

Question Set E

For financial services whistleblowers

Please note all of these points before answering:

- If you have any questions please contact Andy Agathangelou, Chair of the APPG's Secretariat, at [Email](#)
- Only reply to this question set if it applies to you.
- This Call for Evidence is being handled by the APPG's [Secretariat](#) and support staff, who will collate the evidence and provide it to [the APPG's members](#).
- Respondents' information will only be shared as necessary to enable the successful completion of the exercise and it will not be shared beyond the scope of this Call for Evidence.
- Please note that we ask respondents to only give evidence that they are free to provide. It is entirely the responsibility of the respondent to ensure they take into account any agreement(s) they may have entered into.
- Respondents may choose to skip answering any of the questions if they wish.
- It is for each respondent to decide whether their name and/or their responses are put into the public domain.

The process to follow

- Select the question set that relates to you. You may respond to more than one question set if you have different experiences of contact with the FCA.
- Download it, as a Word document, and save it on your computer.
- Provide your answers after each question.
- Please leave blank any questions that don't apply to you or that you do not wish to answer.
- Save the completed document on your computer.
- Please email it to Andy Agathangelou, **by 5pm on Monday 28th March**, at [Email](#)

Other important points to note

- This exercise is about gathering evidence on what people think about the FCA; it is not about providing any assistance, guidance or advice on any case a respondent may have against the FCA, or any other entity.
- Respondents are asked to only provide answers to the questions given.
- Respondents are asked to not provide any supplementary evidence or documentation.

Question Set E

For financial services whistleblowers

Your Details

Name:

Stephen Middleton

Company/Business (if applicable):

Address including postcode:

REDACTED

Email address:

REDACTED

Mobile telephone number:

REDACTED

Permissions

- Do you give permission that your name is put into the public domain?
 - Please enter Yes or No. ...YES.....
- Do you give permission that your response is put into the public domain?
 - Please enter Yes or No. ...YES..... (With Email address, phone number and postal address redacted).

Questions

1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?

I first started in financial services in around 1989 at CIS. I was there for around about five years, there was a time when the FPCs were just coming in for the first time and formal qualifications were being required to be a financial advisor. I left that and went on to Barclays where I worked for six years advising in the corporate High Net Worth markets on investments, pensions, those type of things. Leaving there in 2001, I then went to work for a small IFA and then shortly after I set up my own firm- this was just after FSMA obviously came in back in 2001. So, I worked through a network as an appointed representative so effectively the FSA were in the background at that time then and I had limited direct interactions with them.

2. What role were you in, and in what firm, when you blew the whistle?

I first blew the whistle in around about 2005/2006 when I was working as an IFA, and that was where I raised concerns that I knew other members of the network were repeatedly churning people's investments: Effectively literally setting pensions and investments up one year and going back the next year and reselling the whole product again. It was around the time when stakeholders first came out as well that were completely abusing the system. I raised that direct with the network and with the compliance teams.

Another time that I blew the whistle was in relation to interest rate swaps back in 2013. Where a business contact of mine asked me to look at this interest rate swap had been sold by RBS and although I didn't sell those type of products. So obviously I was aware of derivatives and structured schemes and having read through what had been given, I effectively just went back and said you can't have bought this under the rules under the execution only methods and FCA's rules; you can't have bought this in the way you've bought it and I then I thought very helpfully started writing to the FCA Director Martin Wheatley. I raised my concerns about undisclosed credit lines as a method and COBS breaches and that I was effectively certain that from what I've seen these RBS sales must all be torn up there. The FCA were starting the IRHP Review at that time, but I said it will seem pointless to put people through review because it was just a direct tear up. So many rules were broken so don't review them they should all be torn up.

The IRHP market or scandal was where people were either advised or effectively told as a condition of lending to take a fixed rate on their loans. Now, there's nothing wrong with fixed rate loans per se, but these were often long-term fixed rates, back in 2007/ 2008 when these people had been approached. We'd had been a long time of bullish economy and the majority of people will be forecasting that things were going to get more difficult and the likelihood of interest rates you would expect decreasing. But people were being told they should buy these fixed rates to protect them, because rates are volatile. What happened certainly the first case I looked at, it was a 10-year swap and when the person came to see me about this, they were fixed paying between the margin and the fixed interest rate eight and a half percent per annum when rates at that time were 0.5%.

