FCA Mission: Approach to Enforcement
April 2019
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Introduction

Every day the UK population relies on a range of financial services, from basic bank accounts to car loans, mortgages, pensions and complex investment products.

Consumers need to have confidence in these services and the firms that provide them. They expect the market to be fair, open and competitive. They also have high expectations of those who regulate these firms.

Parliament created the FCA to regulate the conduct of the UK’s financial services. The FCA is also the prudential regulator for all firms apart from banks, building societies, credit unions, insurers and large investment firms. These are authorised by the Prudential Regulation Authority (PRA) and regulated by both the PRA and the FCA.

Parliament gave the FCA a single strategic objective – to ensure that relevant markets function well – and three operational objectives to advance this:

• protect consumers – to secure an appropriate degree of protection for consumers

• enhance market integrity – to protect and enhance the integrity of the UK financial system

• promote competition – to promote effective competition in consumers’ interests

The aim of our regulation is to serve the public interest by improving the way the UK financial system works and how firms conduct their business. By doing this, it benefits individuals, businesses, the economy and so the public as a whole.

We add public value by: enhancing trust in markets, improving how they operate, delivering benefits through a common approach to regulation, working to prevent harm from occurring and helping to put things right when they go wrong.

We need to use all of our powers and functions (including authorisation, supervision, competition and enforcement) to fulfil our objectives. Issues may span a sector or a number of firms, and we may wish to use a combination of powers and functions to address a problem. This may be through informal guidance, investigation, or early intervention as well as using powers and functions to take civil, criminal and/or disciplinary action.
The factors we consider when deciding whether to open an FCA investigation are set out in our investigation opening criteria.

Making our approach to enforcement more transparent

This paper outlines our approach to enforcement and how that approach aligns with our Mission. It explains how we address harm and add public value through the use of our statutory powers to investigate and, where appropriate, take civil, criminal and/or disciplinary action where there has been a contravention. In this paper, ‘contravention’ includes:

- a breach of the Financial Services and Markets Act 2000 (‘FSMA’), our Principles and rules (as set out in our Handbook)
- the commission of a criminal offence
- failure to comply with any other applicable regulatory obligations, eg the Payment Services Regulations

We have sought views on this paper and the feedback we received is reflected in the Feedback Statement.

More detailed information about our approach to enforcement, including our use of information gathering and investigation powers, our powers to prosecute criminal offences, obtain injunctions and restitution and our approach to our choice of sanctions, is set out in our Enforcement Guide (EG) and our investigation opening criteria. Information about how we make decisions and our penalty policy is set out in our Decision Procedure and Penalties Manual (DEPP). We also publish our Annual Enforcement Performance Account each year. This reports on the enforcement work we have carried out over the past year, with information about investigations opened, action we have taken and a statistical overview of our performance.
We need to use all of our powers and functions (including authorisation, supervision, competition and enforcement) to fulfil our objectives.
Chapter 1
Our role in enforcement

Our approach to tackling serious misconduct is to not pre-judge the outcome of an investigation, but instead focus on gaining an understanding of the facts.

Misconduct, if undetected or unaddressed, causes a loss of confidence and trust in the operation of our markets as well as financial loss to consumers and firms. Even though serious misconduct is relatively uncommon, failure to detect it or to take action magnifies the harm it may cause.

Market integrity and consumer confidence is stronger when misconduct is identified and dealt with quickly and fairly through legal processes. Improved detection increases public confidence in the regulatory process. It sends the message that misconduct will be uncovered and dealt with. It makes sure that those who may be tempted to commit misconduct have a keener sense that they are likely to be caught.

The overriding principle in our approach to enforcement is a commitment to achieve fair and just outcomes in response to misconduct. Wrongdoers must be held to account and our rules and requirements must be obeyed.

Increasingly, severe penalties and sanctions alone are not enough to reduce and prevent serious misconduct. We must increase the likelihood of detection in tandem with efficient investigations.

