

Conduct Rules Scenarios

Delegation Gone Wrong

Scenario

Vanessa Jones is a director and SMF 3 of Top Fund LLP, a Core Firm.

Vanessa has responsibility for capital raising within Top Fund. However, she has also been allocated the Prescribed Responsibility for implementation of the Certification Regime under the SM&CR.

Vanessa considers implementation of the Certification Regime to be “a job for compliance”. She delegates responsibility for the matter to David Smith, the firm’s HR operative and then just ‘leaves him to it’ on the basis that ‘he is smart and will soon pick it up’. David Smith is new to the role and is not particularly familiar with the workings of the SM&CR. In particular, David does not appreciate many of the finer details around fit and proper testing such as the fact that events can trigger the need for intra-year fit and proper assessments, and the need to factor in non-financial misconduct.

As a result, there have been a number of developments among the staff that have not been taken into account during fit and proper testing. These include a salesperson failing to obtain requisite qualifications, a trader being charged for habitually failing to pay his train fare into Charing Cross station and an analyst shoplifting a chocolate bar from a local supermarket.

What conduct rules may have been breached? Why?

How should the firm respond?

What controls could have been implemented?