



**The Financial Conduct Authority's response  
to the Annual Report 2015-16 of the  
Office of the Complaints Commissioner**





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(For the year ended 31 March 2016)

Presented to Parliament pursuant to section 87 of the Financial Services Act 2012  
(as amended by the Small Business, Enterprise and Employment Act 2015)

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### Introduction

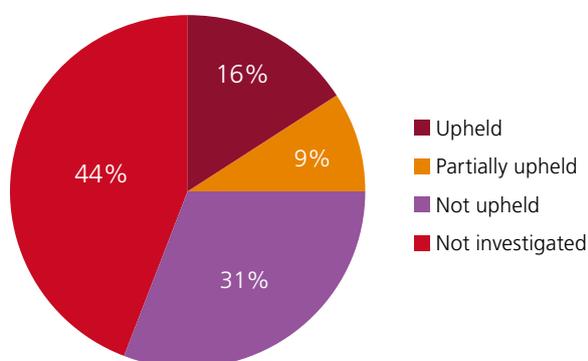
We welcome the Complaints Commissioner's Annual Report for 2015-16. We consider his role to be a key part of our accountability. We value the important role that the Commissioner carries out and appreciate his insight and advice on areas where we can make improvements to our processes. The Commissioner makes a number of suggestions for improvements in his report and, as he notes, we are working with him on these and other initiatives to improve our complaints process.

### Stage 1 complaints

In 2015-16, the FCA received 590 complaints (129 of which were from holders of Lloyds Banking Group Enhanced Capital Notes), compared to 464 in 2014/15 and 268 in 2013/14. This increase in complaints is mainly attributable to the growth in our remit since taking on the regulation of consumer credit on 1 April 2014.

During the year, we concluded 431 complaints made up of 532 separate elements. Over 80% of complaints were resolved within eight weeks of receipt. The chart below shows the outcome of the complaints that we concluded during the year.

#### ***Outcome of complaints considered by the FCA in 2015-16***



We may decide not to investigate a complaint for a variety of reasons. These include a complaint being outside the scope of the Scheme or a complaint being about a matter which is specifically excluded from the Scheme, such as the exercise of our legislative functions (including the making of rules and guidance).

We provide details of how we deal with complaints in the Complaints Scheme (the Scheme) which is available on our website at: [www.fca.org.uk/your-fca/complaints-scheme](http://www.fca.org.uk/your-fca/complaints-scheme).

The majority of complaints that we deal with are resolved without the need for referral to the Commissioner. During the year, the Commissioner dealt with 138 complaints of which 60 were concluded with a substantive response. Of these, there were eight cases where the Commissioner wholly or partly overturned the FCA's decision.

## **Themes and Issues identified by the Complaints Commissioner**

On pages 13 to 16 of his Annual Report the Commissioner has detailed six cases that he dealt with during the year. While not all these cases had been concluded by 31 March 2016, where they have, and have been upheld, we have responded to the issues they raise. Our responses are published on our website at: [www.fca.org.uk/about/operate/complaining-about-us/complaints-commissioners-final-reports](http://www.fca.org.uk/about/operate/complaining-about-us/complaints-commissioners-final-reports). We are still working with the Commissioner on the complaints which remain open.

As well as discussing specific cases, the Commissioner also made some general observations. Points a-c on page 13 of the report cover how we initially decide whether or not a matter complained of should be investigated under the Scheme.

In Table 4 on page 11 of his Annual Report, the Commissioner lists eight complaints where he has overturned the FCA's decision in whole or in part. Three of these cases related to our decision not to investigate the complaint for reasons set out in section three of the Scheme. We accept that our decision not to investigate two of these cases was due to our failure to interpret the complaint correctly. In the third case, we disagreed with the Commissioner's decision to investigate the complaint but accepted the recommendations he made.

We take seriously the comments the Commissioner has set out in points a-c. While we may occasionally disagree with his view, we are continually learning from his decisions and we take them into account when we decide the most appropriate way to treat new complaints. We note that the Commissioner recognises that the Scheme should not be used as an appeal mechanism to substitute one possible regulatory judgment for another.

We note the Commissioner's comments about the unnecessary delay in the handling of complaints and our failure to update complainants. We aim to be flexible in our approach and to resolve complaints quickly and impartially while treating complainants with courtesy. However, it is clear from the Commissioner's report that we have not achieved these aims consistently. In 2015-16 we concluded over 80% of complaints within eight weeks of receipt. We accept that on occasion we have not provided some complainants with timely updates about their complaint, but we are confident that such occasions were exceptions. In general we do maintain regular contact with complainants throughout the investigation of their complaint.