Our approach to tackling serious misconduct is to:

- be responsive and efficient in detecting it
- not pre-judge the outcome of an investigation, but instead focus on gaining an understanding of the facts
- investigate efficiently and fairly, including acting where there is serious misconduct and stopping investigations where it is clear there is no serious misconduct
- use deterrent and remedial powers, including financial penalties, prohibitions, suspensions as well as redress, or remedial and restorative measures wherever appropriate, to put things right
- encourage firms to voluntarily account for and redress misconduct (where it is reasonable for them to do so) by imposing lower sanctions on such firms
- impose more severe sanctions on those who fail to address harm
- communicate, through our formal statutory notices, the basis and the reasons for our actions, so they are transparent, fair, and firms and individuals can use that information to evaluate their own conduct
Chapter 2
How we identify harm

We aim to identify serious misconduct quickly so as to more easily reduce its consequences on consumers, markets and firms. The benefits of early detection are:

• preventing harm before it occurs
• the issues for investigation are likely to be more contained and ring-fenced, making the investigation quicker
• the speedy remediation of harm
• stronger market integrity and public confidence because firms and individuals are seen to be doing what is perceived to be right, in a timely way

Suspected misconduct may be detected through our Market Oversight, Supervision, Authorisation and Competition Divisions, as well as our financial crime, intelligence and whistleblowing teams.

We work closely and collaboratively with other regulators and law enforcement agencies both in the UK and overseas. For example, working with law enforcement agencies investigating crime can help us identify how criminal proceeds might be laundered through our financial markets. We also work closely with other international regulators, sharing information, intelligence and know-how as well as detecting and taking action to tackle cross-border misconduct.

Investigation opening criteria
The factors we consider when deciding whether to open an FCA investigation are set out in our new investigation opening criteria. These criteria reflect our current approach to opening investigations.

Use of data
We make full use of all intelligence and data that we collect. This includes market data, information from firms (including self-reporting of breaches by firms), information from consumers, and information from public databases. We also value information from whistleblowers who may give us the earliest indications of wrong-doing.

Identifying a broad spectrum of misconduct
It is important that we are able to identify the full spectrum of serious misconduct spanning retail and wholesale markets, including:

• misconduct resulting from a lack of integrity
• serious failings in firm systems and controls, including governance and senior managers’ failings
• mis-selling of unsuitable products to consumers
• anti-competitive behaviour
• financial crime, including insider dealing, market manipulation, false information in our markets and money laundering offences
• failure to make proper disclosure in primary markets

We make full use of all intelligence and data that we collect. This includes market data, information from firms (including self-reporting of breaches by firms), information from consumers, and information from public databases. We also value information from whistleblowers who may give us the earliest indications of wrong-doing.
Financial Conduct Authority
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Chapter 2
How we identify harm

- unauthorised persons or firms carrying on regulated activity without appropriate authorisation from us, including investment scams

All these types of misconduct cause harm to market integrity, confidence in the financial system and may cause loss to consumers. Focusing on detecting misconduct across the range of our regulatory responsibilities avoids gaps in our approach to enforcement and emphasises that all rules and requirements must be complied with.

How we assess misconduct

Not all breaches of our rules or requirements constitute serious misconduct. Many breaches can be addressed and remedied elsewhere (and we expect them to be) without the need for enforcement action, especially where the breach is technical or minor.

Where we have reason to believe serious misconduct may have taken place (i.e. where we suspect serious misconduct), we will start an investigation. Suspected serious misconduct is not easy to identify, especially as we aim to detect it as early as possible. We use our experience and judgement to assess the following:

- The nature and severity of the actual and potential harm arising from the suspected misconduct. This could include the extent to which the suspected misconduct has or may affect consumers, markets or firms if we do not take action.

- Whether the suspected misconduct has potentially wider or broader implications, and in particular whether vulnerable customers appear to have been exploited (see our paper on Consumer Vulnerability for our definition of vulnerability).

- Whether it appears that an individual may lack fitness or propriety.

- The public interest in investigating the matter.

Where it appears that firms may be in contravention or are not meeting our standards, we may use our powers under Part 4A of FSMA to vary permission, impose requirements or change individuals’ approvals on our own initiative. These powers may be used to prevent or to stop harm from becoming serious. We can require firms to examine their conduct and address harm. In many cases, we will ask firms to voluntarily accept a variation of permission or the imposition of a requirement (VREQ). If firms refuse we may impose the variation or requirement under our own-initiative powers (OIREQ).

These powers may be used in cases involving less serious contraventions or failures to meet our standards. We will seek to use our VREQ or OIREQ powers where we suspect serious misconduct may have occurred and harm needs to be prevented immediately. In this situation, these powers are an important part of our approach to enforcement as well as our approach to supervision. See our ‘Approach to Supervision’ document for more information.

Investigations into historic events and circumstances are much harder to conduct. They often take longer because evidence may be lost and memories may be less reliable. We will still tackle such cases, especially where we suspect there has been delay by the suspected wrongdoer, or cover up tactics have prevented earlier detection.