To raise awareness of the problem to the relevant authorities I wrote initially to the regulator, I raised further concerns because these were a complex contract and involved simple businesses. The International Swaps and Derivatives Master Agreements were in the background. They also relied on the client assets for the bank to leverage them. So, the risk as it stood officially, was an unlimited risk. I just was quite horrified by it seeing this, I had spent 20 odd years selling investments to people with

the intention to make or of making them money. The idea that that you would sell something which was just purely an investment, and fully expect that people will lose money on it and you will be the beneficiary of all those losses was to me just absolutely abhorrent and against everything I've been taught throughout my career. So, as I wrote to Martin Wheatley, I got a limited response to the concerns about the security, but it didn't really go further and then I began interacting regularly with one of the technical heads of the IRHP Review ... {NAME REDACTED} who would get involved in debating about the rules and commissions and various other things to the point where what he was saying was not make sense. And at that point, he would just stop the conversation. So, it was just ongoingly frustrating because you can see that within this review process, the rules have been completely either ignored, or that by using sales standards they were allowing the rules to be ignored.

3. Did you follow your employer's whistleblower policy? Can you provide us with a copy of your employer's whistleblower policy? How did this whistleblower policy tell you to blow the whistle? Did it tell you what you must include so that your disclosure was protected?
4. When did you blow the whistle; and to whom/which organisation? What age were you then?
5. Have you ever witnessed 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. What was the nature of the misconduct, infringement, malpractice or so on that you alleged?
7. What interaction have you had with the FCA about your situation?
8. If you had contact with the FCA, did the FCA explain or define the extent of their regulatory authority to you in respect to the matters you were raising?
9. What evidence, if any, did you give the FCA; and/or any other entity?
10. What, if anything, do you believe the FCA could have done that may have prevented the matter that you blew the whistle on from happening in the first place?
11. To your knowledge, what did the FCA do to investigate the matter you raised?

I've never had any evidence that they've investigated anything. The only time I think they really got involved was on one case where somebody committed suicide. There was an issue with the home and potential loss of the home. And when that was raised with them, they were quite helpful on that one case because it was so extreme. But in terms of the other issues raised it's hard to explain how you hit this blank wall. You know, you raise real concerns, and you expect your concerns, they will come back to you for more evidence about your concern, but it doesn't happen. You raise the issues that relate to the IRHP Review first and nothing but obstruction. I was stating the separate rules that should have been applied in that review process and on every occasion I was being obstructed on it. And the amount of people who were discussing the same issues and being ignored. I mean, my view, honestly is that if you speak out and you speak out against the banks then you have been blackballed by the FCA, but you certainly don't get any feedback about the cases you mention. You get no feedback whatsoever about anything that you've raised.

12. To what extent did the FCA act promptly and effectively to investigate your allegations?

Not at all

13. Thereafter, as far as you know, what did the FCA do to prevent the alleged misconduct from continuing?

I've seen one thing I've raised with them where a whistleblowing system was not correct. I got involved in Looking at RBS Speak Up product manuals on whistleblowing and the rules have been changed but in the background with no feedback to me. On a number of issues I have reported my concerns to the FCA. In fact when I met with them and they confirmed they would investigate issues I raised, they would not feed back to us or give us any further information. So, you just hit a brick wall with them.

14. In your opinion, to what extent did the FCA act promptly and effectively to prevent the alleged misconduct from continuing?

15. If you suffered detriment, or loss of job, what was the impact on your personal income in each of the three years after you blew the whistle, compared to your income in the three years prior to your dismissal?

As I'm saying, I'm absolutely certain that what happened back in 2014 was down to the fact that I was making problems for the FCA in the IRHP Review and I believe that was what led to the end of my IFA licence at that point. Not that I couldn't possibly go back and resurrect it, but it would still be difficult to do. So, changing my way of working and consulting took a long time and many months when I did that without an income.

16. In your opinion, how well, or badly, has the FCA treated you as a whistleblower? How well has it protected your privacy, ensured that your career was not adversely affected and helped to safeguard your mental health?

