pay gap as being because there are more non-BAME people in senior, higher paying positions such as Executive Directors, Directors, HoDs, Tech Specs and Managers, whereas there are more BAME people in lower-paid and more junior positions e.g., admin staff, junior associates. If you're going to have a non-BAME Director on £200,000 and a BAME junior associate in the contact centre on £23,000 of course there's going to be a gap! That's why in an internal blog post in December 2019, I made a comment (out of an organisation of over 4,000 people) asking **that the organisation refine its methodology for the following year's ethnic pay-gap report**, and conduct a like-for-like comparison in the pursuit of more granular data – for example, compare the salary of a white, non-BAME FCA CEO with a brown, BAME CEO; or a white, non-BAME Executive Director with that of a black, BAME Executive Director. I was actually (pleasantly) surprised, that the organisation had taken onboard my feedback, and for the following year's ethnic pay-gap report and then onwards the FCA began providing more granular data.
14. However, what I again reasonably suspected was unfortunately true – even within the same job role/job family, and on the same level, there was **still a pay and bonus gap between a non-BAME employee compared to that of an ethnic BAME employee**. Of course, there may be other factors involved for example, length of service and prior experience etc, which could have skewed the data; however, unless that variable is explored further and proven, unfortunately **prima facie the fact is this – the FCA is paying and rewarding its non-BAME employees more** than its ethnic BAME employees.
15. Given all of the aforementioned, I would like to query whether the UK financial services regulator, a high-profile public body who are espousing rhetoric, both internally and externally, about diversity, inclusion, and social mobility, have **a systemic and institutional race issue in 2022?**
16. It did irk me, that despite the fact that after the second ethnic pay-gap report was released with the granular data and the fact that a gap was identified even within the same job role/job family, **a former FCA Executive Director who commented on this issue still stuck to the same explanation from the previous year's ethnic pay gap report** and claimed that the reason for the gap is because of the concentration of BAME and non-BAME in positions of seniority, that **the pay gap is**

**'too complex and expensive to fix'**, and that focus should be more on *'mentoring and coaching'*. A member of the public had made a FOIA request<sup>1</sup> in relation to this incident and asked for information and analysis including data, calculations, statistics forming the basis of the Executive Director's statement, however although the FOIA request was made in March 2021, it has been 10 months and it seems as though this FOIA request is still yet to be fulfilled.

17. I'm not sure how well these comments made by this particular Executive Director were received by other members of the workforce, specifically BAME employees, but I personally took offense to this. This problem is now **'too complex and expensive to fix'** because for years **the organisation has let systemic and institutional racism run rampant with the unequal and unfair treatment of BAME employees** when it came to recruitment, pay and reward, internal promotions, and performance.
18. Prior to December 2019, **the FCA's Information Disclosure Team ("IDT")** – responsible for processing statutory Freedom of Information Act requests and Data Subject Access Requests ("DSAR") – **had been operating unlawfully for around 2 years**. The organisation has significantly failed to meet its 90% target of fulfilling FOIA requests within the statutory deadline every year since 2018 (after a new Head of Department joined) and had been **misrepresenting performance – this is fraudulent misrepresentation** in my opinion. Actual performance figures were between 60-80%. The team continues to carry large backlogs of around 100 cases that are already in breach of its statutory twenty-working days deadline. Considering this, it may be interesting to compare and note for debate that **the FCA applies an automatic £250 late return fee** for anyone (whether a multinational bank or a sole trader IFA) **who fails to submit their regulatory returns before its respective deadline**; or perhaps draw a contrast to how the FCA has provided firms a 20 working day deadline for them to submit their latest Financial Resilience Survey response.
19. In November 2021, the FCA moved IDT out of its Cyber & Information Resilience Department and placed into its Operations Division under the remit of a new HoD. Note: It is my understanding that the former HoD responsible for the FCA's significant failings in relation to processing FOIA and DSAR and not meeting targets still works for the organisation.
20. In my opinion and reasonable belief, there has been multiple breaches of the following:
  - Equality Act 2010
  - Public Interest Disclosure Act 1998
  - Employment Rights Act 1996
  - Freedom of Information Act 2000
  - Data Protection Act 2018
  - General Data Protection Regulation ("GDPR") (EU) 2016/679
  - UK GDPR
  - ACAS Code
  - Other internal FCA Employee Handbook policies

What example/s can you share about when the FCA has done a good job to protect consumer interests?

21. Some admirable, bullet-pointed mentions without going into detail – some of these are of course *'still pending,'* but I believe it would be a good job once/if it is completed:

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<sup>1</sup> What Do They Know, [Ethnicity pay gap](#), 03 March 2021.

- Asset Management Market Study
  - High-cost short term i.e., 'pay day loans' cap
  - PPI compensation awareness campaign
  - Covid-19 business interruption insurance test case
  - Proposals to support mortgage prisoners
  - Proposal for the new Consumer Duty rules
  - Proposal to tighten regulations of Appointed Representatives ("ARs")
  - Proposal to review wholesale markets data providers
22. I do wish to state however, that when the FCA manage to do a good job to protect consumer interests, even though it should be BAU since the organisation is fulfilling its *raison d'être* – **praise and credit should be given to them** by the public, the industry, MPs, Parliament, the Treasury and the Treasury Select Committee. Regulation, when done well, should be highlighted, and praised because **perhaps positive reinforcement of the regulator is actually needed to inspire and motivate them to carry on the good job when they *do* get it right?**

What example/s can you share about when the FCA has done a poor job to protect consumer interests?

23. The following are quite notable and high-profile examples of regulated firms and funds going into administration or liquidation resulting in **investor losses amounting to a cumulative total of c.£1.630bn:**

- Connaught Income Fund
- London Capital & Finance
- LF Woodford Income Equity Fund
- Lendy
- FundingSecure
- Collateral
- Blackmore Bonds
- OneCoin

What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?

## **S166 Skilled Persons Report and Attestations**

24. I believe that using **s166 powers (Skilled Persons Reports) should be utilised more often**. I understand that it was reported in June 2021 that s166 orders have increased by 20%, which I believe is a step in the right direction, but there should be even more usage of this power especially within the bigger, Fixed firms regardless of expensive a s166 skilled persons report is going to be or how negatively it's going to affect a firms' publicity (should the s166 report be a publicised affair).
25. A s166 is sometimes seen as a 'sledgehammer' tool within the supervisory approach, however I believe it is an incredibly powerful supervisory tool to use and that **front-line Lead Supervisors should have the ability to exercise these powers unilaterally with input from their direct line manager** and without having to go through a long-winded, bureaucratic process entailing sign-off from senior middle-management members such the relevant departmental HoD and/or the divisional Director. There should be **more autonomy given to front-line supervisors** and enforcement officers so that they're able to use different tools at their disposal.

26. In addition, I would also have liked to have used the supervisory tool of **attestations** more often. An attestation *is* a firm's formal statement that it will take, or has taken, an action the FCA require. The FCA use attestations as a supervisory tool to ensure that regulated firms – and senior individuals within them – are clearly accountable for taking the actions that the FCA require, often without our ongoing regulatory involvement.
27. Overall, I believe the FCA needs to use its powers more effectively and in order to act as a real deterrent to firms – i.e., firms that are found to be breaching rules should be named and shamed more. **The FCA also needs to be more assertive in rejecting firms** at the Authorisation's gateway stage – two of the firms listed in Q6 (Lendy and FundingSecure) went into administration causing hundreds of millions of pounds in investor losses, within 10-31 months of being authorised by the FCA. I do understand however that recently there has been a slight increase in the number of authorisation applications being rejected – providing there's legitimate reasons and credible concerns – this approach in being more assertive at the gateway stage should be seen as a welcoming step in protecting consumers.

Have you experienced any difficulties or shortcomings in your interactions with the FCA?

*Please see all responses prior to, and after, this answer.*

Have you experienced the FCA being reluctant to give clear answers to questions, whether from you, the public or other stakeholders?

### **Reluctance to answer questions about discrimination and PSED**

28. In **September 2021 during the FCA's online Annual Public Meeting ("APM")**, I had put forth the following questions about the FCA's internal systems and controls and the failure of those systems and controls in detecting and ultimately eliminating discrimination, harassment, bullying, and victimisation as per the Public Sector Equality Duty requirement. I further asked how the FCA are intending to strengthen and improve those systems and controls in order to achieve the aforementioned and ensure that industry money isn't being squandered to defend and settle discrimination claims being brought by the FCA's own employees. Furthermore, I asked a question in relation to FCA BAME employees and invited the panel to answer whether FCA BAME employees are 'over-sanctioned / over-penalised' compared to non-BAME employees when it comes to disciplinary sanctions.
29. Both of my **questions were not answered during the live online APM, nor was an answer published when the organisation uploaded a list of unanswered questions and responses nearly two months later** from the 2021 APM – these two questions were completely ignored and to date they remain unanswered. This is an example of **stonewalling**. These are all valid, legitimate questions and I would like to have them answered.
30. I had posed questions to the FCA's Employee Relations team manager in relation to the FCA's stance on **discrimination, Public Sector Equality Duty (PSED), mental health, social mobility, and FCA HR-related questions** seeking answers whilst also encouraging that if the questions are difficult and awkward to answer then perhaps support and advice should be sought from the FCA's Senior Adviser on the PSED. Although receipt of my email containing these questions was manually confirmed, to date no answers have been provided. This is an example whereby **when difficult questions are asked even as a member of the public, the organisation (a public authority body) is unable and/or unwilling to answer – this is another example of stonewalling**. I believe that the aforementioned questions are all valid and legitimate questions, and I wish to have every single one of them answered.