Firms and individuals should not wait for an investigation to end before acting in a way they think is right. We encourage firms and individuals to examine their own affairs and, where appropriate, take their own remedial action. This includes putting right any harm or damage that may have been caused to consumers or agreeing to vary permissions or to the imposition of requirements under Part 4A of FSMA.

Firms that take action to address harm caused by serious misconduct demonstrate integrity. Honest action in response to wrongdoing, especially where consumers may have suffered losses, builds trust and confidence and helps our markets operate well. This does not mean we will not investigate the matter or take action where serious misconduct has occurred. We need to make sure there is full accountability for serious misconduct. However, we will acknowledge and give substantial credit to wrongdoers who speedily address wrongdoing when we decide on appropriate enforcement action.
We take a strategic approach in our investigations. We aim to quickly identify the heart of the case so we can focus on the key evidence and decide whether to continue with or close the investigation.

Opening an investigation does not mean we believe misconduct has occurred or that anyone involved in the investigation is guilty of misconduct. The purpose of the investigation is to get a full understanding of the facts so that we can make a decision about whether and, if so, what kind of action may be necessary.

If it appears that individuals may be involved in the suspected serious misconduct of a firm, we will investigate those individuals at the same time we investigate the firm. This allows relevant facts and matters to be considered together, in the round. This is especially important where relevant individuals have had a senior management or governance role in the circumstances under investigation.

We recognise that we must act fairly, and make sure that people suspected of wrongdoing are not under investigation for any longer than is necessary. Where it is clear there is no substance to suspicions or evidence of serious misconduct it is important that we end investigations promptly. In these cases, we may use other powers to address our concerns. See our ‘Approach to Supervision’ for more about how we use our powers.

We take a strategic approach in our investigations. We aim to quickly identify the heart of the case so we can focus on the key evidence and decide whether to continue with or close the investigation. We also keep the scope of our investigation under review, whether that is extending its scope or narrowing it and closing certain aspects of the investigation.

We do not pre-judge the outcome of an investigation. If we investigate a breach that might be the subject of criminal or civil proceedings, we will not decide straight away whether we are investigating to determine a criminal or civil breach. For example, in money-laundering and market abuse cases, an investigation might lead to either regulatory or criminal proceedings. Our approach is to make sure we fully understand what may have happened and make a decision based on the best admissible evidence available.

We may also open an investigation where we suspect anti-competitive behaviour under the Competition Act 1998 (see our ‘Approach to Competition’). Our power to investigate breaches of the Competition Act 1998 may be used at the same time as our powers to investigate under FSMA and may give rise to evidence of other breaches which may be the subject of enforcement action under FSMA.

Our powers of investigation

We can compel individuals and firms:

- to attend before appointed investigators at a specified time and place and to answer questions
- to produce specific documents, or otherwise provide such information as the investigator may require

We can also apply to a Magistrates’ Court for a search warrant that allows us to enter premises in order to obtain evidence.

We use these vital powers frequently,
to quickly find out what may have happened, without requiring firms and their employees to breach contractual or equitable duties of confidentiality. We will use our powers to do this where we believe firms and individuals have helpful information. This includes where we believe it may speed up the investigation at an early stage.

There are safeguards and limitations on the use of evidence obtained through the use of these powers. For example we cannot use evidence compelled from a person against them in criminal proceedings and we cannot compel any information that may be protected from disclosure by the existence of legal advice or litigation privilege.

We are obliged to act fairly and reasonably. Our investigations contain several important protections and guarantees:

- we send notice of the investigation, stating what the investigation is about and why it has been commenced (unless there is an initial concern that giving notice may prejudice the investigation)
- we give the person under investigation regular updates, including the next steps in the investigation
- a finding of misconduct cannot be made without due process (procedural fairness) which includes an opportunity for the firm or individual to review the investigation team’s findings before any formal action is commenced or to resolve the case by agreement

**Deciding to take action**

We will only make a decision about the outcome, including whether the case merits criminal, civil, regulatory action once there is sufficient evidence to justify such a decision at the end of an investigation. If there is, we will take into account the evidential merits of the case, whether there is a proper foundation for bringing the case and the public interest in deciding to start proceedings to obtain the appropriate remedy or sanction.
Chapter 4
Sanctions and remedies available to us

We will not put our case to a firm or individual unless we have completed an investigation, we think there is sufficient evidence of serious misconduct and we are prepared to take action.

