

## What the FCA's new investigations panel tells us about the regulator's priorities

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In August last year, the Financial Conduct Authority held an event for firms that wanted to do some of the most eye-catching work in the City.

The skilled person panel was up for review, and firms were about to start bidding to take the lead in complex investigations launched by the regulator. The FCA had already been discussing potential tweaks to the panel's make-up for months.

The hoops City consultants and law firms have to jump through to win a spot on one of the watchdog's 'lots' are not insubstantial. A formal process started in mid-August, with an invitation to tender followed by a formal submission to be selected as one of independent experts used by the regulator to conduct so-called Section 166 reviews into areas of concern in regulated firms.

Over the winter those submissions went under scrutiny. Now the dust has settled, and a raft of compliance experts have won spots on the panel, the makeup gives us a number of hints as to the regulator's future direction and priorities.

### Size is power

Since the last time the s166 panel was appointed, the FCA's remit has grown considerably. Responsibility for money laundering at professional services firms and critical third parties have been added to its mandate, for example, and it has absorbed its sister Payment Systems Regulator.

So, unsurprisingly, the overall panel size has got bigger, as well. A total of 89 suppliers have won spots across all lots, contract documents suggest.

Since the last tender, flagship reforms like the Consumer Duty have come into force. Issues like non-financial misconduct have shot to prominence, and enforcement action has seen major fines issued over money laundering and insider trading.

That Lot D now specifically includes Consumer Duty issues reflects this, as does a focus on culture and accountability in Lot B, separating financial crime and market abuse into two separate lots, and adding a new trade and transaction reporting lot.

Overall, given its sprawling beat to cover these days, the use of s166 reviews continue to increase as regulators look to approved third-party specialists to respond rapidly to firm specific or emerging thematic concerns, according to compliance consultancy Pathlight Associates, which was appointed to seven lots on the skilled person panel.

"We recognise the important role skilled person assignments play in supporting regulatory oversight," Pathlight chief executive John Higgins said. "A skilled person assignment can feel unwelcome, but we see it as an opportunity to add value and strengthen a firm's relationship with the regulator."

The skilled person reviews themselves may be kept secret, but public contract documents hint at the size and nature of recent projects.

An s166 into unspecified asset management compliance and governance concerns at an unnamed firm was published on 2 March. The contract was worth £172,000.



Other work recently awarded include a £266,000 skilled person's contract to review a firm's claims handling governance and oversight arrangements for retail insurance products in January, and a £215,000 skilled person review on conflicts of interest last summer.

## Sticking with winners

That contract awards tends to be based both on capability and the reviewer's commercial credentials won't come as a surprise to anyone following an increasingly resource-stretched FCA. Nor will it surprise anyone, given the huge scale of change projects going on at the regulator internally, that it has created a consultancy panel to provide services to the regulator itself.

KPMG UK's head of enterprise risk services advisory David Miller said the reviews were often used to provide regulators with a better understanding of a business - which is in line with an increasingly data-driven approach at the FCA. The size of the panel also offers flexibility and choice, while putting trusted panel firms in the driving seat even in instances where the FCA allows the firms under investigation to select who reviews them.

"The requirement to use suppliers on the skilled person panel is only applicable where the regulator appoints the third party reviewer, otherwise firms are able to propose their own, though naturally the skilled person panel is the first place many would look," he notes.

Law firm DWF was appointed to four lots: governance, accountability and culture; controls and risk management frameworks; market abuse; and prudential issues for FCA solo-regulated firms.

DWF's consulting lead, Harry Howe said the appointments are a "recognition for the depth and quality of... regulatory, risk and governance expertise".

"We look forward to supporting financial services firms and the regulator alike in the years ahead, whether through on- or off-panel appointments," he added.