31. The FCA (who are subject to the Public Sector Equality Duty as per s149 of the Equality Act 2010) has an Employee Handbook comprising of 120 pages, with a word count of over 53,000 words; however, **the number of times the words 'Equality Act' is mentioned in the FCA Employee Handbook amounts to only just – once.**

### Reluctance to release information via Freedom of Information Act

32. In addition to posing these questions, throughout 2021 I have made numerous **Freedom of Information Act ("FOIA") requests for information and data in relation to FCA employees and protected characteristics, namely gender and ethnicity**, and in connection with internal processes and the outcomes of those processes. The responses (or more accurately lack thereof) had been extremely unsatisfactory at all times – I currently have multiple FCA internal review requests pending, as well as multiple complaints to the Information Commissioner's Office ("ICO").
33. FOIA requests are passed through the **FCA's Information Disclosure Team ("IDT")**, however they would then in turn have to liaise with the relevant business area in order to search for and retrieve said information which is being requested. **Some business areas are notoriously difficult for the IDT to collaborate with (the HR function for example)** in order to fulfil FOIA requests simply because there is an attitude of not wanting to release information to the public due to either an **actual or perceived reputational risk and/or because as an act of perversity they wish to exercise control and cause the requester inconvenience** as well as antagonise them.
34. As an example, in November 2019 *Wealth Manager* submitted a FOIA request to the FCA in relation to **the FCA's Employment Tribunal litigation costs**<sup>2</sup>, however when I submitted a similar FOIA request in May 2021, the FCA responded **over six months later** (the *statutory time limit* to respond to a FOIA request is 20 working days) citing "*costs exemptions*" and ultimately not providing the information which was being requested. To date, this particular FOIA request is currently pending the outcome of an internal review, **however based on recent experiences, my expectation is that they will attempt to erroneously apply some form of blanket FOIA, DPA, and GDPR exemption(s) in order to avoid releasing the information**, thus causing further inconvenience, and resulting in myself submitting yet another ICO complaint – in this instance the FCA is now encroaching upon ICO resources.
35. On one occasion, after submitting a DSAR concerning myself in April 2020, as part of its results the organisation provided data which **did not** fall within the scope of my request. When questioned further as to *how* the Information Disclosure Team managed to obtain this specific data and the source of the information, they refused to provide a straightforward clarificatory answer rather responding with the following irrational statement; **"We are also of the view that disclosure of the source of the information would be likely to prejudice the proper discharge of our FSMA functions"** – when challenged further as to *how* disclosing the source of information in relation to **my own personal data subject access request** could possibly '*prejudice the proper discharge of [the FCA's] FSMA functions*' the team then back tracked and attempted to justify their previous reasoning with the classic '*this was an oversight*' card. This is an example of the poor intellectual calibre of some teams and individuals within the FCA which can be displayed at times.
36. I have made a recent DSAR – which I'm hoping would be fulfilled within the statutory deadline – and from my past experience of the incredibly poor and non-transparent service, I have suggested that any redaction spree by the team under the 'third-party data privacy' exemption follow a simple, straightforward convention whereby anything

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<sup>2</sup> City Wire, [Revealed: the FCA's £1m employment litigation bill](#), 27 February 2020.

which is redacted is clearly indicated. For example; when redacting a third-party's name, then to indicate this in the following format "[NAME REDACTED]"; or if redacting a third-party's email ID, then to use "[EMAIL ID REDACTED]" so on, and so forth. In this manner, the requestor would be able to see exactly what has been redacted – **ironically, even though in the context of redaction we're talking about 'hiding' data and information – following such a convention could actually be seen as a form of transparency** i.e., being transparent about what you're redacting.

Have you been in a situation where you could have helped a member of the public with an enquiry but were constrained from doing so as a direct result of an FCA policy or the FCA's interpretation of an applicable law?

37. It was at times frustrating not only for myself but also for other Firm Helpline colleagues within the Customer Contact Centre, that **when providing guidance on authorisation-related queries it would have to be just that – guidance and trying to indirectly provide or indicate a 'yes' or 'no' answer rather than just providing a straightforward 'yes' or 'no' answer.** In certain cases where the authorisation-related query is complex, then it's understandable to tell the customer that a direct 'yes' or 'no' answer can't be given, and it's more prudent to refer the caller towards seeking expert compliance and legal advice; however if 'Dave', a blue-collar mechanic who's trying to run a second-hand car business, is querying whether he needs limited permission consumer credit authorisation for credit broking, I believe it would've made our lives as well as Dave's life easier by **making the FCA just that little bit more accessible to people like Dave** who's obviously not going to be well versed in the realm of financial services compliance, rules, laws and regulations if we could've just said; "Yes, you need to submit an authorisation application for limited permission consumer credit". This is an example of how extremely risk averse the customer contact centre was instructed to be (unnecessarily, in my opinion) when it came to simple, straightforward authorisation-related queries.

What is your perception of the culture of the FCA, and what do you think of it? Does it promote openness, or is there a lack of transparency?

38. My perception of some of the more negative aspects of culture at the FCA can be generally characterised with these four main traits;
- (1) Avoiding accountability;
  - (2) Avoiding transparency;
  - (3) Avoiding risk and;
  - (4) Corporate Narcissism

### **Avoiding Accountability**

39. As evident to the public and other stakeholders, there seems to be **a culture of constantly avoiding responsibility and accountability.** The organisation maintains a focus on individuals within regulated firms who are required to hold Senior Management Functions ("SMFs") – ensuring that there are proscribed persons taking ultimate responsibility and accountability for certain functions within the firm – yet **when it comes to the organisation's own accountability and failures no one seems to want to put their hands up,** rather they would hold an irrational stance such as that no one person should be accountable when it comes to regulatory failure(s) – is this not also an example of hypocrisy?
40. Internally, bilateral moves are facilitated for some members of SMT and SLT (and even in some instances as we've seen in relation to Executive Directors) **when the proverbial excrement hits the fan.** That's why you'll see some employees move as

one department to another, weaving and gliding through different parts of the organisation effortlessly – these appointments would be approved by members of the SLT and HR which again indicate the level of collaboration that exists within the senior middle-management level and conducting themselves in a manner not to bring benefit to the organisation and its employees but to the individual themselves.

41. Another tactic employed is **the use of external 'secondments' to other organisations within the regulatory family – again, allowing the member of senior middle-management or even an Executive Director distance themselves away from any heat.** These external secondments at senior middle-management level are also quite concerning in terms of 'value for money' since a secondee's salary is still paid for (wholly or in part) by the FCA throughout the duration of the secondee's tenure at the external organisation. For example, recently a **HoD within Transformation Division** was seconded to the Bank of England for two years. Whilst a **HoD within the Risk & Compliance Oversight Division** has been seconded to the Financial Ombudsman Service for a year<sup>3</sup> in a C-Level role on an interim basis. Both of their six-figure salaries (which can be more than what the UK's First Lord of the Treasury earns) will be paid for by the FCA for the next 1-2 years, whereas they would not be doing *anything* for the FCA – **this is not value for money.** I again would like to pose a question to the **FCA's Executive Operations Committee on whether they think this is an economic and effective use of the FCA's resources** which is of course funded by the industry, as well as by extension, both retail and wholesale consumers.

## Avoiding Transparency

42. In relation to lack of transparency, as an example, the FCA publishes its Board minutes on their website with the following caveat – "*[the minutes] are edited in line with the exemptions in the Freedom of Information Act and do not include any information which, in our opinion, would be against the public interest.*"
43. This begs the question – how am I, or you, or a member of the public, or a member of the industry – be able to ascertain whether information from an FCA Board meeting is in the public interest or not and what if we were to have differing opinions from the FCA on the matter? If so, how are we able to challenge that? Furthermore, *who* exactly gets to decide whether information would be 'against the public interest' and is *any* objective criterion used to reach that conclusion?
44. The current Transformation project is also another example of the incredibly poor transparency the organisation has with its own employees, for example, **not being transparent as to the rationale behind the new proposed pay and grading consultation.** SLT cite the reason is because the current structure is 'too complicated' and doesn't promote 'fairness', while employees are feeling the effects of cost-cutting measures in several parts of the organisation. The FCA has statutory grounds, but do they have the *moral high ground* in telling firms to be 'fair and transparent' with its customers and clients if the organisation is unable or unwilling to be fair and transparent with its own employees?
45. Another example of the lack of transparency could clearly be seen in the way the organisation handles FOIA and DSAR requests which I've provided examples, one of those examples being whereby I'd made numerous FOIA requests asking for ethnicity and gender-related data about the organisation; information and data which had been consistently denied to myself – even though one of *the 'current priority areas of focus'*

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<sup>3</sup> Financial Ombudsman Service, [Members of the Executive Team](#), 30 December 2021.

in relation to the **FCA's Ethnicity Action Plan is supposedly – 'data and transparency'**.<sup>4</sup>

## Avoiding Risk

46. Overall, I believe that the FCA is way too *risk averse* and needs to be more *risk taking* with a '*who dares, wins*' attitude (and I don't mean daring by breaking laws) – if the latter cannot be achieved, then at the very minimum attempt to be *risk neutral*. There is absolutely no mention of the FCA's risk appetite whether as part of their Business Plan or Annual Accounts; I believe the organisation should be fully transparent with the industry in relation to their risk appetite especially in relation to their *reputational, operational, legal and/or political* risks.
47. **The organisation seems to be extremely risk averse when it comes to releasing information about itself** via the Freedom of Information Act and even personal Data Subject Access Requests via the Data Protection Act. This could be seen as indication that the FCA seems to be overly concerned with covering up anything which **may pose a reputational risk to the organisation**. All individuals within the FCA engaged with the organisation's risk framework, risk appetite and anything else risk-related – whether at senior or executive level – would do well to note that **covering up risk** (or attempting to cover up risk) is not the same as **managing** risk.

## Corporate Narcissism

48. **Narcissism in the workplace is real and serious issue and should be seen a cause for concern** – there is a wealth of academic study surrounding this concept. If unremedied, it can have a major impact on an organisation. In the case of **the FCA, I believe it has always been an issue and will continue existing as an issue unless it is treated**. This concept isn't 'pseudo-science' it is *psychology* - of course, since the FCA understands the value of psychology and has an entire team dedicated to the area of *Behavioural Science* it would be worthwhile for them (or better yet, an independent expert third-party) to **systematically study the behaviour of senior middle-management**, at an operational, professional and personal level in order to **develop and test theories as to why they behave in the way that they do**.
49. According to the bestselling author and clinical psychologist, Alan Downs, **corporate narcissism occurs when narcissists secure for themselves in a leadership role or within the senior management team and gathers an adequate mix of co-dependents around them to support their narcissistic behaviour**. Narcissistic characters absolutely relish hierarchical organisations, and are in constant pursuit of power, control, influence, dominance, reputation, and status – albeit if it's to the detriment of other employees, stakeholders and even the organisation as a whole.
50. Narcissists profess company loyalty but are only really committed to their own agendas; thus, **organisational decisions are founded on the narcissist's own interests rather than the interests of the organisation** as a whole, the various stakeholders, or the society in which the organisation operates<sup>5</sup> and the prototypical narcissist is more concerned with getting praise and how they are perceived than doing what benefits all of the stakeholders<sup>6</sup>.

