

# How we handle disclosures from whistleblowers

February 2015

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**This note will be of interest to those, such as whistleblowing charities and individual whistleblowers and other prescribed persons, who wish to understand how we engage with whistleblowers, what we do with their information and their impact on our work.**

**This note does not discuss our proposals for new whistleblowing requirements on how firms should handle disclosures – these are in our consultation paper [CP15/4](#).**

## 1. The statutory framework

The FCA is a 'prescribed person' under the Public Interest Disclosure Act 1998 (PIDA), which provides the statutory framework for protecting workers from harm if they blow the whistle on their employer. Under PIDA, workers may tell the relevant prescribed person about suspected wrongdoing they believe may have occurred, including crimes and regulatory breaches. Passing information like this is known as making a 'disclosure'

The work we do as a prescribed person to receive and follow up the disclosures whistleblowers make to us is also in line with the recommendations of the Parliamentary Commission on Banking Standards (PCBS), which was published in June 2013.

We have always taken a wider approach to whistleblowing than PIDA requires, providing the same level of anonymity to all who disclose to us. Around half the disclosures we receive come from employees of regulated firms who are entitled to PIDA protection.

## 2. What we do and what we have learned so far

### Using and protecting whistleblowers

We use a very wide range of information sources in our work and whistleblowers provide valuable intelligence on both criminal and regulatory breaches, as well as general wrongdoing in the regulated sector.

Whistleblowers almost always want their information and identity to be protected so when we work with them and use the information they give us our overriding aim is to ensure that we treat them with the anonymity they need. Unless whistleblowers choose to disclose their identity to the firm concerned we will do all we can to protect their identity, unless we are required by a court to disclose it. Even if we were required to disclose in court, we would try to limit the potential damage, for instance by disclosing only to the judge.

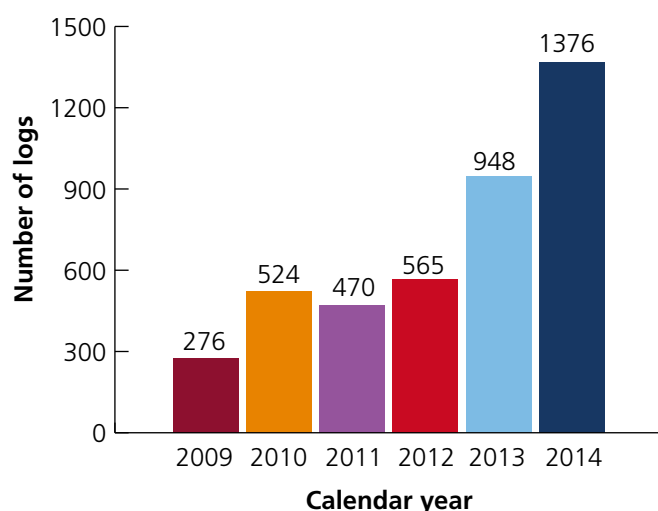
In many instances a whistleblower’s information simply corroborates intelligence we already have, or is new but not enough on its own to warrant further action, though it may draw our attention to a potential new risk. But sometimes we can use the whistleblower’s information, pieced together with information from other sources, to take action.

Information from whistleblowers has contributed to firms and individuals being fined, permissions being varied or withdrawn, warning letters being issued and a range of other early intervention actions, such as asking a firm for clarification about their activities. We have also used information from whistleblowers to inform our supervisory strategy for a number of firms.

### Our approach

We have a dedicated whistleblowing team to handle the disclosures we receive. In 2014 1,367 people blew the whistle to the FCA from which we produced over 1,100 intelligence reports.

**Chart 1: Whistleblowing disclosures received by FCA in 2014**



In September 2013 we introduced a new case management system to ensure that we make best use of the intelligence whistleblowers provide. Only our whistleblowing team has access to this system, which is audited.

Improved feedback systems have also helped us to see how we use whistleblowers’ information across the organisation. FCA recipients of whistleblowing intelligence have provided internal feedback on 650 cases to date. We expect to see an increase in the proportion of reports that lead directly to FCA enforcement action or other intervention, or which provide intelligence of significant value to us.

**Table 1: Classifications issued by recipients of whistleblowing intelligence since September 2013**

Classification	Reports
Intelligence directly contributed to FCA enforcement activity or the protection of consumers through other intervention.	17
Intelligence was of significant value to the FCA and contributed to the discharge of its functions.	107
Intelligence was, or may be, of value to the FCA but is not currently actionable or does not meet current regulatory risk thresholds.	367
Intelligence was of little value and is unlikely to assist the FCA in the discharge of its functions.	159

## Engaging with stakeholders

We held our first Whistleblowing Forum in October 2013, to which we invited whistleblower support groups and charities, as well as trade associations and other prescribed persons. We plan to hold another forum in March 2015 to share ideas on best practice with other prescribed persons and a range of external stakeholders.

