



Breaking the 'old boys club': financial services face cultural overhaul amid regulatory shifts

05 September 2024

The financial services sector, a cornerstone of the UK economy, is facing growing scrutiny over its entrenched 'old boys club' culture. This long-standing environment not only hampers diversity and inclusion efforts but also risks triggering increased regulatory intervention.

With financial services making up the largest portion of the UK's GDP, accounting for 12% of the economic output, the government has turned its attention to addressing persistent barriers for women in this critical sector. The Treasury Committee's ['Sexism in the City'](#) inquiry, concluded in March 2024, highlighted these issues.

In our previous [article](#), we summarised the inquiry's focus on three significant barriers affecting women in financial services: maternity leave, pay disparities, and sexual harassment. Alarming, the inquiry revealed that women in the sector are disproportionately exposed to sexual harassment compared to other industries¹. Despite ongoing efforts, the report concluded that a "cultural deficit" remains, allowing these issues to persist².

In response, the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) have pledged to tighten their frameworks to address non-financial misconduct. This shift reflects a broader trend of increasing regulatory scrutiny on how companies tackle barriers to diversity and inclusion in their workforces, with corresponding legislative changes expected later this year.

Background: the shifting regulatory focus

Regulatory bodies have progressively expanded their oversight to address factors that hinder the promotion of diversity and inclusion in the workplace.

In 2019, the Solicitors Regulation Authority (SRA) moved from its traditional, rule-based codes of conduct to a principles-based approach. This change has led to an enforcement strategy that includes investigating misconduct related to a solicitor's behaviour, both inside and outside the workplace, especially when it violates the principle of integrity.

Furthermore, the FCA's 2023 consultation paper, [Diversity and Inclusion in the Financial Sector – Working Together to Drive Change](#), introduced proposals to promote diversity and inclusion in financial services. Among these were minimum standards for regulated firms³, with the suggestion to "...better

integrate non-financial misconduct considerations into staff fitness and proprietary assessments, Conduct Rules, and the suitability criteria for firms operating in the financial sector."⁴

This heightened regulatory focus on workplace culture aligns with recent legislative interest. In 2023, the Worker Protection (Amendment of Equality Act 2010) Act (the Act) was passed, coming into effect in October 2024. The Act requires employers to take reasonable steps to prevent sexual harassment in the workplace. Combined with the evolving regulatory landscape, firms in regulated sectors will need to reassess their current operations to ensure compliance with these higher standards.

Treasury Committee findings: an industry in need of reform

The Treasury Committee's report on the 'Sexism in the City' inquiry shed light on the significant challenges women face in the financial services sector, particularly the high incidence of sexual harassment. The inquiry found that whistleblowing procedures were often ineffective, failing to adequately investigate complaints and sometimes penalising those who came forward. Additionally, the widespread misuse of non-disclosure agreements (NDAs) in harassment cases has effectively silenced victims and discouraged firms from addressing the root causes of such misconduct.

The inquiry put forward several recommendations to reform the sector:

- **Incorporating non-financial misconduct into regulatory assessments:** The inquiry identified gaps in the fit and proper tests under the Financial Services and Markets Act 2000, which ensure individuals in key roles meet standards of integrity and competence. Currently, these assessments do not explicitly consider non-financial misconduct, allowing "bad apples" to move between firms undetected. The inquiry recommended that these tests include such misconduct to prevent this issue.
- **Limiting NDAs in harassment cases:** The widespread use of NDAs in harassment cases runs contrary to the new Worker Protection Act, which imposes a duty on employers to prevent harassment. The inquiry encouraged the FCA to monitor the use of NDAs in regulated firms and suggested potential legislation to restrict their use in such cases.
- **Strengthening whistleblowing procedures:** The inquiry urged firms to improve their handling of non-financial misconduct allegations and to adopt a zero-tolerance approach.

FCA response to the inquiry

The FCA has confirmed that it will consider the inquiry's recommendations alongside the proposals from its 2023 Diversity and Inclusion Consultation.

Since launching the consultation, the FCA has been developing a new regulatory framework on diversity and inclusion. As part of this process, it required all regulated Lloyd's firms to provide information on incidents of non-financial misconduct, using its powers under the Financial Services and Markets Act 2000. The information provided by these firms will contribute to the FCA's ongoing considerations.

What do these findings mean for financial services providers?

Although the FCA's final framework is yet to be established, its proposals suggest that non-financial misconduct will be incorporated into the fit and proper test. With the Worker Protection Act set to come into force later this year, the sector is expected to undergo significant regulatory changes. However, the

effectiveness of FCA enforcement actions against individuals for non-financial misconduct remains to be seen.

The FCA's response, coupled with the inquiry's recommendations, provides financial firms with a timely opportunity to review and strengthen their whistleblowing procedures and governance structures. Given the increasing regulatory emphasis on workplace culture, firms should act now to mitigate the growing risks associated with governance and cultural shortcomings.

¹ Sexism in the City, page 42

² Sexism in the City, page 39

³ FCA 2023 D&I consultation paper, page 7

⁴ FCA 2023 D&I consultation paper, page 5