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<sup>4</sup> FCA, [Our current priority areas of focus](#), 15 July 2021.

<sup>5</sup> Downs, Alan, *Beyond The Looking Glass: Overcoming the Seductive Culture of Corporate Narcissism*, 1997.

<sup>6</sup> Psychology Today, *Narcissism At Work: The Arrogant Executive*.

51. The narcissistic manager will have two main sources of narcissistic supply: *inanimate* (status symbols such as job title, reputation, high remuneration etc); and *animate* (flattery and attention from colleagues and sycophantic, servile subordinates who are eager to follow in their footsteps). **The narcissistic manager's need to protect such supply networks will prevent objective decision-making**<sup>7</sup> – such a manager will evaluate long-term strategies according to *their* potential for gaining personal attention instead of benefit to the organisation.<sup>8</sup>
52. British psychoanalyst, Neville Symington, has suggested that one of the ways of differentiating a good-enough organisation from one that is pathological is through its ability to **exclude narcissistic characters from key posts**.<sup>9</sup> This is another reason why I believe stringent psychometric personality testing to ascertain non-clinical levels of narcissism within individuals at senior management and leadership levels (in addition to HR personnel) need to be employed, and ensure that narcissistic characters do not secure roles which have an element of power, influence and decision-making; mitigate this risk of harm for the benefit of society, consumers, the organisation and its employees, and ultimately towards achieving and maintaining the FCA's strategic objectives – *securing an appropriate degree of protection for consumers; protecting and enhancing the integrity of the UK financial system; and promoting effective competition in the interests of consumers*.
53. I believe that this concept is **absolutely key in unlocking a myriad of organisational and cultural issues** within the FCA including, but not limited to, benefiting from *conflicts of interest, discrimination, workplace bullying, sexual harassment, whistleblower detriment, poor communication, poor management, poor leadership, and poor decision-making*. This may be seen as a reductivist explanation to some, but in my humble opinion, whether it's any of the aforementioned, or **employees stealing office plants; being verbally abusive and aggressive to auxiliary staff such as security, canteen, maintenance and facilities staff; or defecating in the toilet cubicle floor on eight separate occasions**; it can be explained by one particular personality trait – **narcissism**.

[Does the culture of the FCA encourage and support staff in raising serious and challenging questions, or does it deter them from doing so?](#)

54. I started at the FCA as a junior associate, having an astute and analytical nature I had observed my environment, the actors within the contact centre department and the operational dynamics. As early as mid-2016 I had met with the former HoD for the contact centre at the time wanting to share some of my observations, **the most concerning of which was that the team leaders / line managers of front-line Firm Helpline and Consumer Helpline contact handlers, had gaps in their regulatory technical knowledge** for example specified investments, and other elements of the FCA's Handbook whether it be COBS (Conduct of Business), SUP (Supervision) or PERG (Perimeter Guidance). The former HoD was **not interested in my observations, dismissing the fact that team leaders and line managers needed to have technical knowledge**, believing rather that it's more important that '*control mechanisms*' be in place for the (micro)management of the department's junior associates. Note: The aforementioned HoD is now no longer a part of the organisation.
55. I also had a meeting with the former Director of Supervision - Retail Authorisation ("SRA") and again reiterated my concerns about the contact centre department, **namely the culture of control and the gaps and weaknesses that was apparent within the team leader population** (it was also evident amongst other contact

<sup>7</sup> Allcorn, S., *Organizational Dynamics and Intervention*, 2005.

<sup>8</sup> A.J Dubrin, *Narcissism in the Workplace*, 2012.

<sup>9</sup> Neville Symington, *Narcissism: A New Theory*, 2004.

centre colleagues and even admitted amongst the team leader population themselves) – my **concerns once again were dismissed**. I believe, that if the contact centre had team leaders and line managers in place with the required technical knowledge and a supervisory/regulatory mindset, or at the very least, a level of supervisory intuition and urgency, then **a scandal such as London Capital & Finance (“LCF”) could have been picked up on, the correct guidance being provided, and risk event cases would’ve been escalated to the Events Supervision Team much earlier in the overall timeline**. This is because junior associate contact handler would’ve been able to rely on their team leader / line manager’s knowledge, guidance, and judgment in relation to mini-bonds (I question what happened to LCF ‘case zero’ i.e., the first ever LCF mini-bond consumer call to the FCA’s contact centre department). Note: The aforementioned former Director is now no longer a part of the organisation.

56. However, at the time the contact centre (now branded as the *Supervision Hub* after the LCF failure), was paying a minimum of £46,000+ for a team leader whose responsibilities lay in nothing more than typical contact centre environment micromanagement activities such as breaks and lunch scheduling, managing annual leave requests; and hawk-eyed monitoring of a junior associates’ amount of downtime, the number of minutes they are late from break or how long they’ve taken to go to the bathroom. **Typically, a Reg-A junior associate’ (on a £23k salary) technical knowledge of the FCA Handbook, the website, policy statements, guidance, regulatory systems such as Connect and Gabriel etc far exceeded that of a Reg-C senior associate team leader / line manager (on a min. £46k salary)**. Whereas in other areas of the business, say Authorisations for example, a line manager would be able to undertake front-line work such as assessing a complex Authorisation application themselves, in the customer contact centre the vast majority of line managers and team leaders typically did not have the ability to handle a single call due to their lack of technical, regulatory, organisational and procedural knowledge.
57. For the contact centre management its highest goal was to meet their service level agreement (“SLA”) of answering a min. 80% of calls within twenty-seconds of the phone ringing; to achieve this specific metric one of the other focuses was on contact handlers Average Handling Time i.e., the quicker a contact handler was able to deal with a call, the better since they could then take the next call etc. **The focus was always on quantity rather than quality**. Due to the nature of the work, and the complexity of calls both from firms and consumers, the contact centre should not have been treated like any other typical contact centre (whether inbound, outbound or hybrid). However, unfortunately, it was and eventually a price was paid. **Junior associates were always under immense stress and pressure at all times, due to the complex nature of the work, the constant micromanagement, the lack of support, leadership, and expertise** from people who were being paid more than double their salary and who they should’ve been able to look up to, as well as the mental and emotional pressure from extremely difficult calls e.g., consumers who’d been scammed and lost their life savings.
58. **The FCA espouses mental health, but where’s the specialised mental health support and training for junior associates in these circumstances where they risk being desensitised and having an impact on their own mental and emotional health**, after having to hear the traumatic experiences of consumers, call after call, on a daily basis. Furthermore, the micromanaging and bullying tactics employed by some line managers and team leaders would’ve also had a negative, detrimental effect on an employees’ mental health. But it’s the 80% SLA of answering calls within twenty seconds which was of the utmost importance rather than providing quality training (for both contact handlers as well as their team leaders) guidance or probing a caller in relation to their predicament and taking more time to obtain technical guidance whether from a team leader or other areas of the business such as Supervision.

59. On another occasion, I had a meeting with a senior manager within the customer contact centre. I shared my observation with her that almost **all team leaders (barring one or two 'tokens') within the department were of white, non-BAME ethnic background, despite the fact that the vast majority of the junior associates i.e., the front-line contact handlers were of BAME origin**. Thinking that this is a progressive organisation, that I would be safe, supported, and/or at the very least there would be some agreement or sympathy, I floated a suggestion that perhaps the contact centre can and should promote more people of BAME origin (especially from the junior associate population since due to their technical competency) into team leader roles; however, I was **met with such an aggressive and defensive rebuttal and was accused of suggesting that the department practice (in her words) 'positive discrimination'**. I was dismissed in such a way that I honestly thought I had committed a major transgression in making such a suggestion. I genuinely and sincerely felt I was raising a valid point, and that my suggestion was one **of positive action not discrimination – there's a difference**. From that one interaction however, I was deterred from ever raising that particular issue with a manager within the contact centre department ever again – I did not feel psychologically safe. Note: The aforementioned senior manager is currently HoD of the Supervision Hub i.e., the FCA's customer contact centre.
60. During a more recent interaction with an FCA Director in June 2021, I had touched upon the **concern of systemic and institutional racism within the FCA's HR function** whilst going through an internal process; the FCA Director's dismissive, nonchalant response with the most blasé tone to my legitimate concerns was; "*There may be systemic and institutional racism in HR – I don't know.*" I was not expecting such a response from an FCA Director who is not only in a position of power, authority and responsibility, but also employed by an organisation which is supposedly trying to improve its diversity and inclusion, as well as **being a public body who by virtue are meant to adhere to the Public Sector Equality Duty of the Equality Act 2010** especially in relation to showing due regard to eliminating discrimination, harassment and victimisation, and fostering good relations between people who share protected characteristics with those who do not. In my opinion, any decent FCA Director at this stage would've asked for more information, clarification, evidence or even encouraged to raise reportable concerns through the organisation's internal whistleblowing procedure.
61. At times, **some firms can be very proactive and be miles ahead of the regulator in relation to some of their diversity and inclusion (D&I), as well as governance and oversight initiatives**. For example, in late 2019 a Fixed-Portfolio firm which I used to supervise, conceived and started trialling the idea of a '*Shadow Executive Committee*' – a committee which would carry out the tasks of the standard Executive Committee e.g., attending Board meetings, reviewing MI, policies, reports and discussion papers etc however, this Shadow Executive Committee would be composed of individuals whereby their differing skillset, experience and even protected characteristics (such as gender and ethnicity) would greatly reflect a higher level of diversity in order to avoid group-think.
62. From a personal and supervisory perspective, I thought this was an absolutely brilliant initiative. So much so, that I **informed an FCA Executive Director and floated the idea that perhaps the FCA, as part of its D&I agenda could also create and trial a so-called 'Shadow Executive Committee'**. The Executive Director replied back and stated that someone from her office would get in touch about this – but nothing was to materialise at all. Perhaps if I were of a white, non-BAME ethnic background my suggestion of this idea may have been taken seriously and an idea such as this could've been explored further and progressed internally. Note: The aforementioned former FCA Executive Director still works for the organisation, albeit no longer in an Executive Director capacity.

Have you ever

- Raised concerns or complained officially about the FCA?
- Been a current or past whistleblower, or known of others doing so?
- What happened, and how do you feel about what happened?
- What feedback, if any, have you had about your concerns, complaint or whistleblow?
- How helpful was the response?
- How long has it taken for your concerns, complaint or whistleblow to be processed, and how well or badly do you think the matters were responded to?

