

# Non-Financial Misconduct

The term 'non-financial misconduct' is not formally defined in the FCA Handbook but, instead, has been used by the regulator to describe a range of behaviours including discrimination, bullying, sexual harassment, and criminal behaviour (both inside and outside the workplace).

In June 2023, allegations in the Financial Times in relation to behaviour at a UK asset management firm prompted the Treasury Select Committee to write to the FCA asking about its work in this area. Some of the key points that can be drawn from the FCA's response are set out below.

## #1

### Fitness and propriety

Senior managers and certification staff must be **fit and proper to perform their role**. The main assessment criteria are:

- Honesty, integrity and reputation
- Competence and capability
- Financial soundness

The letter highlights that the FCA considers non-financial misconduct "relevant to assessments of fitness and propriety."

The FCA has also indicated that a failure by a senior manager to address non-financial misconduct within their firm could call into question their fitness and propriety.

## #2

### Conduct rules

The Individual Conduct Rules apply to almost all staff within a regulated firm. Following the introduction of the Consumer Duty, there are six Individual Conduct Rules.

The letter confirms that, "non-financial misconduct can amount to a breach of [the FCA] conduct rules" – in particular the rules relating to **integrity and acting with due skill, care and diligence**.

In determining whether non-financial misconduct results in a breach of the Conduct Rules, it will be important to consider how the misconduct relates to the firm's activities.

## #3

### Other considerations

Non-financial misconduct may **link to other legal or regulatory issues**. For example:

- 1) Criminal offences may lead to criminal prosecution.
- 2) Non-financial misconduct may result in disciplinary action by a firm, whether or not an FCA rule has been breached.
- 3) Where non-financial misconduct highlights cultural issues within a firm, it may result in regulatory action against the firm.
- 4) Whistleblowing processes operated by your firm and/or the FCA can be used to report non-financial misconduct.

