



Newgate News

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FCA prohibits financial adviser from performing regulated activity for fitness and propriety failings

The FCA has banned Anthony George, a financial advisor, from performing any regulated activity in the financial services industry after an FCA investigation found that Mr George submitted false information to HMRC by understating the income in his self-assessment tax returns over a 5-year period. Mr George was the director, owner, and sole approved person of 4Life Financial Planning Limited (4Life), a financial advisor and mortgage intermediary.

Mr George did not inform the accountancy firm which prepared and submitted his tax returns that he had additional income, namely his takings from two cash-in-hand businesses – a hair salon and a DJ business – as well as rental income which he received from letting out a room in his house.

The FCA concluded that Mr George is not a fit and proper person as his conduct demonstrates a lack of honesty and integrity.

Newgate's advice: Rule 1 of the **first tier of the individual conduct rules** under SMCR, states that 'You must act with integrity.' Mr George broke this rule by under-reporting his income to HMRC. If you are classified as conduct rules staff, you must ensure you are aware of and act according to the conduct rules. Please contact your Newgate consultant if you are unsure if you are classified as conduct rules staff.

<https://www.fca.org.uk/news/news-stories/fca-prohibits-ifa-mortgage-adviser-fitness-propriety-failings>

FCA bans Director from working in financial services

The FCA has banned director and independent financial adviser Jon Frensham from performing any regulated activity. In March 2017, Mr Frensham was convicted of attempting to meet a child following sexual grooming. He committed this offence whilst he was an approved person, and whilst on bail for a similar offence. Mr Frensham was sentenced to 22 months' imprisonment, suspended for 18 months.

The FCA found Mr Frensham lacks the integrity to work in financial services and failed in his

obligation to be open and transparent with the FCA in failing to inform the FCA about his arrest and being remanded in custody in respect of the offence which led to his conviction.

Consequently, the FCA concluded Mr Frensham is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt persons or exempt professional persons because he lacks integrity and good reputation.

Newgate's advice: You must ensure you are aware of what you are required to report to the FCA. Please contact your Newgate Consultant if you have any concerns.

<https://www.fca.org.uk/news/press-releases/fca-bans-jon-frensham-working-financial-services>

FCA publishes Decision Notice against financial adviser for pension transfer advice failings

The FCA has published a Decision Notice against Geoffrey Armin of Retirement and Pension Planning Services Limited ("RPPS"). The FCA has decided to fine Mr Armin £1,284,523 and banned him from performing any senior management function in relation to any regulated activities, after its investigation found that Mr Armin failed to obtain the necessary information required to assess the suitability of a pension transfer for customers.

Mr Armin advised 422 customers on the transfer of their defined benefit pensions into alternative pension arrangements, 174 of whom transferred out of the scheme following Mr Armin's recommendation. The FCA stated that Mr Armin was seriously incompetent when advising on defined benefit pension transfers, breaching Principle 2: conducting business with due skill, care and diligence, and Principle 7: taking reasonable steps to ensure that RPPS complied with relevant regulatory requirements and standards, of the Principles for Businesses.

Mr Armin has referred his Decision Notice to the Upper Tribunal who will determine what, if any, is the appropriate action for the FCA to take.

Newgate's advice: You must ensure you obtain the necessary information from a client to make suitable recommendations. This includes collecting information on their financial situation, their investment objectives, and their capacity for loss and knowledge and experience of investments. Newgate can provide you with suitability questionnaires and advice on categorising clients.

<https://www.fca.org.uk/news/press-releases/fca-decision-notice-financial-adviser-pension-transfer-advice-failings>

Consumer warning on Cavendish Incorporated Limited

The FCA have imposed requirements on Cavendish Incorporated Ltd preventing it from carrying out any regulated activities without the prior written consent of the FCA. Cavendish Incorporated Ltd and Cottesmore Associates Limited have carried out investment-related activities with consumers, but neither have ever been permitted by the FCA to provide regulated investment services.

The FCA note that Cavendish and Cottesmore's actions may pose significant risks to consumers due to the potential lack of regulatory protection that would otherwise be afforded to them.

Newgate's advice: You must ensure you have the appropriate FCA permissions before carrying out a regulated activity. Please conduct your Newgate Consultant if you require advice on the types of permissions your firm should hold.

<https://www.fca.org.uk/news/news-stories/consumer-warning-cavendish-incorporated-limited>

We Buy Any Car, Sports Direct and Saga fined £495,000 after sending millions of 'frustrating and intrusive' nuisance messages

We Buy Any Car, Saga Services and Saga Personal Finance, and Sports Direct have been fined £495,000 between them for sending 354 million nuisance messages to consumers. An ICO investigation found that none of the companies had permission from people to send them marketing emails or texts.

Andy Curry, ICO Head of Investigations, said:

"Companies that want to send direct marketing messages must first have people's consent. And people must understand what they are consenting to when they hand over their personal information. The same rules apply even when companies use third parties to send messages on their behalf."

The ICO has issued 17 fines totalling more than £1.7 million so far this year (2021/22) for breaches of direct marketing laws.

Newgate advice: These fines once again demonstrate the ICO's increasing willingness to go after those who unlawfully send out marketing messages to its customers. Your firm must ensure that it is clear on the lawful basis for marketing when sending out messages to customers or potential customers. Please contact your Newgate consultant who can provide advice on your obligations under GDPR.

<https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2021/09/we-buy-any-car-sports-direct-and-saga-fined-495-000/>

ICO fines company for illegal pensions calls

The ICO has fined Parkin Beacher Ltd ("PBL") £50,000 for making illegal marketing calls to people about their pensions. The firm was found to be calling people about their pensions when they were not authorised to do so.

The ban on pensions cold-calling was introduced in 2019 making it illegal for companies to make nuisance calls to people about their pension schemes except where:

- the caller is authorised by the FCA or is the trustee or manager of an occupational or personal pension scheme, and
- the recipient of the call consents to calls, or has an existing relationship with the caller.

Andy Curry, ICO Head of Investigations, said:

"Cold calls are a common way of attempting to defraud people out of their pensions and we will take tough action where we find companies carrying out this kind of marketing. The law was updated specifically to protect these often vulnerable people and their retirement funds."

<https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2021/08/ico-fines-company-for-illegal-pensions-calls/>

About Newgate Compliance

Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called **The GATEway**.

Newgate has an unrivalled combination of experienced professionals, many of whom are ex-regulators.

Our customer focused approach seeks to provide appropriate, pragmatic and flexible solutions to our clients helping them to meet both the regulator's rules but also the spirit, principles and culture of the regulatory regime.

We look to build long-term relationships with our customers helping to encourage business growth, productivity and innovation. Our proactive approach is tailored to each customer's needs changing to meet those needs as the customer progresses and develops.