## Whistleblower Detriment

63. Firstly, I have raised concerns internally, they are currently being looked into and I can say that a function of the **FCA's third line of defence (which is more robust compared to first line functions in my view) seems to be very responsive, professional, sympathetic and have been quite practical** so far with an appropriate degree of governance and oversight being given on the matter. However, I will not be sharing any further details for this testimonial.
64. Secondly, I know of a recent internal whistleblower who **after blowing the whistle was in my opinion subjected to detriment. An FCA Director had sent a team to the whistleblower's home address** stating on a call to the whistleblower that the team would be at their address in twenty minutes to **confiscate their work laptop and carry out search activities on all of the whistleblower's personal IT devices**. When the whistleblower stated to the Director during the call that they were not currently at the address, the comment was ignored. After the call ended, one of the agents who was *en route* to the whistleblower's home address called the whistleblower and stated that he was outside of the whistleblower's property with the intention to gain entrance, **confiscate the whistleblower's work laptop and commandeer their personal devices to carry out searches** – despite the fact that the internal whistleblower had stated to the Director that they were not at that address. This impromptu visitation was attempted in or around October/November 2021 at a time when Covid-19 cases in the UK were increasing – I highly doubt whether any careful thought (if any thought at all) was actually given to the health and safety of both the whistleblower and the agents that were sent to their home address.
65. **This visitation attempt was aggressive, and completely unexpected and unsolicited.** In this instance the member of the FCA's SLT who sanctioned this course of action was **not following their own Employee Handbook policies and procedures** when it came to searching an employees' personal devices which includes obtaining express written consent of the employee. An incident such as this can easily be argued as an **example of victimisation, detriment or even an act of pure intimidation, bullying and harassment** and it left the whistleblower feeling extremely angry, humiliated, and violated.
66. The **FCA Director who conceived and sanctioned such an outlandish and audacious move** should note – even the *Police* require a *court-issued warrant* (and that too can only be applied for after proving reasonable suspicion) in order to enter someone's home for the purposes of carrying out search activities. I also question **what internal FCA policy, guidance, and/or legal advice they relied on before taking such a course of action against an internal whistleblower that had reported wrongdoing within the organisation.** Note: The aforementioned FCA Director still currently works for the organisation. I do not believe that this course of action was sanctioned by the organisation's Board or Executive Committee, or that they had any knowledge of the matter, and furthermore all actors involved with this incident acted unilaterally.

67. The internal whistleblower in the aforementioned instance had raised **serious concerns about a specific function of the FCA**, concerns of which could be deemed quite incriminating for the Head of Department of that function, and who was also the direct report of the aforementioned FCA Director. In this instance, there was **collaboration between senior middle-management (a HoD and a Director) and HR, in order to place the internal whistleblower on a trumped-up performance improvement plan with the clear and malicious intention of setting them up to fail**, and then attempting to levy other misconduct allegations against them in order to process and sanction the internal whistleblower through the FCA's disciplinary procedure. This is a perfect example of how within the FCA, **HR, SMT and SLT collaborate, in their overriding objective of protecting each other (their reputation and pension pot), quelling challenge from those beneath them and trying to stop issues and concerns coming to light** since if they were to, then it would be incredibly incriminating and most possibly entail career-ending consequences for key senior middle-management individuals.
68. On another occasion, sometime between March 2021 and August 2021, members of the FCA's **HR embarked on what could only be perceived as a hunt for a suspected internal whistleblower in order to obtain information about the nature of concerns raised of allegations of misconduct against several FCA personnel**. In an incredibly doltish move (if embarking on a hunt for a whistleblower wasn't doltish enough to begin with), and because of the lack of technical knowledge of the mechanics in relation to internal and external whistleblowing, HR approached the *external* Whistleblowing Team in order to seek confirmation – unfortunately, it seems as if though **this confirmation was given to HR by the Whistleblowing Team** – I suspect in this instance it would've either been by a junior manager or a member of senior middle-management whether a HoD or a Director.
69. The prescribed *external* whistleblowing mechanism is of course for people *outside* of the FCA, in relation to financial and non-financial misconduct of firms, and there is a dedicated hotline, email address and webform information of which is all accessible through the public FCA website – these matters are handled by a first-line business function i.e., the Whistleblowing Team. For *internal* whistleblowing matters, which is for *FCA employees and contractors* the disclosure methods have been in place since the FCA's inception on 01 April 2013 and are different e.g., an email to [internal.whistle@fca.org.uk](mailto:internal.whistle@fca.org.uk), or concerns raised with the *Director of Internal Audit*, the *FCA's Whistleblowing Champion* or even the *Chair*.
70. **HR then approached the FCA's Internal Audit** function sometime in or around November 2021, in order to obtain the same information and confirmation as previously mentioned – however, **the FCA's Internal Audit refused to provide any confirmation or information on the matter thus protecting the internal whistleblower's identity**. This again illustrates how the **FCA's third line of defence is more robust and professional** than first-line business functions such as the external Whistleblowing Team and HR – or to be more accurate, the senior middle-management responsible for the governance and oversight of those first-line functions.
71. I don't know which is more disturbing;
- (1) that HR embarked on a hunt for an internal whistleblower;
  - (2) that HR do not know the difference between internal (non-FSMA related) and external (FSMA-related) whistleblowing, the mechanics, and the distinct disclosure methods of both or;
  - (3) that the FCA's Whistleblowing Team (whether at junior manager or senior middle-management level) provided the confirmation that HR was seeking, including the manner in which a concern was *not* made in this instance. Or;

- (4) that since 01 January 2015, there has been three Employment Tribunal claims submitted against the FCA by current and/or former FCA employees under the provisions of the Public Interest Disclosure Act 1998.

What do you think about the possibility of conflict of interest issues at the FCA?

### **Conflict of Interest: not a possibility, but an inevitability**

72. I believe there is an extremely high possibility of conflict of interest issues at the FCA so much so that I would **consider it an inevitability rather than a possibility** in my opinion. A previously mentioned **FCA Director** started at the Financial Services Authority ("FSA") in 2010 as a manager in the Client Assets Unit and held that role for four years. They then immediately **secured a role in a major American investment bank as an Executive Director** within their compliance function for just under four years – which is of course a considerable amount of time to build an internal network within this bank and that too at a senior level – **before re-entering the FCA as HoD of the Client Assets and Resolution Department ("CARD")**. Now, as an example, **if** there were to be any CASS-related supervisory action required against this investment bank, e.g., a s166 skilled persons report into the firm's CASS systems and controls, and this required input and ultimate sign-off from the HoD of CARD **how would this individual demonstrate that there would not exist any unconscious / affinity bias on their part** in favour of this prestigious, high-remunerating investment bank when it comes to making supervisory judgments and decisions against them and their commercial interests? Furthermore, whilst we're on the topic of hypothetical scenarios, how can the FCA ensure that this individual would not assist the firm via informal back channels in the form of guidance, advice and/or 'tip-offs'? These examples given are intended to illustrate the possibility of conflict of interests. **To move from the FCA into a regulated firm at a senior level for a considerable stint before re-entering the FCA into a senior position of power, authority and decision-making is a serious cause for concern.**
73. In my opinion, **a policy or provision needs to be put in place and robustly enforced to finally put a stop on this 'revolving door' issue.** Perhaps there should be a stringent provision in their employee contract which states that if a HoD, Director, or even an Executive Director were to leave the FCA to work for a regulated firm, then they *cannot* reapply to the FCA in any capacity until a period of ten years or more has elapsed – **maybe this will motivate them to stay on board as a 'career regulator' in the first instance rather than toing and froing between the regulator and regulated firms?** If this is a perpetual 'cat-and-mouse' game between the regulator and the regulated, you can't be the cat *and* the mouse at the same time – that's absurd. Choose a side and stick with it.
74. I also question whether certain individuals within the FCA are even able to exercise their common sense and regulatory judgment or have the required level of situational awareness in order to identify when and where they are, or potentially can be, conflicted. Let's not forget for example, when **the FCA was in the midst of a highly-sensitive investigation of RBS' Global Restructuring Group ("GRG")**, and at that too at a critical juncture of the investigation; **the HoD for Event Supervision at the time decided to have 'social drinks' with a senior RBS individual** responsible for conduct and regulatory affairs – on not only one, but two occasions!<sup>10</sup>

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<sup>10</sup> The Times, [Watchdog's secret RBS meetings](#), 04 October 2018.

75. Another example, a combination of not only of a conflict of interest, but also of *whistleblower detriment*: a **former FCA manager** who was with the organisation for just over three years, secured a role within the UK entity of a large, international banking institution. An external whistleblower within that institution – who was a direct report of the aforementioned former FCA manager – had raised a public interest disclosure. **The former FCA manager threatened the whistleblower that he would be able to find out from his FCA contacts should the whistleblower approach the FCA with their concerns.** The same external whistleblower had also informed me that **a (different) former FCA Supervisor from the FSA-era, had directly revealed to the same firm in question the identity of another external whistleblower.** Note: Neither of the two aforementioned FCA personnel work for the organisation anymore.
76. In an attempt to clamp down on the issue of conflict of interest, and improving its situational awareness in certain areas, **the FCA should perhaps map and monitor all outgoing and incoming personnel** for a duration of time, especially senior middle-management individuals and other individuals in key positions – *who are they; where are they going to / coming from; what does/did their role and responsibilities entail; who are they working with; what information and people would they have access to; are their probable, possible, inevitable conflict of interests that need to be monitored.* This may sound a little ‘draconian’ to some, but I believe it could be quite pragmatic and much needed considering **the nature of the FCA’s operations and the thin permeable barrier that exists between the regulator and the regulated.**
77. As a former FCA Supervisor the Approved Persons team would contact me to provide insight, views, and opinions and contributing to shaping their *Fit and Proper* assessment on when an industry candidate has applied for a certain Controlled Function(s) / Senior Management Function(s) including NEDs within a regulated firm. One of the elements I would look out for based on the information provided from the firm/candidate is of course – *conflict of interest*. As part of my assessment of the candidate from a supervision perspective I would try and identify any potential conflict of interest and provide challenge.
78. This brings me onto my next point, a suggestion based on the FCA’s own principles and methodology that it uses internally – prior to employing external candidates from the industry into senior positions of power, authority, and decision-making especially within senior-middle management level – **conduct the FSMA Fit and Proper Test to ascertain their honesty/integrity/reputation, as well as their competence and capability.** In addition, conducting enhanced due diligence and background checks to **ascertain whether the candidate is conflicted with the industry** would be vital.
79. The organisation already employs the use of **Developed Vetting** for certain roles within the FCA, these kinds of standards should be used to **explore an external hire’s background as much as possible including their financial investments, personal and professional relationships** – this would help proactively identify and neutralise conflicts of interest within the organisation before entrusting a person with a position of regulatory power, responsibility, and decision-making.
80. In addition, the FCA publicly disclose the financial interests of the Board and Executive Committee members on its website – in the spirit of transparency however, I believe **this should now be extended to members of senior middle-management** – namely Directors and HoDs.