Reaching the right outcome

We can take a number of routes to reach an appropriate outcome. The route taken will depend on whether we decide to take disciplinary action, or criminal or civil proceedings through the courts. Our approach in making decisions is set out in our Decision Procedure and Penalties Manual (DEPP).

We will not put our case to a firm or individual unless we have completed an investigation, we think there is sufficient evidence of serious misconduct and we are prepared to take action. If we decide to take disciplinary action, we will put our case to the firm or individual first to see if they wish to agree or contest the case.

If they do not agree with some or all of our case, they can make representations to the Regulatory Decisions Committee (RDC). The RDC is part of the FCA, but is separate from our executive management structure. Apart from the Chair, none of the members of the RDC is employed by the FCA. None of the members of the RDC will have been involved in the investigation.

The case can also be referred directly to the Upper Tribunal (Tax and Chancery Chamber), or referred if the firm or individual disagrees with the RDC’s decision. The Tribunal is entirely independent of the FCA and will consider the entire case afresh.

Any agreed resolution we reach with a firm or individual is a regulatory decision and represents an accurate and true picture of the wrongdoing that has been investigated.

Firms or individuals can now get a decision from the RDC on penalty and still obtain a full discount for cooperation where none of the facts or liability that flows from those facts is disputed.

We can prosecute firms and individuals who commit financial crime (for example, market manipulation or insider dealing). We can also prosecute firms and individuals who undertake regulated activities without authorisation. When deciding whether to prosecute, we apply the basic principles set out in the Code for Crown Prosecutors.

Sanctions, remediation, redress and restitution

We aim to make sure the sanction is sufficient to deter the firm or individual from re-offending and deter others from offending. Where we take disciplinary action against a firm or an individual, we will consider all our sanction and redress and restitution powers, including public censure, financial penalty, prohibition, suspension or restriction orders, as they may apply. We will also apply our penalties policy (DEPP).

When we assess the nature of the sanction, we take into account all relevant circumstances. This includes what steps the firm or individual has taken to address the harm and to cooperate with us, including, where relevant, in cooperating with any variation of permission or with the imposition
Sanctions and remedies available to us

Section 4A of FSMA. If firms and individuals fully account for any harm caused, including putting it right where there are reasonable grounds to do so, we will consider this when applying sanctions. In extraordinary cases, it may determine whether a sanction is required at all.

If a firm or individual fails to take steps to address harm or refuses to cooperate fully with us, this will be taken into account and may justify heavier sanctions.

If appropriate steps have not been taken or more work is required to address the harm we will seek restitution orders or redress schemes. Redress is important for a number of reasons. Fines do not benefit the victims of wrongdoing, whereas redress directly compensates them. Redress can also deter misconduct by making the consequences of misconduct clear.

We will publish the results of our decisions, whether agreed or contested, in a Final Notice in accordance with sections 391 and 391A of FSMA. The Final Notice will make clear the basis for our findings, including the facts and our reasons for concluding there has been serious misconduct. This includes:

- whether the person(s) responsible has acknowledged responsibility
- if voluntary redress, remediation or restorative steps have been taken in a timely and effective manner
- the extent of cooperation with us
- the extent to which any of the above have reduced the sanction
Chapter 5
Evaluating our approach to enforcement and measuring our performance

It is important to be open and transparent where action taken hasn’t been as effective and successful as we would have liked and to focus on improving our use of our regulatory powers.

Evaluating our approach to enforcement and measuring our performance

We carry out an annual assessment of whether

• we are operating fairly and effectively in investigating suspected serious misconduct
• we are bringing regulatory proceedings, civil and criminal cases where appropriate

We publish this information every year in our Enforcement Annual Performance Account.

We take a number of factors into account in assessing whether we have acted effectively and added public value. These factors include whether we have:

• delivered outcomes which provide a clear and full account of what has happened
• delivered outcomes which deter the subject of the proceedings/others from misconduct
• made sure the subjects of an investigation feel they have been treated fairly and been given the opportunity to put forward their views
• where appropriate, secured effective redress and remediation action for consumers
• increased market confidence by improving market conduct
• outcomes which have delivered clear and consistent messages to the industry

We propose to measure the timeliness of our investigations and actions. It is important, from a public interest perspective, to be seen to identify and tackle misconduct quickly.

In the RDC’s Annual Review of its performance and case load that is set out in the FCA’s Annual Report, the RDC publishes a summary of its review and evaluation of our enforcement settlement process. Alongside this are its conclusions and any recommendations for further improvement.

