

# The Financial Conduct Authority's response to the Complaints Commissioner's Annual Report 2023/2024

**July 2024**



# The Financial Conduct Authority's response to the Complaints Commissioner's Annual Report 2023-2024

(For the year ended 31 March 2024)

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## Introduction

In this report, we respond to the points raised in the Complaints Commissioner's Annual Report and give an update on our key performance measures.

We welcome this first report from Rachel Kent, since she was appointed to the role of Complaints Commissioner (Commissioner) by His Majesty's Treasury (Treasury) from 1 January 2024. This is the first time the Treasury has appointed the Commissioner, who was previously appointed by the Regulators with the approval of the Treasury, following changes made by the Financial Services and Markets Act 2023. The Regulators – the FCA, the Prudential Regulation Authority (PRA) and the Bank of England (the Bank) remain responsible for the expenses of the Complaints Scheme (the Scheme), including those of the Commissioner.

We're pleased to see the new Commissioner has welcomed our open and collaborative approach and our efforts to enable their transition into the new role to go as smoothly as possible. We look forward to working with the Commissioner across their 5-year term and welcome their robust and independent scrutiny.

We are pleased that the Commissioner agreed with our decisions in the majority of the complaints concluded over the last year. We note the Commissioner's themes and observations about the types of complaints they have seen and we respond to these in this report. Complaints are a valuable source of feedback for us and help us to learn when our actions have fallen below the levels we expect. We want to improve and learn from complaints.

In terms of our complaint handling, we delivered a strong operational performance against our operating service metrics in 2023/24. The number of complaints we received increased by 15.8%. This was mainly due to an increase in the number of complaints about the same issue (ie group complaints). Our active (existing) stock of complaints also increased. This is because several of the group complaints which we had paused pending regulatory action became active as this action was completed. As well as the number of active complaints increasing, so has the complexity and nature of these complaints.

The dedication and professionalism of our FCA colleagues has been central to our performance and continues to put us in a strong position to deal with the challenges of the coming year.

## The Complaints Scheme

We take complaints seriously and aim to resolve them efficiently, effectively and sensitively, treating complainants with courtesy and empathy.

The Financial Services Act 2012 requires the Regulators to make arrangements to investigate complaints against them – 'the Scheme'. It is the Regulators' responsibility to make the Scheme, via consultation.

The Scheme is just one way the FCA (and the other Regulators) are held to account. For example, the Chief Executive and Chair of the FCA regularly appear before Parliamentary committees and are held to account by Members of Parliament. A Report by the Institute for Government in April 2024 found that the FCA has been called before a Parliamentary committee 36 times between December 2019 and March 2024, which is more than any other regulator. We welcome this regular interaction and the opportunity to discuss our work with Parliamentarians.

We expect to resolve most of the complaints we investigate in a timely and satisfactory way, and without being referred to the Commissioner. However, as the independent figure overseeing the Scheme, the Commissioner plays a crucial role in its effective operation and our accountability mechanisms.

We welcome the Commissioner's scrutiny. It gives us independent insights about where we are doing well and where we could improve. It also supports us, or the Treasury where legislative change is required, to consider and apply relevant findings and recommendations from individual complaints to the broader regulatory setting. Importantly, the Commissioner's scrutiny also supports transparency through the publication of Final Reports issued on individual complaints and the publication of their Annual Report.

Following the Financial Services and Markets Act 2023 receiving Royal Assent in July 2023, we published our Policy Statement which introduced a revised Complaints Scheme after a period of consultation. The consultation had been delayed due to the passing of this new legislation as well as allowing time for 3 independent reviews underway at the time of the consultation to be completed. The revised Scheme came into effect for all new complaints received from 1 November 2023.

## Our Complaint & Outcome Definitions

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When we receive complaints under the Scheme which are low impact, and can be dealt with quickly and easily, then we may ask for the area which is the subject of the complaint to investigate them. These complaints are referred to as **local area complaints**. If the complainant remains dissatisfied with the response from the local area, this can be referred to the Complaints Department for further investigation.

If we receive a complaint under the Scheme that the Complaints Department investigates and provides a response to, then we refer to this as a **standard complaint**.

We can also receive multiple complaints about the same event or issue. We class these as a **group complaint**. Although complainants bring complaints about the same event or issue, individual complainants may raise different allegations about it.