Do you believe the FCA should be made more accountable to the public, Parliament or anyone else? If so, why, and what measures do you think are needed?

### Delink the FCA from HM Treasury

81. Yes, I believe the FCA should be made more accountable to the public, to Parliament, to the Treasury Select Committee, and other external stakeholders such as the Office of the Complaints Commissioner ("OCC") and the Information Commissioner's Office ("ICO") wherever the relevant failings lie e.g., whether it's a Data Protection Act ("DPA") breach or not being able to fulfil statutory FOIA and Data Subject Access Requests within the statutory time limit.
82. Currently, the FCA meets with the Treasury Select Committee ("TSC") twice a year, on a six-monthly basis. In my opinion, should the FCA continue being scrutinised by the TSC then the **FCA should be meeting with the Treasury Select Committee on a quarterly basis at the very minimum**. However, and I'm sorry to sound cynical, but even then – what's going to happen? *The Office of the Complaints Commissioner* can't do anything to the FCA; recommendations that they make are shrugged off and not complied with; neither can the *ICO*; nor the *Treasury Select Committee*, nor any group of *MPs and Peers, HM Treasury* ("HMT") or even *Parliament*.
83. **To date, who – whether an organisation, an individual or a group of individuals or organisations from within any British institution or the public, has ever – successfully held the FCA to proper and rigorous account;** and could this be the reason why the organisation is so extremely confident in the manner which it conducts its business because they know that no one is able or willing to hold them to account?
84. Furthermore, in relation to reporting lines and formal accountability, I believe the **FCA should report to Parliament directly and not HM Treasury** – that way the FCA can maintain regulatory independence and safeguard themselves from any form of political influence, lobbying and interference from one of the most powerful and significant government functions in society. Currently we all know that the FCA CEO position is always appointed by the Chancellor of the Exchequer, whilst the Chair as well as all of the Non-Executive Directors are *all* appointed by HMT – **the FCA is meant to be an *apolitical and independent public authority body*** enforcing the rule of law under FSMA 2000 and other applicable directives and statute, so why are key individuals that are responsible for the overall governance and oversight of the UK's financial services regulator appointed by a *partisan* governmental department? As part of any external scrutiny of the regulator's transformation, it seriously needs to be discussed whether or not **the FCA would exercise its function better if it were independent from the Treasury and its politics** and/or to mitigate any risk of potential 'lobbying by proxy' of the FCA by firms via HMT.

What positives are there about the FCA that you would like to comment on?

### Good people stifled by bad people

85. In addition to my answer to Q6., I do believe that there are some incredibly, genuine, empathetic, and sincere people within the FCA, whether it's the customer contact centre, in Supervision or other business areas. **That, there is a big section of the FCA population which at all times want to do the right thing; who are empathetic, determined, engaged, skilled, professional, honourable, intelligent, selfless, and considerate** in wanting to serve the public and consumers

– and who have great intuition, a sense of creativity and innovation in how to regulate firms. When brought together these people can, and do, collaborate well as a team with a collegial spirit.

86. **Unfortunately, however, they're being stifled by the decision-making (or lack thereof) of senior-middle management** with the fact that the leadership for them is simply just not there, and that the workforce is not being treated as well as it should be treated. Right now, it seems as if a lot of innocent employees are simply just collateral damage in the face of regulatory failings where culpability and accountability sit more at the level of SMT and SLT.
87. Overall, **in theory, the FCA is a positive function for society** and is definitely much needed in a free market economy where other dubious participants of that free market feel that they're free to scam, defraud and treat market consumers unfairly in the pursuit of profits. Again, I would like to reiterate my opinion that **I actually do not think that the FCA are fairly given credit, when and where credit is due.** There are always stories lambasting the FCA when they fail, however in the interest of fairness and balance, their successes should also be praised, and any material achievements should be celebrated – perhaps in this instance the **positive reinforcement from consumers, industry, politicians, and press would also help contribute to changing the FCA's culture** and motivate the organisation? If the FCA gets it right, then this should be showcased with a sense of pride especially to its international and continental counterparts.

If you could change three things about the FCA, what would they be?

### **FCA's HR Function**

88. The **FCA's HR function has a lot of unwarranted power and influence**, especially the teams and departments that have a material influence in;
- (1) recruitment;
  - (2) annual appraisals/bonus/pay decisions;
  - (3) internal hire, secondments, and promotions and;
  - (4) workplace investigations and disciplinaries
89. Normally this wouldn't be a concern, it's a typical remit for a HR function of course – however, when a **discriminatory approach** is utilised to conduct these activities and there's an extreme lack of integrity, then it becomes a **serious cause for concern** and needs to be explored further especially in the latter category since a lot of non-financial misconduct and behavioural issues of managers and senior staff would be brought to their attention; however it always results in complaints being whitewashed and covered up after internal 'investigations' thus again **aiding and adding to the continuity of the toxic culture. HR and members of senior middle-management cover for each other to the detriment of an employee who brings forth legitimate grievances and concerns.**
90. The organisation needs to realise that first line business functions such as HR and the Employee Relations team are primarily there to *serve* the entire organisation and its employees (regardless of who they are, their level of seniority, their gender and/or their ethnic background), rather than **covering up issues thinking that they're protecting the organisation (or more accurately certain individuals) and its interests, but subsequently and ironically, causing even more issues** and

ultimately to the *detriment* of the organisation by opening themselves up to potential legal and reputational risk e.g., public Employment Tribunal claims, media coverage, and out of court settlement agreements.

91. **Since 2017/18, there has been 11 Employment Tribunal claims against the FCA<sup>11</sup>** (and probably more which aren't published on the register publicly as there isn't a requirement to do so any more in relation to withdrawn / out of court settled claims), **all of them *discrimination and/or unfair dismissal related*** and almost all of them barring one<sup>12</sup>, were withdrawn (an obvious indication that an out of court settlement had been reached with the Claimant) – in each of those claims the respective Claimant would have exhausted the FCA's internal grievance, equality complaints and appeal procedures during the course of which at each stage a member of the **FCA's HR Employee Relations team would've been involved, who in turn would have appointed a member of senior middle-management as the investigating officer**, whilst HR provide what they deem 'procedural support and advice'. whis
92. The Employee Relations team of the HR function (with governance and oversight from the relevant HR HoD) **stubbornly adheres to an incredibly poor, ineffective, stone-age strategy** in these employment matters which can be typically surmised in the following fashion:
- (1) If an employee submits a grievance, **HR takes 3+ months to 'investigate' and conclude; this is done in an attempt to 'run down the clock'** and ensure that any potential claim is effectively time-barred since Employment Tribunal claims have strict time limits in that they should be presented 3 months less one day from the last act of discrimination etc;
  - (2) Should the aggrieved employee after exhausting the FCA's internal appeals process decide to take this further to an Employment Tribunal, **HR's first tactical defence is to argue that the Claimant's claim does not meet the 'jurisdiction of time'** in the hope that the claim would be struck out;
  - (3) Should the claim *not* be struck out on the jurisdiction of time, HR would then typically allow the claim to proceed up to and past the preliminary stages in order to go through disclosure all the **while hoping that the inconvenience, high pressure, extreme stress, and the high probability of the infliction of any mental personal injury weakens the Claimant's resolve** to pursue further and withdraw their claim.
  - (4) Should the Claimant still persevere and persist past step (3), and the claim makes it to a final hearing, **HR would then instruct its legal team to approach the Claimant via ACAS with the offer of an out of court settlement** (using industry/consumer money of course) and also after having wasted taxpayers' money.
  - (5) Repeat steps (1) to (4).
93. Having these Employment Tribunal claims reach the Employment Tribunal in the first instance when they could have or should have been resolved internally, means that they are now also encroaching upon *taxpayers' money* – **this isn't an example of delivering public value or value for money whether for the organisation, the industry and by extension the consumer, nor in this instance even the**

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<sup>11</sup> FCA Employment Tribunal Decisions, [www.gov.uk](http://www.gov.uk), 30 December 2021.

<sup>12</sup> [Mr R Cunningham v Financial Conduct Authority: 3201141/2018](#)

**taxpayer.** I would like to pose a question to the FCA's Executive Operations Committee ("EOC") – who are responsible for the '*economic and efficient use of resources, internal risk management, people strategy and culture*' – **whether they believe the strategy employed by the FCA's HR function when it comes to investigating workplace grievances and dealing with Employment Tribunal claims is an economic and efficient use of resources**; how it decreases and/or neutralises internal risk; and how it contributes to the FCA's overall people strategy and culture.