I am quite clear on that on that. They had a very bad impact on my finances, my situation and my mental health. It was very stressful what we went through at the time, and not just for me but for the whole family. Try explaining to clients (some of whom you've looked after for 25 years) that you're not allowed to speak to them, let alone advise them or get involved with the finances again- even though you've done nothing wrong is an unusual thing to go through, because you've faced false allegations which I'm sure the FCA were behind and then when you've been forced to resign your licence it's admitted there was no evidence against you. And when I later reported my concerns about this to the FCA in a meeting, I also raised concerns

about a scandal in relation to the network I had been in where I had reported other issues that were not being taken forward. I did not get a reference for either the fraudulent investment issue and they wouldn't respond on the allegations I made about my own career.

17. If you have suffered financially or otherwise as a result of blowing the whistle, how effective has the FCA been in securing redress for you from the guilty parties?

Well, the guilty party would be the FCA as far as I'm concerned. I can give you 'for instance' with other parties; I took a whistle-blower in to see the FCA about two/ three years ago and he had been outed as a whistle-blower and targeted and suspended- therefore he had no income. We means BankConfidential a charity I work with that supports whistle-blowers. Mark Wright and I, managed to get this person back on full pay and support him to some degree ourselves for even just a period, but I took him to the FCA and I said to him that they kept talking about maximum protection in this room with the whistleblowing team and I said that you keep saying maximum protection, please just tell him what that means because this person was sat there hoping for something from the FCA. And they said oh, well, we will give you maximum protection and we won't let your name get out there and I said, wait a minute. He's been suspended because he's a whistle-blower. So, they know who he is, and they know what he's alleged so what do you have in place beyond that to support him and the revenue he requires but they just had blank faces. I remember he looked at them and said: 'what you don't do anything?' and they said no, we don't get involved in individual cases were the next words and that was the bottom line that they do nothing to protect whistle-blowers. And certainly nothing financially.

18. How effective has the FCA been in securing redress for the victims of the alleged misconduct and in prosecuting or banning the perpetrators so they are unable to continue doing it?

19. What do you believe the FCA could have done better in relation to your whistleblowing case?

Applied the rules and tear up thousands of RBS and other swaps. Yes, it would have cost billions to the banks. But that's what should have happened. You know, there should have been, if that review had been run properly and consequential losses have been paid as they should have been, it was mooted 30 billion plus going back to SMEs think what that would affect for the economy. I mean, know how much of an impact it's been on PPI payments have been made. But you think SMEs, having tens of billions returned into that business stream after such a difficult financial time would have been huge for the economy. But they didn't, they sat on their hands and let the banks keep the SME's money after appalling selling and deceit.

20. In general terms, what would you say about the FCA's effectiveness and timeliness in responding to your whistleblower situation?

21. 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?

It has the powers it needs; it just dances around them. You'll hear Andrew Bailey who was forever talking about the regulatory perimeter, and I will try to explain to people that the FCA can act on anything when people are selling investments. And all this nonsense were those things about fixed rate loans and whether they are regulated or not was ludicrous because as I kept saying to the FCA back then you'll pursue land bankers as another investment scam for

which you've sent the scammers to prison after pursuing them through the courts under the rules on mass selling off bad investments where people lose money, but you won't punish the banks. So, they had the powers, they were dozens of rules where there could be a criminal action against directors of banks but they focus on one-man bands, smaller people, people who are not regulated. They have the powers; they choose not to use them. To suggest that they couldn't get involved on RBS GRG because it's not a regulated area is ludicrous. All financial services firms work under the principles, and the principles of treating customers fairly, being honest, being transparent. The FCA can take action based on those breaches of those principles. So, tell me why it doesn't have the powers?

22. In general terms, how would you describe what it's been like dealing with the FCA?

Hugely disappointing. You know until dealing with them, you had this idea that there were this kind of FBI type organisation in the background there to keep the financial services market clean. And then what you do realise that you'd be made to jump through hoops following 1000s of rules for years while the larger organisations like the banks will just cut a deal with the regulator, mis-sell nonstop and pay a small amount of the money back when they're caught out. You realise it's an entirely two-tier system and that in effect the regulator is there on one hand to tackle the small businesspeople but on the other hand, mainly to protect the city and that means to protect them from redress and competition.