Sometimes we have to defer our investigation into a complaint where it involves ongoing regulatory action. This is referred to as a **deferred complaint** and can involve a standard complaint or a group complaint.

Each individual complaint may make several allegations, and when we conclude a complaint, every allegation made will have a separate outcome. For example, if we receive a complaint that includes 2 allegations, our investigation might uphold 1 of the allegations but not the other.

The possible outcomes for a complaint are:

- **Upheld:** We have investigated all allegations made in a complaint and upheld them all in favour of the complainant.
- **Partially upheld:** Multiple allegations with different outcomes, at least 1 of which we have investigated and upheld in favour of the complainant. There are other allegations that we have not upheld or not investigated.
- **Not upheld:** We have investigated at least some of the allegations in a complaint, but not upheld any.
- **Not investigated:** There are several reasons why we might not investigate a complaint under the Scheme. For example, the complaint might not meet the eligibility criteria under the Scheme or the allegations may be about something that is specifically excluded from investigation, such as complaints about the use of our legislative functions (which includes making rules and guidance). We may also decide not to investigate an allegation under the Scheme if we believe it would be more appropriate to deal with it in another way, for example through the Upper Tribunal. This category also involves complaints which the complainant withdrew after they achieved the outcome they wanted, sometimes following our work to resolve the issue.

If we have investigated any allegation in the complaint, it will have an outcome of upheld, partially upheld or not upheld.

## Complaints referred to the Complaints Commissioner

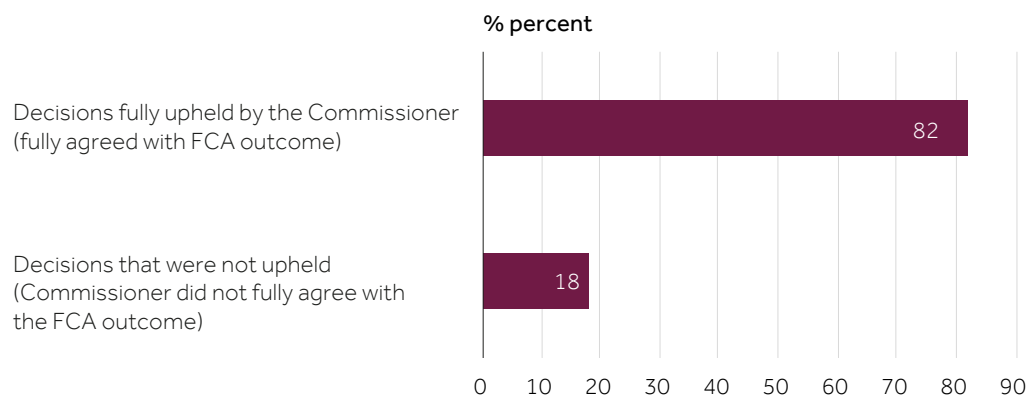
As part of the complaints process, if a complainant is unhappy with our decision, they can refer their complaint to the Commissioner for an independent review (a Stage 2 Complaint).

The vast majority of complainants accepted our decision after we concluded our investigation. 86% of complainants (1,447/1,689) did not refer their complaint to the Commissioner. This figure does not include deferred complaints, complaints reviewed without formal investigation and where the Commissioner was able to make a decision without referring the complaint back to us.

During 2023/24, the Commissioner reviewed and made a decision on 242 complaints referred to them, compared to 163 in 2022/23. The Commissioner fully agreed with our outcomes in 82% (198/242) of the complaints they concluded last year, compared to 86% (140/163) in the previous year.

There was a 4-percentage point decrease in cases where the Commissioner fully agreed with our outcomes last year. This 4 point decrease relates to the outcome we reached on 33 complaints which were all part of a complaint group. However, the Commissioner agreed with our findings on several allegations in connection with this group complaint.

**Figure 1. Outcomes decided by the Commissioner**





## Recommendations from the Commissioner

We received 204 recommendations or suggestions within the Final Reports issued by the Commissioner, of which the Commissioner has reported we did not accept 66.

The main areas of focus for the 204 recommendations/suggestions were to:

1. Offer an apology to the complainant
2. Recommendation for improvement
3. Update the Commissioner or complainant
4. Offer a discretionary payment or an increased discretionary payment to the complainant

The number of recommendations from the Commissioner increased from 62 in 2022/23 to 204 in 2023/24. This is due to the Commissioner making a total of 165 recommendations (5 recommendations made on each of the 33 complaints referred to the Commissioner) on a group complaint about our oversight of an authorised payment institution called Premier FX Limited. For comparison, without this group complaint, the number of recommendations made by the Commissioner fell year on year from 62 to 39.