94. Whereas the HR function are in a position of needing to exercise professionalism and *responsibility*, they rather willingly and deliberately choose to be *reckless* – **in its current form HR is not a good cultural fit for what the FCA is attempting to achieve through its Transformation programme**, and it should be explored how the FCA can restructure, revamp, and refresh the HR function, especially the Employee Relations team. Some may argue that '*it's HR's job to protect managers and the organisation from being sued*' etc – well firstly, I do not agree with that premise because that is **certainly not an example of integrity** especially given the strategic objectives of the FCA, its high-level regulatory principles, and what the organisation is aspiring to be; and secondly, if that has to be the case for whatever perverse reasons – then unfortunately the FCA's HR function doesn't seem to be doing a good job since **the organisation still ends up being sued** regardless.
95. It is my reasonable belief that unfortunately there also seems to be **a tendency to mishandle internal discrimination, bullying and sexual harassment complaints** which is not only highly unethical and again lacking integrity, but also extremely ironic and hypocritical considering the fact that in 2018 an FCA Executive Director wrote to a Parliamentary Committee in response to a report on *sexual harassment in the workplace*, stating one area of interest for the FCA would be in relation to whether firms are '*systemically mishandling [sexual harassment] allegations or incubating a culture of sexual harassment*'.<sup>13</sup> **How an organisation handles non-financial misconduct such as sexual harassment, is indicative of an organisation's culture** – it is the FCA's view that embedding healthy cultures includes, therefore, taking steps to address harassment, discrimination and bullying.
96. If the FCA were to outsource **components of its HR function to a specialised employment service / HR solutions provider**, especially elements that deal with recruitment, internal hire and promotions, as well as workplace investigations, then this would be a serious start in rectifying internal issues, leading to the inducing and incubating of good culture. A professional, experienced, and unbiased, third-party **would not be open to influence and/or manipulation from individual SMT and SLT actors within the organisation** – or vice versa for that matter.
97. I had read **George Patellis' testimony** as part of this APPG's call for evidence, in it he talks about the flaws and failings of the *Parker Review* – a review which cost nearly £4m. George Patellis identifies and brings forth issues such as qualifying language being used to instil doubt where there is none (and vice versa), of not considering key evidence, not commenting on evidence, being selective of evidence being used, so on and so forth. I can confirm that, these are *exactly* the same deceptive and underhanded tactics and strategy which is employed when producing outcome reports during internal HR workplace 'investigations' – the **use of qualifying language, not interrogating evidence adequately and/or ignoring evidence altogether and being selective with evidence seems to be the FCA's modus operandi** whether for a multi-million pound public review or an internal report.

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<sup>13</sup> FCA Letter to Rt Hon Maria Miller MP, [Women and Equalities Committee Report on Sexual Harassment in the Workplace](#), 28 September 2018.

98. There needs to be a fundamental shift in the culture and mentality of the FCA's HR function and move away from its outdated and ineffective mentality. To meet its strategic and operational objectives, the FCA's biggest and most valuable asset isn't its new building, £50k logo, or its IT estate; it's their 4,000+ *employees* – this is common sense and I challenge anyone who wishes to argue otherwise. The function which is there to **serve** the organisation's most valuable asset should be doing just that – and I again vehemently challenge anyone who wishes to argue otherwise.

### Senior middle-management: Heads of Department & Directors

99. The vast majority of the FCA's Executive Committee has been refreshed and replaced – however, **the focus should now be on the senior middle-management layer. The FCA needs to have more people who are *selfless* rather than *selfish* in these positions in order to drive the good culture the FCA is seeking to induce within itself, as well as which it is seeking to incubate within the industry.** Leadership and management should be performed with *honesty* and *humility* rather than *hubris*; with genuine, transparent, and sincere intentions displayed for a division, its departments, and all employees in order to strive towards meeting the overall strategic objectives of the organisation.
100. I've always been a huge fan of psychology ever since studying the discipline in my teens – as such, I personally would employ effective and stringent psychometric personality testing before hiring individuals (whether externally or internally) or promoting existing employees into senior positions of power, authority and decision making especially within the middle-management layer – **specifically testing for the Dark Triadic personality traits of Psychopathy, Machiavellianism, and non-clinical levels of the most critical of the three traits, and probably *the most important word in this entire 19,000+ words testimonial* - **NARCISSISM**.** I genuinely believe that the latter trait of the three is extremely important and is absolutely key in unlocking a myriad of organisational and cultural issues within the FCA including, but not limited to, taking advantage of *conflicts of interest, discrimination, workplace bullying, sexual harassment, whistleblower detriment, poor communication, poor management, poor leadership, poor decision-making*, and the overall manner in how certain personnel within certain functions and at certain levels of the hierarchy operate.
101. Unfortunately, there seems to be **a lot of self-interest, self-protection, self-preservation, self-promotion, self-admiration, and self-image of individual characters in the organisation** especially within the senior middle-management layer. If the FCA were to be *personified* it would be someone with narcissistic traits; *hypocritical* ("do as we say, not as we do"), *arrogant* ("when wrong, remain strong"), *controlling* (e.g., what information is released to the public and when), **displaying a lack of empathy, sympathy, honesty, integrity, openness and transparency, and possibly worst of all – the utilisation of the abusive psychological tactic of gaslighting** when dealing with its own employees, consumers, the industry as well as other external stakeholders in attempts to change add spin and change the narrative on things.
102. **It would be far more beneficial for the organisation and its PR to come out, publicly admit its failings, apologise, make appropriate amends, and move on** – rather than having a '*when wrong, remain strong*' attitude, '*admit nothing, deny everything*', and providing a barrage of nonsensical and unintelligent responses when awkward and challenging questions are posed to them. **Self-interest, self-**

**protection, self-preservation, self-promotion, self-admiration, and self-image** – these are all classical traits of *narcissism*.

103. **Senior middle-management is *not* needed within the organisation – they cost too much, contribute too little, and are causing too many problems.** They sit very comfortably within the organisation earning salaries which are not proportionate to their individual output, nor overall departmental and divisional outcomes and are extremely reluctant to leave their positions so much so that certain members are willing to go to great lengths to protect their jobs and reputation even if its detrimental to the FCA and its employees. I'm confident these sentiments is shared by others across the organisation. However, the FCA as part of its Transformation project and its consultation on pay and reward, whilst proposing pay cuts for the vast majority of the workforce, are **simultaneously proposing that members of senior middle-management receive *more* pay and that too for personal tax purposes(!) – this is not only insulting to innocent members of the workforce, but also illogical, and wholly inappropriate.**
104. If the position is maintained – even though we're now in 2022 and nearing the first quarter of this century – that senior middle-management *are* needed for whatever perceived 'strategic or operational purposes' whether it be for 'stakeholder management'; making a guest appearance on behalf of FCA and delivering 'key note speeches'; to act as a 'buffer' between the executive team; or simply for more red-tape purposes – then the FCA would do well to completely **redefine, restructure, and refresh the entire layer; employ stringent psychometric personality testing (this shouldn't be impractical as the organisation has utilised a form of psychometric personality testing of its employees in previous years), and enhanced due diligence** to establish any actual, perceived or potential conflict of interest prior to instilling new personas at that level, as well as ensuring that the layer is more diverse and inclusive with people from other ethnic backgrounds.
105. The FCA wants to be a more *innovative, assertive, agile, faster* regulator; maybe try and **downsize the entire slow, clunky, senior middle-management level by two-thirds and see what kind of positive results it yields** – perhaps the immense costs savings could contribute towards plugging the ethnic and gender pay gap? There needs to be a fundamental shift in the culture and mentality of the FCA's senior middle-management function – they are the *core* part of the organisation – responsible for reporting upwards to the Executive and Board level, whilst also having to communicate downwards and lead divisions and departments. In my opinion however, removing, or at the very least drastically reducing and restructuring this middle layer **will enable the FCA to have a flatter, distributed, and more agile organisational structure** with supervisory and enforcement work being carried out faster and more effectively without having to wait weeks (or even months!) whilst things go up and down the chain of command.
106. As a caveat, I believe it would be unfair to paint *all* members of senior middle-management, whether HoD or a Director, with the same brush – **it could be that there are some genuine personas within the organisation who are trying to do a genuine job and make a positive difference as a member of senior middle-management** including trying to be a role model, mentor, coach and train the next pipeline of potential future leaders, but overall unfortunately, my professional interaction with senior managers, FCA Directors and FCA HoDs, as well as anecdotal evidence from other FCA employees across the organisation, has been very negative and in some cases extremely detrimental thus far.

107. If the FCA wishes to work towards one of its statutory objectives that of protecting and enhancing the integrity of the UK's financial system, then it would do well to try and **protect and enhance the integrity of its own organisation first** – and the very first step needed to achieve this would be to scrutinise its senior middle-management and hold them to rigorous account. Let the following fact sink in: between 2015 to 2020 – despite multiple regulatory failures (however prolific), data protection breaches, as well as other internal operational, departmental and divisional failures – not one single FCA Head of Department or FCA Divisional Director, were placed on a performance improvement plan.<sup>14</sup>

### **Board “information flow”: engage with front-line staff directly**

108. Many people may know about the following concept, many may not – **The Iceberg of Ignorance**. According to this theory, typically only 4% of issues are known to top executives; 9% of issues are known to middle-management (in this case Heads of Department and Directors), 74% of issues are known to junior management (i.e., team leaders and managers) and 100% are known to front-line teams (e.g., front-line Supervisors, Authorisation Case Officers, Enforcement Associates, Policy Associates, and other front-line operational staff).
109. In addition to the Board and/or Executive Committee having monthly meetings with Directors and Heads of Department, perhaps engage **regularly with front-line employees – I believe this will help improve the ‘information flow’ to the Board/Executive Committee and they will be more in-tuned to front-line dynamics and issues across the organisation**. It's not the Senior Management Team (“SMT”) or the Senior Leadership Team (“SLT”) that's going through a firm's management information, Compliance Risk Tracker, and the minutes of a firm's board and numerous committee and sub-committee meetings, and other executive level papers – it's me (i.e., a front-line supervisor). It's not a member of SMT or SLT that's assessing a P1-classified, IFPRU 730K firm's Recovery and Resolution Plan – it's me, a front-line supervisor.
110. Invite a group of front-line employees to prepare a report and/or presentation about a topic (without any influence or interference from senior middle-management); they will do so gladly, with passion, and the Board can then use this as a method of triangulation of the information being presented to them by senior middle-management in order to develop a comprehensive understanding of certain organisational or industry phenomena; **would the message and input from teams of front-line staff match up with what's being said by HoDs and Directors in monthly FCA Board meetings?**
111. Members of senior management and senior leadership would be **more interested in internal politicking, power games and other selfish ulterior motives** – a front-line employee wouldn't be. As such the information, views, opinions, and insight on matters can be treated with more integrity and validity – unbiased and pure. There's no shortage of academic studies in relation to the influence of middle-management and the risks that can occur when presenting information to the Board and executive committees;
- When supplying information to the executive level, middle managers interpret it subjectively and may insinuate it with their own opinion and evaluation<sup>15</sup>

<sup>14</sup> What Do They Know, [FOI7732](#), 02 February 2021.

<sup>15</sup> Ranson, S.; Hinings, B.; Greenwood, R., *The structuring of organizational structures*, 1980.

- Proximity to the boardroom makes it easy for the manager to promote their own interests, by “synthesizing” the information and presenting data from a certain strategic perspective<sup>16</sup>
- Driven by the reasons of maintaining a reputation, strengthening the power and influence, middle managers may introduce a company’s major strategic decisions in a light, beneficial way for their designs<sup>17</sup>

The FCA is undertaking a Transformation Project. Do you have any comments to make about that?