23. What is your perception of the culture of the FCA, and what do you think about it?

Within the culture, I suspect there are layer of cultures in the FCA. We have had whistleblowers have confirmed some very interesting points about the FCA and how they operate and what cover-ups have gone on and I'm sure there's a lot of genuine people in the organisation who think that they're attempting to do the right thing. I think at the executive level, it is untrustworthy, to say the least, I think at the highest level and what they've done in the last few years. People who have been involved in some of the largest scams and financial scams, such as the asset protection scheme and the sales of RHPS and fixtures. Like the people who've been behind that or the cover up of such have then gone on to be the chairman and CEO of the FCA, and the governor of the Bank of England. It's the same people will have let all these things happen who then go into run the boards that decide to do nothing.

About the asset protection scheme: Around the time of the bail out of Lloyds and RBS, the Bank of England with the government came up with this lovely scheme that what we need to do sort the balance sheet out is getting rid of loads of third-party assets. So, what they decided was that if you're in building your non-core, if you're in leisure you will non-core, if you're leisure industry it would be non-core, development you'd have been non-core. So, no matter how good bad or indifferent your business was, you become non-core and what that meant was they didn't want your business anymore. So, originally there was 600 billion of loans between Lloyds and RBS that were in a non-core area. And then if you then went into non-core and then were transferred into the asset protection scheme, the bank would put you into the APS- it was like a large insurance scheme with a 20% haircut. They could then claim on the insurance if you're going under or your firm is. What people didn't realise is that if you're in the asset protection scheme, the asset protection agency who ran it effectively had step in control of your company. You couldn't sell assets from your company without the approval of the asset protection agency. Shareholders couldn't restructure their business without their approval. And you couldn't have new monies or borrow further without their approval. Except the downside to this was whilst the banks knew you're in it, and hence your manager knew you were in it. They wouldn't tell the customers if they were in it or not. Back then the strategy was to get rid of 3 million customers from RBS alone. They still won't tell you if you were in that scheme. For years, you might have lost control of your company and I've seen it time and time again, people go back and say I'm ready now for

the money I know I'm getting. So, then there's a problem or there's an issue or we can't quite get funds or end up going under and the effects of never realising the fact that it was down to a directive three years before the company went under.

24. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?

Yes, on several occasions, I brought an official complaint against was Andrew Bayley who debated this with where Mark Wright had been named, over a market abuse allegation as a whistle-blower. We believed that based on an email that had been released under a DSAR, Data Subject Access Request. And the FCA were adamant that they hadn't named him in this email, but confirmed they had named him on a previous occasion. This was when he was whistleblowing a market abuse statement at RBS back from 2008. For five years he tried to expose this, and the bank consistently denied the fact that the statement had been made but clearly it had been hidden. When they then confirmed the FCA had named him- so at the time when they thought he was still working at RBS- they named him and his allegations direct to the bank following his MPs questions. They stated they wanted to find out what was happening and then suggested there was nothing wrong with them doing it. So, we confirmed the rules stated because if somebody comes to you that name themselves personally, you should keep them anonymous unless you've agreed with them otherwise. Then they argued with us for a year literally a year on this, but in the end, the Complaints Commissioner decided against the FCA and said that we were correct. I mean, it was just ridiculous. And since then, we've made further complaints because we found out that they misled Mark and Sir Norman Lamb his MP and told him that they said the market abuse statement didn't exist. They stated that they had asked RBS and RBS stated it doesn't exist and they looked for it but they can't find it and then Mark did a DSAR to the Complaints Commissioner while we're having this whole whistleblowing argument and in there, he got emails back saying the FCA had found the statement Mark Wright referred to and it would seem to back up what he said. And so, we over a year and a half repeated that they had mislead Mark and Sir Norman, and they wouldn't meet with us and wouldn't discuss it and kept saying it had been dealt with. We complained at the time when we'd only just found these emails. And then when we put a formal complaint in to say that they misbehaved they then turned around said that well you're out of time because you should have brought a complaint within 12 months but we had raised this in like 11 emails and contacts where we'd brought it up. So, then they cannot be trusted at all when it comes to their behaviour and complaints processes.