It is important to be open and transparent where action taken hasn’t been as effective and successful as we would have liked and to focus on improving our use of our regulatory powers.

Both during and at the end of any investigation, whatever the outcome, we will get feedback from subjects of investigations and other parties to continually improve our processes. Where investigations are closed without taking further action, we will still explain and feed back to firms and individuals what led to the suspicion of serious misconduct. We will use any lessons learned during the investigation to inform our supervisory and policy work.

By focusing on the above factors, we aim to create public value by improving how financial markets function and how firms and individuals conduct their business.
Annex 1

Feedback Statement for Our Approach to Enforcement consultation

Introduction

1. We published the consultation version of Our Approach to Enforcement document on 21 March 2018. In this we outlined our approach to enforcement and how that aligns with our Mission. The overriding principle of our approach to enforcement is a commitment to achieve fair and just outcomes in response to misconduct.

2. The consultation ran from 21 March to 21 June 2018. We received 21 responses from professional bodies, authorised firms, individual consumers, trade associations, consumer groups and the FCA’s statutory panels. In this annex, we set out what the feedback said and our response to it.

3. Having considered the feedback, we do not think it necessary to make significant changes to the Approach to Enforcement document. Many of the issues raised concern matters that are covered in our Enforcement Guide (EG) and our Decision Procedure and Penalties Manual (DEPP) and are beyond the scope of the Approach to Enforcement document. Both EG and DEPP are due to be reviewed and we will feed comments from this consultation into those reviews. However, we have clarified our approach to investigating individuals.

Feedback

4. We asked:

Q1: ‘Has this paper set out our approach to enforcement clearly? If not, what more could we do to explain or clarify our approach?’
Most respondents, from consumer representatives to firm and trade associations, agreed that the document clearly sets out the FCA’s approach to enforcement. They also welcomed our commitment to transparency, the focus on serious misconduct and the emphasis that opening an investigation does not mean that wrong doing has occurred.

### Transparency and communications

Some respondents provided comments on our approach to publicity. One suggested that all firms should be named once they are under investigation. Another suggested that Warning Notice Statements should not be anonymised.

Our approach to publicity means there are limited circumstances when we disclose that we are investigating any matter. This is particularly important because opening an investigation does not mean that someone has committed misconduct.

We also received comments about how we communicate our work more generally. For example, it was suggested that early settlement would prevent the public from knowing about wrongdoing. Also, that consumers should receive updates about the status of investigations or about products and practices being investigated.

We communicate our work in a range of ways. Any investigation that settles early and leads to a Final Notice will still involve publicity, unless there are exceptional circumstances. This means the public will know about wrongdoing, as misconduct that leads to a sanction will be publicised in our statutory notices. We only settle in appropriate cases which lead to acceptable outcomes. If cases do not conclude in this way, there are a variety of other ways to find out about the FCA’s work. We regularly email all industry members and we publish a range of information on our website for consumers, including warnings about unauthorised firms and avoiding scams. We also publish our Enforcement Annual Performance Report each year as part of the FCA’s Annual Report.

We recognise that consumers will be interested in certain ongoing investigations. As part of our EG review we will consider whether we could provide information on our website about investigations. However, any specific changes to our policy on publicity will need to be separately consulted on.

### Defining serious misconduct/which matters will be investigated

Some respondents asked for more detail about or specific examples of serious misconduct. One respondent asked for examples of conduct which would not be viewed as serious. One consumer body suggested that we focus on misconduct that has the greatest detrimental impact.

Identifying harm is the first stage of the FCA’s decision making framework, which we set out in our Mission document. The judgement we make within the framework means that we aim to remedy some types of harm ahead of others. The framework groups harm in financial services into five types, which often overlap. The Approach to Enforcement document gives examples of serious misconduct which spans retail and wholesale.
markets. It also gives examples of the types of factors we use to assess the severity and extent of the suspected misconduct and actual or potential harm.

14. We believe that giving very specific examples could detract from the framework. Instead we set out the types of financial harm and identify a range of factors that we may consider when assessing misconduct. We are committed to detecting misconduct across the range of our regulatory responsibilities.

Investigation Opening

15. Some respondents wanted more information about the diagnostic nature of investigations. A number suggested we should investigate and take action on all misconduct, regardless of the level of seriousness. One respondent suggested we should set out the circumstances in which we would not open an investigation. Another suggested that we should investigate a range of cases rather than focus on key themes.