For example:

- Are staff at all levels invited or allowed to participate and contribute?
- Do you expect this project to alter or influence the culture and policies of the FCA?
- Do you expect consumer protection to be improved?
- How could transformation/improvement of the Regulator be better handled?

112. The Transformation project itself hasn’t affected me directly or indirectly since I am no longer an employee of the FCA – if I were still a part of the organisation, I believe the pay restructure would have benefited me in the short to medium term as I would’ve been one of those 800 employees to receive an average £3,800 salary rise. However, I do (and have) been **questioning certain actors (two Heads of Department in particular) who have been involved with the project from the beginning**. One of those actors however, who was the former **HoD for Strategy & Analysis for Transformation**, had abruptly left the organisation to go on a ‘two-year external secondment’ sometime in or around September or October 2021. Stemming from my first-hand experience, I had discovered that this particular HoD was **not shy in misrepresenting facts as part of a formal FCA report which had important ramifications**. Based on evidence of this behaviour, I had recently questioned how many reports this individual had authored for FCA Board and Executive Committee meetings over the past few years in their capacity as I had concerns that the FCA Board and/or Executive Committees may possibly have been misled and/or misinformed.
113. In correspondence with the Treasury Select Committee, I did state that in my opinion it’s not the *milestones* of the Transformation project that they should be primarily concerned about, but rather **some of the FCA personnel who are involved in working and leading this Transformation project at senior middle-management level** – perhaps that’s why the Transformation project has been extremely poorly executed? The TSC questioned the appointment at an *Executive Director* level, but they should have also been **scrutinising the FCA at senior middle-management level too**. Furthermore, this scrutiny should extend to every operational and strategic aspect involving the FCA’s senior middle-management layer, not just the current Transformation project.
114. I do hope that eventually, (even if the case may be that certain elements of the Transformation project need to be **paused and sent back to the drawing board for revision** before a second attempt to execute) that it will achieve its aims in making the FCA a faster, better-informed, data-led regulator, with less bureaucracy and red-tape, less ‘meetings about meetings’; with more individual culpability and accountability, and most importantly with better and diverse people and culture permeating throughout the organisation *especially* within the SMT and SLT level. Nikhil Rathi has already revamped and refreshed the vast majority of the FCA Executive

<sup>16</sup> Dutton, J.; Duncan, R.B, *The influence of the strategic planning process on strategic change*, 1987.

<sup>17</sup> Floyd, Steven W.; Woolridge, Bill, *Middle-management’s strategic influence and organizational performance*, 1992.

Committee; however, **the focus should now urgently fall on the redefining, restructuring, and refreshing of the senior middle-management layer.**

115. How could transformation/improvement of the regulator be better handled? I don't know. I'm not a change programme / transformation programme specialist or even remotely have any experience in that area; however, there are those that are – so, **why not source those specialists in addition to looking towards other regulators and public authority bodies** whether nationally or international because someone, somewhere out there must be getting it right somehow!
116. In its attempt to execute this programme, we now have a major UK union involved, a credible threat of industrial action never before seen in the financial regulation sector, major attrition of staff, decreased headcount, an incredibly demotivated and demoralised workforce, with the FCA being forced to source expensive consultants to recruit new staff, and now even retaining law firms to process *regulatory applications* – one must ask after witnessing all of this disorder, **whether the operational risks of the Transformation programme was well thought of – if at all – with the required foresight** from the conception of the programme by the individual(s) who established the overall programme (prior to the commencement of Nikhil Rathi's tenure) and led some of the workstreams.
117. I do understand and have heard from former BAME colleagues that the vast majority of BAME employees – although in favour of it since it means a higher base pay for them – are not *openly* supporting the new pay and award structure as part of the Transformation project purely because of **the fear of being ostracised by others within the organisation**. I do feel extremely sympathetic however towards the innocent colleagues – both non-BAME and BAME – who are now facing pay cuts and being forced to leave the organisation through absolutely no fault of their own, whilst senior middle-management members are watching the chaos unfold and the destruction being caused safe in the knowledge that their pay and career at the FCA is secure for years to come.
118. In a recent letter from the FCA's Staff Consultative Committee ("SCC") to the FCA's Board in December 2021, opponents to the Transformation's remuneration restructure are **now attempting to highlight 'historic and systemic discrimination against staff with protected characteristics'**<sup>18</sup> – whereas I've been arguing and fighting against systemic discrimination as a junior associate within the customer contact centre as soon as it became apparent to me in early 2016, based on not only my personal experiences, but that of other BAME employees too, and the identification of a pattern of discrimination in relation to remuneration and promotions.
119. **Why wasn't this 'historic and systemic discrimination against staff with protected characteristics' raised by the SCC before?** But *now* it's being raised since some of these changes are negatively impacting a lot of non-BAME, White, 'middle-class' employees who had been enjoying 'discretionary' bonuses for years, whilst it was decided by the same aforementioned employees from that specific socio-economic group (especially junior and senior managers), that the vast majority of **BAME employees would be systematically and consistently positioned at the lower, and less favourable end of the bell distribution curve** when it came to end of year appraisal ratings, salary increases and bonuses.
120. I am glad that despite internal and external pressure, the FCA are trying to bridge their ethnic and gender pay gap and think this is commendable, however in relation to the c.10% salary decrease of other employees – in my opinion **they're hitting the pay packets at the wrong layer of the organisational hierarchy**. Again, why are **innocent front-line employees being forced to take salary cuts as part of this**

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<sup>18</sup> FN, [Top FCA staff body in last-minute charge to keep workers' bonuses](#), 21 December 2021.

**Transformation project**, when they are the ones doing the crucial groundwork; whilst members of senior middle-management are in line for pay rises for tax purposes whilst adhering to extremely slow, ineffective decision making, and pseudo-leadership? If you wish to gather more opinions of what other front-line FCA employees think of senior middle-management as well as the overall culture and dynamics within the FCA, read FCA employee reviews left on [www.glassdoor.com](http://www.glassdoor.com) – this is a good source of valid, qualitative data. I would further encourage the FCA themselves use this source to ascertain problem areas in addition to their annual staff surveys.

Are there any other comments that you would like to make?

### It's not the FCA...

121. Asides from the corporate narcissism, the biggest problem with the FCA is this – it's not the FCA, it still seems to be the **FSA (Financial Services Authority)**. The culture, the ethos, the behaviour, the mentality, and values are all **still FSA-oriented and is being led by FSA-era individuals with their FSA-era internal and external industry network**. Why is it that a lot of the recent failings of the FCA are strikingly reminiscent of previous FSA failures whether that be causing whistleblower detriment or failing to act on a scandal before it's too late?
122. You could move to a brand new, purpose-built £100m building; you could move away from the Canary Wharf financial district next to Westfield Shopping centre, you could **pay Saatchi & Saatchi over £50,000 to design a new logo** and tweak your brand colours from burgundy to maroon, but inside that new building and behind that new logo the fact of the matter is this – **there are FSA employees** especially those with a position of seniority, authority and decision-making capabilities at senior middle-management level, who are carrying out their day-to-day activities and making decisions with the archaic **late-nineties-early-noughties-pre-global-financial-crisis, FSA ethos and mentality**. Human beings are creatures of habit – and habits are hard to break.
123. **The FCA has the potential to be a truly brilliant organisation** but the aforementioned is yet to be shed, and in order for the FCA to truly achieve its operational potential in the pursuit of its statutory objectives and its mission of delivering value for the public, whilst being a truly effective financial services regulator, it needs to seriously **'self-actualise' on a corporate level** and deeply reflect on what to do with its HR and senior middle-management layer especially those actors who's unfortunate Dark Triadic personality traits, as well as the direction of their moral compass, are not a good cultural fit for the organisation.
124. The **problem of the FSA-era 'deep-state' which exists within the FCA at senior middle-management level needs to be rectified** – whether by Mutually Agreed Resignation Schemes (MARS), redundancies or via performance improvement plans, disciplinary action and dismissals; personally I would opt for the latter option since it would be more economical – so long as it's done so legitimately **within the confines of UK Employment Law, and per ACAS Code and best practice guidelines etc.**, and it doesn't put the organisation at legal and reputational risk of unfair dismissal Employment Tribunal claims – and by 'rectified' I actually mean **purge them completely from the organisation**. It would be better to do this sooner rather than later in a *'Blitzkrieg'* fashion as it would be extremely beneficial for the organisation, the industry, and consumers **if certain cliques and coteries within the FCA are identified and dismantled ASAP**.

## Principle-based culture, strategy & operations

125. The FCA needs to shed its perception of corporate *hubris, arrogance, and hypocrisy* should it want to build its diminishing – or more accurately, in my opinion, its non-existent rapport with the wider public, consumers, action groups and trade bodies in addition to its own employees.
126. An organisation which is relying on *principle-based regulation* and on high-level principles laid out within its own regulatory handbook (see FCA Handbook [PRIN 2.1](#)) has **no moral right to espouse and enforce these principles upon the industry if it is unable or unwilling to abide by the spirit of these principles themselves internally with its own employees**, and when dealing with the public and the industry. Please read the following 11 high-level principles as laid down by the Financial Services and Markets Act 2000 (“FSMA”), underpinned by law, and which are *the core* principles when it comes to regulating the UK’s financial services sector:

### Principle 1: Integrity

A firm must conduct its business with integrity.

### Principle 2: Skill, care and diligence

A firm must conduct its business with due skill, care and diligence.

### Principle 3: Management and control

A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

### Principle 4: Financial prudence

A firm must maintain adequate financial resources.

### Principle 5: Market conduct

A firm must observe proper standards of market conduct.

### Principle 6: Customers' interests

A firm must pay due regard to the interests of its customers and treat them fairly.

### Principle 7: Communications with clients

A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.

### Principle 8: Conflicts of interest

A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.

### Principle 9: Customers relationships of trust

A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment.

### Principle 10: Clients' assets

A firm must arrange adequate protection for clients' assets when it is responsible for them.

## Principle 11: Relations with regulators

A firm must deal with its regulators in an open and cooperative way and must disclose to the FCA appropriately anything relating to the firm of which that regulator would reasonably expect notice.

