

Level 20 HR Sponsor Breakfast

12 MARCH 2026





1) Overview

Who, what, where, when?



Who?



All FCA-regulated firms, other than banks (where the rules apply in modified form because banks were already partly subject to non-financial misconduct requirements)

What?



- Evolution in regulatory requirements related to non-financial misconduct
- New rules clarifying that bullying and harassment in a work context can in certain circumstances be a Conduct Rule (COCON) breach + supporting guidance
- Guidance that certain aspects of personal life (not just professional life) are a fitness and propriety issue for Senior Managers and Certified Persons

Where?



- UK-based staff (ex. ~admin staff)
- Some limited application to non-UK based staff – see later slide on territorial scope

When?



In force on **1 September 2026**

How far do the new rules move the dial?



In **professional life**:

- **Medium** impact re: bullying and harassment
 - Serious bullying and harassment are now part of the core of the Conduct Rules.
 - Staff performing management (lower case m not just SMFs) roles are potentially on the hook to the FCA individually if they do not take reasonable steps to prevent bullying and harassment.



In **private life**:

- **Lower** impact, and depends partly on existing firm practice, but some areas where change may be required in relation to Senior Managers and Certified Staff:
 - Approach to requiring reporting to the firm of e.g. police interviews under caution
 - Investigating controversial or offensive social media activity
 - Allegations of serious misconduct outside work

Action steps – to do now



- ✓ Brief senior management. Integrate into under citizenship programme/demography work being undertaken
- ✓ Ensure that Legal/Compliance and HR are properly joined up on conduct matters
- ✓ Confirm implementation status of duty to prevent sexual harassment
- ✓ Check policy on what needs to be reported in respect of conduct outside work to see whether it aligns with FCA F&P checklist
- ✓ Check Anti-Harassment/Bullying Policy to establish whether this broadly aligns with FCA definition of harassment
- ✓ Check social media policy and any conduct outside work policy to establish whether they align with the new rules
- ✓ Check approach for individuals being appointed into positions subject to an F&P assessment, and re-confirmed annually

Action steps – to do by 1 September 2026



Check any outsourcing of F&P checks on hiring or ask if the provider is making any changes in light of new rules



Update 'regulatory' documents:

- ✓ Regulatory references policy
- ✓ Compliance manual
- ✓ Fitness and Propriety annual checklist



Update 'employment' documents (to the extent required):

- ✓ Anti-Harassment/Bullying Policy/Preventing Sexual Harassment Policy
- ✓ Whistleblowing/Speak Up Policy
- ✓ Social Media Policy
- ✓ Code of Conduct
- ✓ Disciplinary Policy



Train staff (including non-UK staff if appropriate)



Review and update sexual harassment risk assessment



Summary of the new rules



Certain non-financial misconduct will be a breach of **COCON**

Breach of Individual Conduct Rule 1

(You must act with integrity)

e.g. engaging in serious bullying or harassment, whistleblower detriment

Breach of Individual Conduct Rule 2

(Acting with due skill etc as a manager)

e.g. manager not taking reasonable steps to prevent harassment or bullying

Applies to **professional life** only

Firms will need to consider non-financial misconduct when carrying out **Fit and Proper assessments**

Applies in respect of **Senior Managers** and **Certified Staff**

Two key types of relevant misconduct: breaches of the requirements of the regulatory system and misconduct in a person's personal or private life

Both **professional life** and **private life** will be relevant

Retrospective effect?

The FCA has stated that the rules do not have retrospective effect

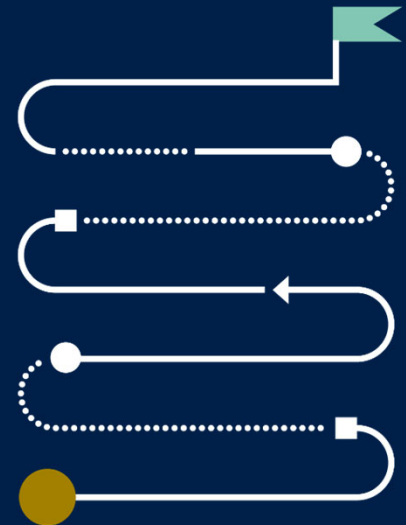
So:



Misconduct taking place, identified and addressed before 1 September 2026 does not need to be reconsidered



And – helpfully – misconduct taking place before 1 September 2026 but identified after that date should be handled based on the rules in force at the time



Territorial scope



Conduct Rules (COCON)

Apply to FCA-approved Senior Managers and Material Risk Takers **globally**

Apply to other Conduct Rules staff:

- While in the UK; or
- When dealing with UK clients from an establishment overseas



Fit and Proper assessments

FCA-approved Senior Managers and Certified Persons must be Fit and Proper, regardless of whether they live in the UK or not

- Global firms should not need to change their current approach or adopt the UK requirements more broadly for other non-UK staff



2) Key Questions – and Answers

What do the new bullying and harassment rules mean in practice?



Current Position

- Firms are already subject a duty to prevent sexual harassment and are liable for harassment (of any kind) by an employee unless they took reasonable steps to prevent it.



New Position - Managers

- Managers will be under an enhanced duty to prevent and address bullying and harassment.



New Position - Duty to Investigate

- SMFs and the firm will have a slightly stronger responsibility to investigate claims.
- "It's the City – what did you expect?" mentality may need to change – FCA pushing firms towards a position where bullying is no longer 'OK'.