### Recommendations not accepted

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The recommendations we did not accept in 2023/24 all involve our oversight of Premier FX.

When we investigated this complaint, we upheld or partially upheld 5 out of 31 allegations made against us. These upheld or partially upheld allegations are about the timeliness and accuracy of updates we made to the Register, the reauthorisation of the firm just before its collapse in 2018 and concerns over how we handled and did not action information. We apologised to complainants for the mistakes we made before Premier FX collapsed.

The Commissioner considered this complaint and issued a Final Report in December 2023. The Commissioner made 5 recommendations (totalling 165 across the 33 complainants). We accepted 3 of these recommendations (totalling 99 across the 33 complainants):

1. To update the Commissioner on our plans for continued investment in the Financial Services Register (FS Register) and how we can work to help consumers better understand the definition of the activities that we authorise firms to undertake.
2. To more clearly direct consumers on the FS Register to the Financial Ombudsman Service and/or the Financial Services Compensation Scheme (FSCS) to determine if a firm comes under their protections.
3. To write to complainants with a brief note to explain what steps we have taken as a result of the Premier FX case to strengthen our authorisation and supervision processes.

We did not accept 2 recommendations (totalling 66 across the 33 complainants). The Commissioner recommended that we:

- 1.** Hyperlink the terms defined in the FCA's Handbook Glossary to the relevant entries on the FS Register; and
- 2.** Pay compensation to these complainants totalling 4% simple interest in total (not per year) on the capital complainants recovered.

We did not accept these recommendations for the reasons given in our response to the Final Report.

## Themes identified by the Complaints Commissioner

In this section we consider and reflect the Commissioner's commentary and main themes in their Annual Report.

### Complaints about our regulation of firms

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The number of complaints the Commissioner considered about the FCA's failure to regulate an individual firm or an industry/activity increased significantly and is the most common complaint they received. The Commissioner explains that this is because of the large volume of group complaints received this year.

We note that the large group complaints considered by the Commissioner and us have had a disproportionate impact on the themes we see in the complaints we handled.

It is not unexpected that we see complaints about our regulation of firms as it is our core role. We appreciate the impact on consumers when a firm fails. As a regulator, our role is not to prevent all firms from failing. Our 3-year strategy from 2022 to 2025 sets out what we aim to achieve through regulation, including how we will measure success.

### Complaints about our authorisation of firms/individuals

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There has been an increase in the number of complaints about the FCA's failure to authorise firms or individuals. The increase is due to 1 group complaint which concerned the FCA's regulation of Premier FX.

As part of our consideration of this group complaint, we upheld an allegation about our re-authorisation of the firm just before its collapse in 2018. We accepted we made mistakes and apologised unreservedly to complainants for the distress and inconvenience that our actions and inactions caused. We explained that we are a very different regulator today than we were during the period that these complaints cover.

The Commissioner agreed that we were right to uphold this allegation. The Commissioner recommended that we write to complainants to explain what steps we took to strength our authorisation and supervision processes because of this case, which we accepted.

### Customer Service

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We know any failure in providing the level of service we expect to both consumers and firms is unfortunate.

In terms of the trend, we are pleased to see the number of complaint points raised with the Commissioner about our service (excluding the Complaints Department) have decreased from

49 the previous year to 17. But we know there is always more we can do and we welcome the Commissioner's findings to support our improvement.

As we outlined in our response to the Commissioner's Annual Report last year, we engage with thousands of stakeholders every year, including consumers and the firms we regulate. We strive to provide excellent customer service to all of stakeholders, but know that sometimes the level of service we provide does not meet our standards. Where this happens, we will do our best to put things right and make necessary improvements to prevent problems recurring.

We are also pleased to see a decrease in the number of complaint points about how the Complaints Department has handled a complaint, decreasing from 44 in 2022/23 to 24 in 2023/24. We strengthened our quality assurance framework in 2022/23 and continue to perform strongly across our resolution metrics as detailed below.

The Commissioner also includes maladministration on one complaint. We accepted we made errors in the handling of this matter, and we apologised to the complainant for these errors. We also accepted the Commissioner's recommendation to increase the discretionary compensatory payment to the complainant.