127. When reading the majority of these Principles, please replace the word 'a firm' with '**the FCA**' and the words '*client*' and '*customers*' interchangeably and where applicable, with the word '**employees**', '**consumer**', and '**public**'. Now, can it *honestly and objectively* be answered – with a binary yes or no answer – that the FCA are following the spirit of these high-level principles which are espoused to the industry on a daily basis, and which has been done so for the past 20+ years? As part of any '**corporate self-actualisation**' process, the FCA should strive to abide by the spirit of these principles both internally and externally, and at all times. The FCA can no longer be a '*do as we say, not as we do*' entity.

## Invest regulatory fines into the FCA

128. Recently it's been reported that in 2021 the FCA has fined firms to the tune of £568m – however, how much of that fine money is going to be invested in the FCA? Apart from the interest accrued for the duration of time the fine money sits in one of its Lloyds bank accounts – as far as I understand, none of that regulatory fine money goes back into the FCA for any purposes whatsoever.
129. **A fair, significant, and practical proportion of regulatory fines paid out by regulated firms after successful prosecution cases should be invested into the FCA.** Currently fine money from successful FCA action goes to the *Treasury* and into what's called the '*Consolidated Fund*' (to be then dished out to other sectors and causes e.g., military charities and the NHS) – not a lot of people know this, probably not even the majority of FCA employees, and definitely not your average consumer.
130. However, HMT does not fund the FCA, the industry does. As such it is only fair that in these cases at least some of the amount should be invested into the FCA which could then **fund more consumer awareness campaign, further FCA training; or beef up internal resources** within other front-line business areas whether Supervision, Whistleblowing or Enforcement. Investing fine money back into the FCA would also relieve the regulatory fees and levies burden from innocent firms who are carrying out their regulated business in a principled, ethical and compliant manner.
131. The more regulatory fines invested in the FCA, the more its resources would swell; the more you'd be able to increase the headcount, attract and retain talent, and grow towards carving out a sense of regulatory omnipresence within the industry as well as amongst the public. Some firms and industry bodies seem to be asking for more front-line supervisory and enforcement resources – '*boots on the ground*'. In my opinion, **the bigger the FCA becomes, the harder it will be for firms to engage in misconduct** – or if and when firms *do* engage in misconduct – then the easier it will be for the FCA to detect and act at the earliest.
132. **The FCA could use fine money to perpetually raise awareness and educate consumers** from all ages and all aspects of life, whether teenager or old age pensioners, about financial scams across all sectors – this way **consumers would be allowed to secure a certain degree of protection for themselves** in the first instance.

133. **Perhaps even use a small proportion of the invested fine money as an internal incentive?** If money is truly the ultimate motivator then I bet *this* would enable a faster, targeted response with a rigorous appetite to thoroughly investigate and act against firms and individuals from when the very first allegations of misconduct arise and at the earliest opportunity rather than going amiss, leading to a firm collapsing with the end result being thousands of consumers losing millions of pounds and executive members of the organisation having to attend Treasury Select Committee inquiries for a public grilling.

### Is it a skill issue or a will issue?

134. At the FCA it's either a *skill* issue or a *will* issue. Some individuals, for example an Upper Tribunal Judge, may conclude that in certain cases **the failings of FCA employees are due to "human error...caused by a basic lack of competence"** and further make judicial recommendations that the **FCA consider whether its staff are adequately trained and have an adequate understanding** of proper records management in the context of potential enforcement proceedings<sup>19</sup>, however on the whole I believe it's the latter. The FCA is an employer of c.4,200 employees, each with years of education, experience, talent, knowledge, and comprising of rich and varied skillsets – hence, **even though technical competency, training, and overall professionalism can and should be improved within many business areas, I don't believe this is a skill issue** or the fact that the FCA are unable.
135. I believe that the unfortunate fact of the matter is that **it's a will issue and that some parts of the FCA, i.e., FSA-era 'deep-state' actors within the SMT and SLT level are unwilling**. This is the mindset that needs to change. Unfortunately, because this mindset is predominant within senior middle-management; and because it's too late to change this mindset now as I believe it's actually gotten to a stage whereby **cultural rot has set in** and it's a certain layer of that need to change. For nearly a *decade*, members of senior middle-management had a very fair chance, to reform and conform to the new values and ideals which the FCA was conceived for – but it seems like they're unwilling to do so – in my opinion, this is not because of any *intellectual* deficiency, but that of a *moral* deficiency. **Stupidity is not an intellectual condition but a moral one – it is a collective rejection of truth in support of a person or cause.**<sup>20</sup>
136. To me it feels as though this has reached somewhat of a precipice whereby the consumers, the industry, MPs, Peers, the Treasury Select Committee, the press, other relevant stakeholder organisations, and even **the FCA's own employees are frankly just sick and tired of the organisation, its mentality, lack of transparency, and its overall lackadaisical approach in doing things**. It's been said that stemming from the global Covid-19 pandemic in 2020, the so called '*Great Reset*' button has been pushed – I believe it's now high time to reset the FCA.

### Message to FCA colleagues

137. Through this testimonial I would like to send a message to my former FCA colleagues especially within Supervision and those that deal with Fixed-portfolio firms. You engage with, converse, question, interrogate, interview, and challenge C-Level Executives, the policies, provisions and conduct of some of the most powerful financial

<sup>19</sup> [Forsyth v The Financial Conduct Authority and The Prudential Regulation Authority \(2021\)](#)

<sup>20</sup> Dietrich Bonhoeffer, *The Theory of Stupidity*, c.1943-45.

institutions on the planet, yet **within your own departments and divisions you shy away from the incompetency, control, the bullying, and fear tactics employed by your own line managers and members of senior middle-management?** Food for thought.

138. I'm not inciting corporate insurrection or insubordination here, but I would urge that you **consider assertively critiquing and constructively challenging *en masse* (it needs to be done as a *collective*) senior middle-management and HR at every available opportunity.** You will find that by doing so you'll be taking them out of their comfort zone purely because they have no experience of being constructively challenged like that – as such you will find that they 'panic' and attempt to counter such challenge and criticism in an absolutely ignorant and nonsensical manner. Both HR and senior middle-management **rely on your perception and fear of them; their name, title, job grade, and salary** in order to maintain their power and influence over those under them.
139. I further **urge all employees within the FCA to come forward and submit their own testimonial responses for this APPG information gathering exercise,** to do so either on a named or anonymous basis and in the optimistic hope that y(our) action can lead to a meaningful reaction and thus a meaningful reform of this particular regulatory institution for the benefit of society.
140. In addition, if you have ever submitted an internal grievance and felt it has **not been investigated and dealt with properly,** whether a discrimination, bullying or sexual harassment complaint had been mishandled, that not only have you been denied the FCA's internal quasi-judicial justice, but also the *natural principles of justice* – then please consider **exercising your legal rights and submit Employment Tribunal claims** against your discriminators – you can even bring a claim against an individual employee(s) as well as the organisation should the circumstances require. **Keep doing this *ad infinitum* until the organisation and its HR function is forced to learn to get it right, to stop violating the Equality Act and Employment Rights Act,** and ultimately learn to behave in the manner in which it is expected of them based on principles of honesty, integrity, transparency, objectivity, and impartiality – and should they retaliate and victimise you thereafter for carrying out a protected act? Repeat the process.

### Final thoughts & comments

141. There are some huge challenges for the FCA to overcome, but I do believe ultimately it will. I am sympathetic to the fact that it is an under resourced organisation of **only c.4,200 employees and an annual funding requirement of only c.£600m,** yet it's tasked with the enormous responsibility of regulating a multi-billion pound industry which employs over one million people.
142. I am currently holding **a neutral stance in relation to Nikhil Rathi,** as I didn't have the opportunity to work under his watch and am now only passively observing everything that's happening as a former FCA employee and a member of the public – but I can see and appreciate some elements of his vision. **I do hope he has genuine and sincere intentions in permanently reforming the organisation,** and that he's just not on a cost-cutting exercise before moving on to a new role in a few years' time. I do think it is commendable what Nikhil is trying to achieve, however as previously mentioned, his **focus in relation to structural change *really* now needs to be on the senior middle-management layer** as well as its HR function especially

if he *truly* wishes to transform the Financial Conduct Authority and its outdated FSA culture. Some may say that perhaps I'm being too 'kind' towards Nikhil Rathi at this point (maybe I am?), but maybe, just maybe, he could actually become the person who permanently changes the FCA, its people and its culture for the better – this paragraph may not go down well with many, especially with all the chaos that's been happening over the past months, but I would say give him a chance. However, Nikhil Rathi needs to understand that currently the FCA doesn't need another 'typical CEO' but rather a 'super CEO' – a CEO of a completely different breed who actually listens to the rank and file employees and win hearts and minds especially over an extremely sensitive issue such as employee remuneration and bonuses and is able to get his senior middle-management layer properly in line.

143. Whether it's because of my cynicism and hypervigilance stemming from my unfortunate experiences within the FCA over the past few years, I also do feel that **Nikhil is in a position of being passively undermined by others around him especially those who are more interested in politicking and playing power games at SMT and SLT level; in addition to the fact that he is the organisation's first ever ethnic CEO of Indian origin** and I believe, on the balance of probabilities, he is at risk of falling prey to unconscious (or more disturbingly, conscious) bias and prejudice. If he isn't already, I believe Nikhil Rathi should be extremely mindful about this regardless of his social capital, education, and upbringing.
144. Again, I wish to reiterate that I do believe **the FCA has the potential to be a brilliant organisation**, and that of a world-class regulator serving a crucial function in society with the regulation of financial services in a free market economy – a sector which contributes a material percentage to the UK's total economic output. However, could it be that ultimately, despite the overall culture of corporate narcissism, systemic discrimination, avoiding accountability, transparency, and reputational risk, major issues relating to specific functions such as HR, senior middle-management, information disclosure service etc, in addition to other organisational and resourcing issues – that the reason why there is a widely-held perception of the ineffectiveness of the UK financial services regulator is because **the FCA is stuck in between a 'rock and a hard place' – that being of the 'politics of economics' and the 'economics of politics'**? Interpret and explore my last statement how you wish. I don't think those are political and/or philosophical concepts for me to discuss, but rather your Right Honourable selves in your Parliamentary forums. At this moment in time, I can only provide you with my opinions based on some my first-hand experiences at the FCA as a **'Paki', non-Russell Group/Red Brick university graduate from the underclass**, and hope some of these opinions, observations, and experiences at the FCA over the past six years is not only helpful and insightful for this testimonial but also somewhat thought provoking.

Kind regards,

**REDACTED**

### **STATEMENT OF TRUTH**

I believe that the facts stated in this testimonial are true.