16. We need to use all our powers and functions to fulfil our objectives. This means that supervision, competition, authorisations and enforcement may each have a role to play when considering how to diagnose the cause and extent of harm we have identified.

17. Starting an investigation is one of the ways we get a better understanding of these issues. An investigation does not mean that anyone involved is guilty of misconduct. Nor does it mean that a sanction is inevitable or even likely.

18. An investigation means that we have identified harm or potential harm and have decided that using our investigation powers is the preferred way of gaining a better understanding of the causes.

19. We agree that we should investigate a range of issues, rather than focusing on themes. Our reviewed case opening criteria reflect the different factors we may consider when deciding whether to open an investigation. These factors include the severity of the harm involved and how consumers may have been affected.

20. Our revised case opening criteria are published alongside our finalised Approach to Enforcement document.

Action against individuals

21. Some respondents commented on our approach to investigating individuals. One suggested we should always consider enforcement action against individuals. Another considered we should delay any investigation into individuals. Feedback was also given on the information that should be disclosed on individual fitness and propriety screenings. For example, it was suggested that only live investigations or investigations with an adverse finding should be disclosed. Also, that the FCA should amend discontinuation letters and give firms guidance on regulatory references.

22. Many of the comments about actions against individuals were beyond the scope of the Approach to Enforcement document.

23. We carry out investigations into both firms and individuals together if it appears those individuals may be involved in the suspected breach. This allows relevant factors and matters to be considered together and avoids delays. We apply the same statutory test to
investigating individuals as we do to firms. We believe we need to investigate the potential or actual misconduct in the round, rather than in stages. We also believe it would be unfair to look into a concern without making clear to an individual that is what we were doing.

24. While investigations are about fact finding, and do not mean anyone is guilty of misconduct, we recognise the impact of investigations on persons suspected of wrongdoing. We must act fairly and ensure that investigations do not continue for any longer than necessary.

25. We recently made changes to our operating model. These changes aim to improve prioritisation and drive greater efficiency. We are committed to ensuring that we end investigations promptly and have proposed measuring the timeliness of our investigations.

The Regulatory Decisions Committee

26. Two respondents commented on the role of the Regulatory Decisions Committee (RDC). Both asked about the number of cases where decisions of the RDC have resulted in a change of outcome or level of penalty from that proposed by the Enforcement case team. We have passed those responses to the RDC for them to consider.

27. The RDC now publishes an annual review as part of the FCA’s Annual Report. The annual review for the year to 31 March 2018 highlights how in two cases the RDC decided not to take the action requested by the Enforcement case team (the imposition of prohibitions and financial penalties).

Co-operation and redress

28. A number of respondents commented on redress. This included the duration of remedial exercises, how consumers respond to communication exercises, the need for greater use of redress powers, how redress is calculated and whether co-operation with an investigation will mean that we do not impose sanctions.

29. Our updated investigation opening criteria include reference to the steps a firm may take to put things right. This does not mean that we will not investigate where a firm has taken remedial action. Our Approach to Enforcement document makes clear that it is only in extraordinary cases that remedial action may determine whether a sanction is required.

Penalties

30. A number or respondents gave feedback on penalties and the circumstances when the FCA should impose sanctions.

31. One suggested that all misconduct, without exception, should be addressed through enforcement action. Another suggested there should be stronger action against individuals and one said we should reform our policy to substantially increase the level of
penalties we impose. One queried how the Approach to Enforcement document sits with the criteria set out in DEPP.

32. Our Approach to Enforcement document states that the purpose of an investigation is to get a full understanding of the facts so we can decide whether and if so, what kind of action may be necessary.

33. Deciding whether to impose a sanction is a very different decision from deciding whether to open an investigation. There are many routes available to reach an appropriate outcome. It would not be appropriate to impose a financial penalty for every incident of misconduct. The reasons for this are set out in Our Mission. Imposing a sanction is one of a range of remedy tools available.

34. Our DEPP provides more detail on our approach to making decisions. This includes illustrative factors that may be relevant when deciding whether to impose a financial penalty or public censure.

35. The level of financial penalties we impose and the basis on which they are calculated forms part of our penalty policy review.

36. One respondent suggested that financial awards should be given to whistleblowers and anyone who reports to us, to address any loss they encounter.

37. We have considered the possibility of paying whistle-blowers. We reported our findings to the Treasury Select Committee in July 2014. Our findings in ‘Financial Incentives for Whistleblowers’ concluded that we do not consider the payment of whistle-blowers to be appropriate.