25. Overall, what have been the consequences to you (and if relevant to your family) as a result of what has happened?

Well, I think you know, you find ways to move forward. We went through a very stressful time at the time. That's a very stressful couple of years and very difficult ones and you know for myself, I found that having lost your licence or having to give up the licence in the way that I did having done nothing wrong. Giving advice for so many years and not having any issues with the advice I've given my customers and even in the credit crunch with all the rest of it without people losing money, or having had them in bad investments. So, you only would have to ask any member of my family about distress that the FCA caused, or mention the FCA in or around any of my family to know what kind of feedback you might get

26. What would be your advice to somebody thinking about blowing the whistle to the FCA on a matter to do with misconduct in the financial services sector?

At BankConfidential we give people an opportunity and you know we're dealing with several now, where rather than blow the whistle we've suggested come to us and we'll put your allegations forward as a whistle-blower whilst at the same time we'll keep them anonymous. We say do not approach the FCA and give them your name or any details because they may contact the Bank directly and ask questions about it? They don't have to keep you anonymous, and you've got to insist on it when you go to them but even then, they can stop that. So, my advice would be if you need to whistle blow get expert advice from people like ourselves or people like Nick Wilson, Mr. Ethical people and get advice on what your risks are by speaking up at all because the risks are very high.

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

No FCA would probably be the starting point. The FSA became the FCA through the credit crunch and it just carried on being what they are. If it was a case of, we have the FCA I think what I would change was they might do a job protecting the city, with other issues to consider and we have global frauds and all sorts of other things. But they are not fit to work with or protect consumers. Allow them to look after the city and create a new independent regulator purely to protect consumers and SMEs

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

silence

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

The revolving door issue is huge. I can't suggest it was anywhere down to what he did on the IRHP Review, but most complaints that were coming in, were coming in about RBS when we found out that {NAME REDACTED} has left the FCA gone to work for RBS when the review finished. That left a very bad taste in a lot of people's mouths with that that revolving door. Like Charles Randell from Slaughter & May his firm made tens of millions in a couple of years advising HM Treasury upon an abdominal scheme, the asset protection scheme and then next he's the Chairman of the FCA. The conflicts are at every level because people in banks are going to get paid substantially more than people in the FCA. If you do a good job protecting your bank contacts anyway, they'll look after people at the right level. And it's not right they have to stop this revolving door.

30. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors

Absolutely. And you've got to bear in mind they do! When the credit crunch happened, I mean, there were things like bad investment products sold and I know there was some spot checks even just on local firms in East Yorkshire and some firms who just shut down overnight that had got it so wrong. And they couldn't explain why they sold what they sold. But when I spoke to ..., {NAME REDACTED} in the FCA aid I couldn't understand why the FCA's file checks on IRHP sales had not picked up any issues. And his words were that the FCA would not do anything so granular as to go in and check the banks files. Even when you have the Review open the FCA hadn't made any attempt to go through those files to see who was doing what, how, and where, and look at what they might find. You do have FCA spot checks, but at the lower-level firms where they did what they call arrow visits which were literally the same day visits and checks and I've seen it done it happen to numerous people, but it doesn't happen at the higher level in the banks.

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

I don't think the FCA should be allowed to undertake anything to transform itself. I think you need experts to come in and properly examine what has gone wrong in there. And again, it will just be a whitewash, it'll be the usual scenario, you know they might then call themselves FCN, like after the FSA when they became the FCA, they'll just change the word around, admit they've got a lot of things wrong, then say we're changing into a new body again. But it's just it's a waste of time.

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

I think in relation to those of us who have had long term interests with financial services in this country, I think you know, to suggest that we've got good regulators while the City is the largest money launderer on the planet still laundering for Russian and Mexican cartels is ridiculous. We have huge, huge fraud, deceit and deception in one square mile in the city. And the FCA are doing little or nothing about it. So, if I had any one thing to say I would say it's about time the city or the square mile was investigated by an appropriate regulator with integrity.