## **Complaints not investigated**

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The Commissioner sets out that there was an increase in the number of complaints the FCA did not investigate. See Outcome Definitions above.

The Commissioner highlights that 134 of the 157 allegations not investigated under the Scheme related to the time bar. 129 out of 134 time barred allegations referred to the Commissioner are linked to 1 group complaint. The Commissioner agreed with our assessment in this group complaint.

Other than this group complaint, there were 5 individual cases where the Commissioner reviewed the time bar. The Commissioner agreed with our decision to apply the time bar in 4 out of 5 cases they reviewed.

## Policy Considerations identified by the Complaints Commissioner

The Commissioner outlines how we applied the scope of the Scheme. We respond to those matters here.

### Compensation

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The Commissioner explains that in her view the Regulators' approach to compensation is that it will rarely, if ever, make any compensatory payment for financial loss in cases where there has been a supervisory failure.

The Commissioner concludes that they will likely be making recommendations for compensatory payments for financial loss even though such an outcome is not consistent with the factors in the Scheme. The Commissioner's concerns are that they and the Regulators each apply different factors when making their respective decisions, and neither is required to have regard to the factors which the other takes into account.

In July 2023, the Regulators finalised a consultation on the Scheme. The consultation was launched in July 2020 and sought to improve the transparency of the Regulators' approach to compensatory payments, to help complainants understand what they can and cannot expect from the Scheme.

The FCA is exempt from liability to pay damages under legislation (except where it has acted in bad faith or in contravention of the Human Rights Act 1998). The purpose of this exemption is so that we can carry out our regulatory functions robustly and effectively, and without distraction from the potential administrative and financial consequences of damages claims, which might otherwise influence how we pursue our objectives.

Despite statutory immunity, the legislation underpinning the Scheme does envisage that compensatory payments will be appropriate in some circumstances.

The revised Scheme (which took effect for new complaints received from 1 November 2023 onwards) sets out what we consider to be an appropriate balance in determining when we should make compensatory payments. However, by setting out our approach we are not limiting the Commissioner's ability to make recommendations to the Regulators.

The legislation underpinning the Scheme requires the Commissioner to be able to act independently of the Regulators, so some differences of opinion between the Commissioner and the Regulators should be expected.

We will always consider very carefully each recommendation from the Commissioner on its own merits and decide if it is appropriate for us to accept it, taking into account our typical approach. This does not in itself mean we will not accept a recommendation from the Commissioner to pay compensation if it falls outside our typical approach.

We will continue to liaise with the Commissioner on this.

## Time Bar

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The Commissioner highlights that several complainants made representations to the previous Commissioner about the interpretation of the time bar.

The previous and revised Scheme state that a complainant must notify us of their complaint within 12 months of the date they first became aware of the issue(s) they are complaining about. The Schemes also set out that we would investigate a complaint if it was brought outside of the 12-month period if the complainant showed reasonable grounds for the delay.

In some cases, there may be disagreement on when a complainant knew of the issue giving rise to their complaint. In these scenarios, we agree with the Commissioner that we must decide on the basis of the available evidence when, on the balance of probabilities, the complainant became aware that they had a basis to complain to the Regulator about its action or inaction.

The time bar exists as it is not practical to have an indefinite amount of time for complaints to be raised.

We consider each complaint on its own merits and related circumstances and will always consider whether the complaint has been brought in time under the Scheme.

## Legislative Functions

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The statutory framework for the Complaints Scheme is set out in Part 6 of the Financial Services Act 2012 (FS Act). The FS Act requires us to maintain a Scheme to investigate complaints involving us exercising, or failure to exercise, any of our 'relevant functions' as defined in section 85 of the FS Act. The Act states that the Scheme must be designed so that, as far as reasonably practicable, complaints are investigated quickly.

Complaints about the exercise of the Regulators' legislative functions are specifically excluded from investigation under the Scheme by the FS Act. The FCA's legislative functions includes rule-making and issuing guidance/statements as defined by section 85 (4) FS Act.

Our rule-making powers typically require us to consult on proposed changes to, or the introduction of, new rules and guidance. During a consultation period, we receive responses about our proposed plans. When deciding our final rules and/or guidance, we take into account and respond to the feedback given during the consultation period. For example, we issued a consultation on the Consumer Duty in May 2021 under [CP21/13](#). This was followed by a further consultation in December 2021 ([CP21/36](#)) which included feedback on CP21/13. In July 2022, we published a [Policy Statement \(PS22/9\)](#) and [Finalised Guidance \(FG22/5\)](#).