The Commissioner has commented that on occasion we demonstrate insufficient curiosity in pursuing complaints. We accept this. We fully appreciate the importance of a thorough investigation and try to ensure that robust challenge is undertaken where needed. We believe that this is reflected in the number of complaints (25%) that we upheld in whole or in part in 2015/16. He has also highlighted that the complexity of a complaint can sometimes blind us to the full extent of the issues raised by the complainant. We accept that there are dangers in looking at complaints too narrowly and so will aim to ensure that the wider implications are always considered during our investigations.

The Commissioner has also commented that we appear reluctant on occasion to accept the full extent of procedural or bureaucratic errors. More specifically, where a number of relatively minor errors have occurred, the FCA's response has not fully recognised the cumulative effect of them on the complainant. We appreciate the Commissioner's feedback and recognise how important it is for us to consider the overall effect on a complainant where we have made more than one error.

The Commissioner has emphasised the importance of explanations, stating that in some cases we have provided inadequate explanations of our decisions. We recognise the importance he places on information and acknowledge that we could at times explain our thinking more fully. The Commissioner identifies concerns regarding our reference to Section 348 of the Financial Services and Markets Act 2000. He suggests that references to Section 348 can sometimes make us appear defensive or unhelpful. We note, however, that Section 348 (which prohibits the disclosure of confidential information) is an important part of the regulatory framework. As it is a statutory regime underpinned by criminal sanctions, it effectively encourages the free flow of information to us from regulated firms and other parties. The regime ensures that the information provided to us will be given an appropriate degree of protection. Without this information the FCA cannot regulate effectively. It is, therefore, important that we preserve that confidentiality. We shall, however, continue to try to provide complainants with more useful information where possible.

Transparency and communication are important issues and we will continue to keep them under review and work closely with the Commissioner to make improvements.

We note the Commissioner's view that it is not always sufficiently clear to consumers that when they obtain an unregulated product from a regulated firm they will not necessarily enjoy the protections offered by the Financial Services Compensation Scheme and the Financial Ombudsman Service. This is a difficult area and we recognise the Commissioner's concerns. In line with the Commissioner's recommendations we are considering whether there is more we can do to help consumers in these circumstances.

## **The Commissioner's advice**

On page 4 of his Annual Report the Commissioner has given three pieces of advice to the FCA. The Commissioner has said that the FCA needs to ensure that the Complaints Team is adequately resourced to investigate cases, noting that the Complaints Team has experienced a number of staff changes during the year. This is so, and we have used this period of change to restructure the team to bring in additional experience to the team. We have also recently introduced a new case management system which is delivering significant improvements to the way we handle complaints.

The Commissioner has also urged the FCA to ensure that the Complaints Team has the appropriate confidence, authority and internal political backing. The restructuring of the Complaints Team referred to above has added more experience and confidence when conducting enquiries. Senior Investigators in the team provide guidance and support to less experienced colleagues who may otherwise feel diffident when dealing with more senior colleagues. The Executive and the Board acknowledge the importance and value of an effective complaints handling process and have reiterated the importance of collaboration and cooperation with the Complaints Team.

We entirely agree with the Commissioner's observation that everyone in the FCA has a duty to co-operate openly and promptly with complaints investigations. To reinforce this point, the Complaints Team conducts regular awareness programmes within the organisation to emphasise the importance and value of complaints. These messages are reinforced by the Executive Committee and other senior staff. Other initiatives, such as mandatory training for staff, have also been introduced.

Connected to this is the Commissioner's recommendation that we should pay more attention to internal and external deadlines for complaints handling. This is already a focus for us. The team has certain service level standards against which it reports, covering initial response times to complainants and times to complete investigations. It is also working with areas across the organisation to agree appropriate response times to enquiries. The new case management system also allows progress on individual cases and specific deadlines to be more closely monitored.

In his report, the Commissioner has made some important observations which we take seriously. Separately, the Commissioner has also suggested improvements to the current scheme. We will be considering these suggestions alongside other work that we have underway to ensure that the Scheme and our application of it is continuously improving. We, together with the PRA and the Bank of England, have committed to review the Complaints Scheme and intend to conduct a public consultation on any proposed changes later in 2016.

We continually aim to improve how satisfied complainants are with the way they are treated when they make a complaint. Whatever the eventual outcome of the complaint, we want complainants to feel that the issue they have raised has been fully and fairly considered, that they have been kept informed and treated with respect. The Commissioner's scrutiny and recommendations will help us to achieve this.