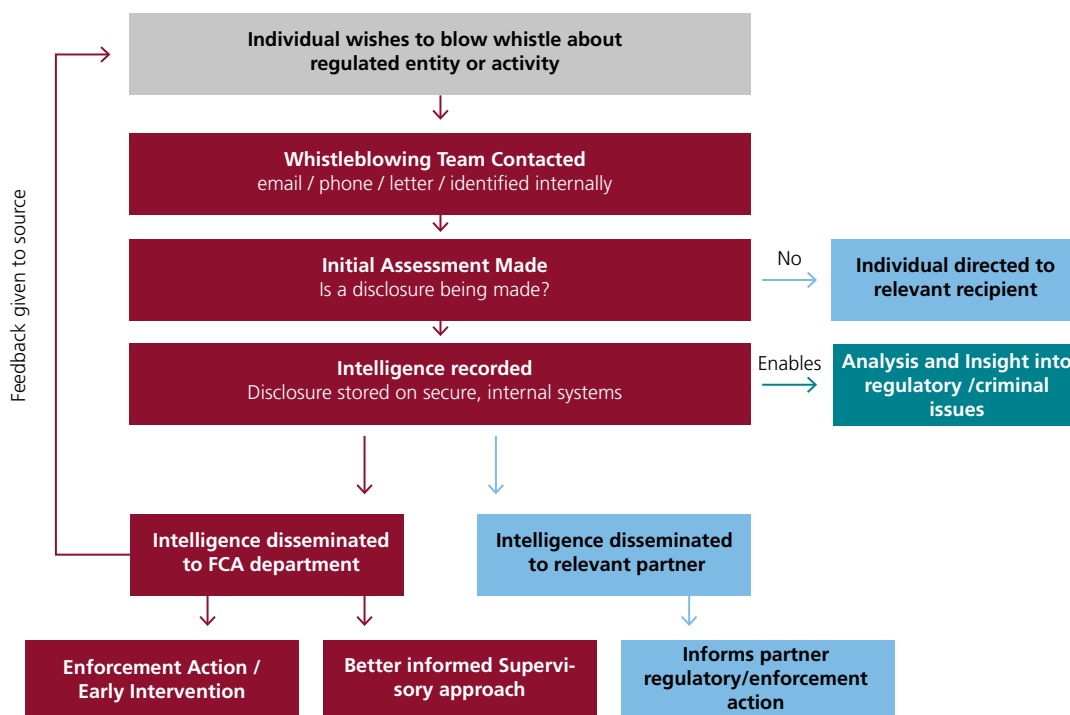
## Ensuring whistleblowers' information gets to the right place

We share whistleblower intelligence with the Prudential Regulation Authority (PRA) where it is relevant to their responsibilities. We and the PRA refer cases to each other as appropriate, as well as exchanging information on trends. In 2014 we also shared intelligence with a wide range of UK law enforcement and regulatory bodies in 160 cases, and we shared information with certain overseas regulators.

We respond to all whistleblowers who approach us unless we think their anonymity would be undermined if we did so, or if they have not provided contact details. We also provide as much feedback to them as we can, although this is generally limited as a result of a range of matters including investigation sensitivity, FCA policy and restrictions imposed by UK and European law. In cases where we are able to publish outcomes of cases, and where a whistleblower's information has helped us, we expect to inform the whistleblower and thank them for their assistance.

Cases where particularly serious or complex allegations are made may require face-to-face meetings with the whistleblower (if they agree). We continue to invest in training staff to help us understand fully the concerns the whistleblowers raise.

**Chart 2: The Whistleblowing Process**



### Current trends

The vast majority of our whistleblowing cases relate to conduct issues in regulated firms. Analysis of the data from our whistleblowing cases in 2014 indicates that:

- **Consumer credit is an emerging issue:** we received disclosures even before we assumed responsibility for regulating consumer credit firms in April 2014. We received 152 disclosures between April and the end of December 2014.
- **Whistleblowers have increasing concerns about pressure on sales results, including the setting of sales targets:** Between March and December 2014 the whistleblowing team identified an increasing number of reports about pressure on sales staff.
- **High-profile regulatory actions and campaigns prompt an increase in disclosures:** The number of cases recorded by the whistleblowing team about pressure on sales staff increased 30% following the Lloyds fine in 2013. Other news stories such as LIBOR also stimulated disclosures.
- **Demographic analysis** of whistleblowers who contacted us in 2014 indicates that there is no one 'type' of whistleblower. They come from a wide range of firms. Those willing to disclose their identity to us (around two thirds) also come from a wide range of seniority levels within their firm, from call centre workers to senior executives. Three quarters are male. We will continue to use demographic analysis to understand who discloses to us, so that we can identify and address any gaps or other concerns.
- **Whistleblowers most commonly disclose information in relation to the financial advice & intermediary sector.** While the retail banking sector commonly receives more negative press coverage, it is only the fourth-most reported area within the regulated sector by whistleblowers (see Table 3).
- **Whistleblowers most frequently express concerns about the culture of their organisation:** Whistleblowers may record multiple concerns within one 'case', but the most consistently recorded issue is the negative culture in the firm (see Table 2).
- **Whistleblowers are concerned about consumers:** In 2014, 15% of whistleblowers reported concerns over consumer detriment. Many of these reports contained specific references to 'treating customers fairly'.
- **Whistleblowers are helping us to understand financial crime:** Whistleblowers are a key source of intelligence on financial crime, especially money laundering.
- **Personal harm:** We record whether a whistleblower claims they have suffered detriment as a result of making an internal disclosure to their firm. In 2014 we recorded 79 such cases. The action ranges from bullying and being isolated, to intimidation and threats to sack or discipline the employee.

