

## Chapter 16

# Disapplication orders against members of the professions



## **16.3 Applications under section 329(3) for variation or revocation of disapplication orders**

### **16.3.1**

When considering whether to grant or refuse an application under section 329(3) of the *Act* to vary or revoke a disapplication order, the *FCA* will take into account all the relevant circumstances. These may include, but are not limited to:

- (1) any steps taken by the *person* to rectify the circumstances which gave rise to the original order;
- (2) whether the *person* has ceased to present the risk to *clients* and *consumers* or to the *FCA's statutory objectives* which gave rise to the original order;
- (3) the circumstances giving rise to the original order and any additional information which, had it been known by the *FCA*, would have been relevant to the decision to make the order;
- (4) the amount of time which has elapsed since the order was made.

### **16.3.2**

The *FCA* will not generally grant an application to vary a disapplication order unless it is satisfied that the proposed variation will not result in the *person* presenting the same degree of risk to *clients* or *consumers* that originally gave rise to the order to disapply the exemption. Similarly, the *FCA* will not revoke a disapplication order unless and until it is satisfied that the *person* concerned is fit and proper to carry out *exempt regulated activities* generally or those specific *exempt regulated activities* in relation to which the exemption has been disapplied.