Relevant behaviour in private life – what is new?



Current rules: F+P & Private Life

- Some aspects of an individual's private life have always been relevant for F&P assessments (e.g., criminal offences and civil proceedings).
- The FCA has also increasingly considered non-financial misconduct in an individual's private life in its enforcement actions.



Current rules: A focus on commercial or financial-services offences

- Current requirements tend to focus on commercial or financial services-related offences and behaviour.
- The new rules may bring into scope other types of offences and behaviour (e.g., sexual misconduct) and behaviour which suggests dishonesty or a lack of integrity



What is the practical delta?

- In practice, much of this behaviour is probably already considered by firms.
- It may be more difficult for a firm to dismiss misconduct outside work as 'not relevant'.

What extra information does the firm need from staff?



FCA Expectations

- The FCA's starting point is that *"Generally, a firm need not monitor the private lives of its staff"*.
- It might be possible to argue that it is sufficient to rely on the information required by the FCA in Form A – and Form A has not so far been revised.



What happens when the firm has other information relevant to F+P?

- The FCA expects firms to look into a staff member's private life if there is a good reason to do so.
- Firms are expected to take reasonable steps to investigate.
- The FCA recognises that firms may have a limited ability to investigate e.g. criminal matters.
- Some difficult questions about what to do with information in relation to staff who might not yet be certified/SMFs

What about personal social media accounts?



Headlines:

- No requirement for firms to monitor personal social media accounts
- However, misconduct over personal social media accounts is likely to be in scope of:
 - COCON where it takes place on the firm's systems or relates to work.
 - F&P requirements irrespective of whether it takes place on the firm's systems or in relation to work.



What about freedom of expression?

- Individuals are not generally prohibited from expressing controversial views on social media – even if colleagues would disagree or be upset.
- However, if such activity suggests broader F&P issues, then this could be relevant.



What should firms do?

- Firms should consider implementing or reviewing social media policies.
- Firms may wish to consider whether to permit/limit the use of social media on work devices
- In principle, interaction with existing approach to e.g. WhatsApp driven by market abuse considerations should not need to change.

Does the firm need to change its approach to internal investigations?



- Both Legal/Compliance and HR functions will need to be involved.
- There will – still – generally be an initial **fact find** stage before potentially moving on to a full investigation.
- Firms should ensure that they have robust processes for investigating allegations of misconduct.
 - Firms are not expected to investigate trivial or implausible allegations, or which are not relevant to F&P – helpfully, the FCA considers that firms are generally best-placed to assess whether further investigation is appropriate and seems unlikely to challenge the firm's decision on that in most cases.
 - Training for staff and managers will need to cover making and dealing with notifications.
- There will be questions of judgment including whether the misconduct relates to personal/private life; is sufficiently serious; and falls within the territorial scope.
 - It will be important to document investigations and the conclusions reached - the FCA has said that it will generally not question a firm's judgement if it is "reasonable".
 - Legal advice will often be required.

Does the firm need to change its approach to handling employee claims and litigation?



- Where grievance scenarios turn into claims, litigation etc, firms should prepare for 'weaponisation' of the new rules by complainants and their lawyers
- However, whilst the FCA has a whistleblower 'hotline', this already receives numerous fanciful allegations – the new rules may not move the dial.
- Note, claimants have no right to enforce the Conduct Rules against the firm.
- Any bullying or harassment or whistleblowing detriment/dismissal can already lead to Employment Tribunal claims (and compensation for financial loss/injury to feelings) regardless of whether there is a breach of FCA rules/guidance.
- Claims of harassment and whistleblowing detriment can already be brought in the Employment Tribunal against individual managers/colleagues as well as the firm.

Other items (FCA notifications; regulatory references)



Does the firm need to change its threshold for notifications to the FCA?

- No significant changes are expected but there will be less scope to take a view in some areas, especially in cases of bullying and harassment.



Does the firm need to change its approach to regulatory references?

- No significant changes to approach
- Firms may need to disclose a slightly broader range of information, and there may be less scope to take a view in e.g., cases of bullying and harassment.
- Some judgment may be required when dealing with unproven allegations.
- Firms will need to be mindful of other legal duties e.g. defamation.

How should firms manage senior staff?



- Make them aware of the new rules and guidance – in particular the fact that bullying and harassment are now 'core' FCA issues.
- Ideally leadership on these issues will come from the top



- Train managers in how to prevent harassment/bullying and handling complaints.
 - We have prepared scenario-based training designed to illustrate many of the trickier areas of the rules



- Remind them that proper standards of behaviour, both at work and in their private life, will be relevant to the firm's assessment of their ongoing Fitness and Propriety.



3) Case study

Case study



Dario complains to his manager, Paul, that his colleague Louise (who is in the same team) made a racist remark to him at work.

The firm carries out an investigation but is unable to establish whether the allegation is true or not.



Should the firm take disciplinary action against Louise?



Could Louise be in breach of the conduct rules? What about Paul?



What steps should Paul take to avoid any further incidents?

Session leaders



Siân Keall
Partner, Employment

+44 (0) 20 7295 3357
sian.keall@traverssmith.com



Michael Raymond
Partner, Financial Services & Markets

+44 (0) 20 7295 3487
michael.raymond@traverssmith.com