**Table 2: Subject of whistleblowing disclosures in 2014**

Subject of disclosure	Count
Culture of organisation	242
Fitness & Propriety	224
Consumer Detriment	200
Crime/Money Laundering concerns	124
Systems & Controls	113
Pressure on sales staff	76
Consumer Credit	71
Market Activity	68
Treat customers fairly	65
Non-regulated products	58
Other / Not Stated	53
Pension	38
FX-related	20
Competition	5

**Table 3: Subject industries / sectors of whistleblowing disclosures in 2014**

Industry/Sector	Count
Financial Advisors/Intermediaries	277
Consumer Credit	163
Retail Insurance	157
Retail Banking	156
Unauthorised Business	131
Markets	106
Other / Not stated	154
Investment Banking	93
Asset Management	41
Commercial Insurance	35
Mutuals & Credit Unions	17
SIPP	14
Building Societies	9
Friendly Societies	4

### 3. Case studies

Below we outline a small sample of cases that illustrate the range of issues whistleblowers report to us.

#### Employer malpractice, personal harm and criminal activity

An individual disclosed information about sustained malpractice by a former employer, a regulated firm. The whistleblower also informed us they had suffered personal harm while employed at the firm and expressed concerns about recriminations resulting from their disclosure.

Recognising that an individual might be at risk, we informed the police that the whistleblower might suffer retaliation or be the victim of criminal activity. Our whistleblowing team used their specialist backgrounds to reassure the victim and explain the options available to them.

#### Investigations and supervisory intervention

Intelligence provided by whistleblowers has helped us to prepare for enforcement interviews, led to our seeking a Voluntary Variation of Permission in relation to client money, and informed our supervisory approach to individual firms and sectoral risks.

#### Authorisations

Intelligence from a whistleblower indicated that an application for a Controlled Function role contained false information. When we asked the firm for clarification, the application was withdrawn.

### **Unauthorised business**

A number of whistleblowers have reported firms for providing unauthorised advice and services to consumers. We have used this intelligence to take appropriate action against the firms, including issuing warning letters and consumer alerts.

### **Market manipulation**

Intelligence from a number of whistleblowers has highlighted suspected market manipulation, including the names and activities of a number of people suspected of insider trading. We are pursuing a number of enquiries as a result.

### **Pressure on sales staff**

A dedicated team has been undertaking thematic work on the performance management of sales staff. Intelligence from whistleblowers about the level of pressure on sales results that some retail firms put on their staff has helped to inform this thematic work.

### **Benchmark manipulation**

We have received invaluable intelligence from whistleblowers about benchmark manipulation which has included reference to the names of individuals potentially involved in FX manipulation and other detailed information.

## **4. Looking ahead**

We will continue to improve our processes to ensure that whistleblowers are as well supported as possible, that we protect their anonymity, and that their information gets to the right place and is considered appropriately.

### **Understanding our whistleblowers better**

We want to understand our whistleblowers better and in future we will seek to answer some key questions to develop our approach:

- Who and where are our whistleblowers?
- Do our whistleblowers come from all sizes of firm and all sectors, or are there gaps?
- Do we receive more whistleblowing disclosures just after FCA announcements/other news?
- What are the public and stakeholders interested in?
- How do we use whistleblowing intelligence in early interventions and action?

### **Ensuring we demonstrate best practice**

A recent FCA staff survey indicated that:

- 94% of FCA staff understood the FCA's whistleblowing responsibilities and procedures.
- 66% of FCA staff were very confident, and 28% confident, they could deal with whistleblowers appropriately.

We will continue to work with key stakeholders such as the Department for Business and Skills and the National Audit Office on how we can deliver a 'best in class' whistleblowing function for the financial sector.

### **Conclusions**

Over 2013/14, we thoroughly reviewed and revised our approach to whistleblowing, in part to respond to the recommendations made by the PCBS. We will continue to make improvements so that we can provide a better service to whistleblowers and make the most of their unique contribution to our understanding of the regulated sector and the discharge of our statutory functions.

Any further changes we make will be underpinned by our commitment to making full use of the intelligence we receive from whistleblowers, while maintaining their anonymity.

**To contact the FCA whistleblowing team or to see more about how we work:**

**<http://www.fca.org.uk/site-info/contact/whistleblowing>**