If industry participants have concerns about how they could potentially be affected by our rules or guidance, they can input into the consultation process. We are accountable to Parliament in the exercise of our functions and the legality of our rules can be tested through the courts.

The Financial Services and Markets Act 2023 introduced an additional requirement for the FCA to keep its rules under review and publish a statement of policy on how we will do so. Our [Rule Review Framework](#) explains how we do this.

## Revised Complaints Scheme

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The FS Act states that before making the Scheme, the Regulators must publish a draft of the proposed Scheme in the way appearing to them to be best calculated to bring it to the attention of the public.

In July 2020, the Regulators issued a [consultation](#) on a revised Scheme. The purpose of revising the Scheme was to make it more user friendly, and to use plain language to make it more accessible. We also proposed introducing a more detailed description of our approach to compensatory payments to help complainants understand what they can and cannot expect from the Scheme. The consultation was announced on the Regulator's websites as well as via the PRA's Regulatory Digest and social media. We also shared this with the Consumer Network and met with our Panels.

We received 411 responses to our consultation. These came from individuals, consumer groups, firms and trade bodies. We made changes to our proposals where we agreed it would improve the accessibility of the revised Scheme and help clarify our approach to compensatory payments. These are detailed in our Policy Statement ([PS23/12](#)) which was published in July 2023.

The revised Scheme came into effect on 1 November 2023. Complaints made after this date are considered under the revised Scheme. Complaints made prior to 1 November 2023 are considered under the previous Scheme.

## Measuring our performance

In this part of our response, we discuss how we have performed across 2023/24.

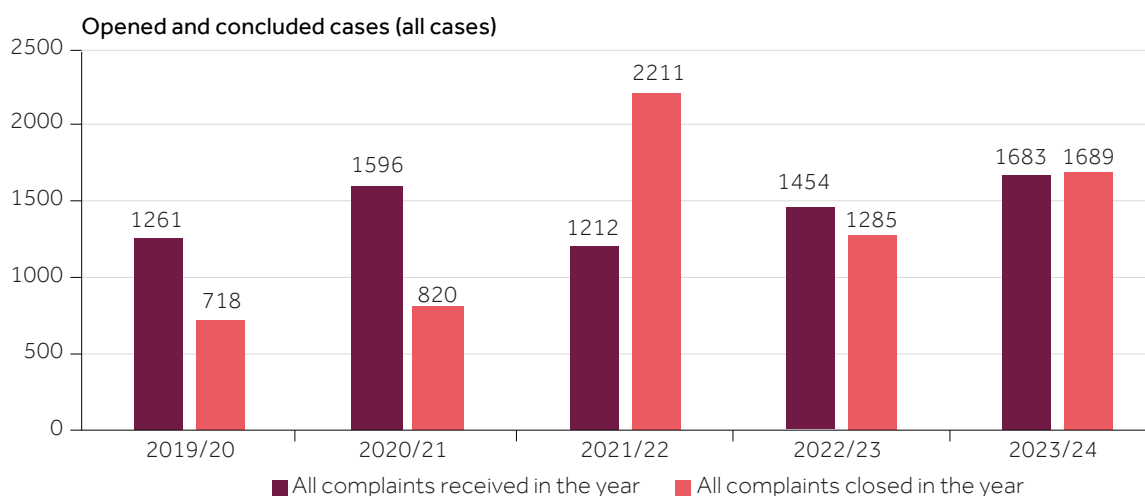
We have continued to maintain our performance across standard complaints in 2023/24, increasing our performance in cases concluded within 8 weeks by 7 percentage points (from 83% in 2022/23 to 90% in 2023/24). We do not include group complaints in this metric as we often defer these due to ongoing regulatory action. We've seen a small decrease in performance in our handling of local area complaints across 2023/24 which we cover later in this response.

We have continued to see a shift in the nature of complaints. We have received higher volumes of group complaints than at any point in the previous 5 years. During 2023/24 we received 992 group complaints compared to 592 in 2022/23; a 68% increase. As at end of March 2024, we had a total of 1,263 group complaints. We deferred 249 of these (vs 988 in 2022/23) as we cannot currently progress their investigation, often due to ongoing regulatory action.

Last year we explained we had increased the availability and accessibility of Complaints Management Information across the FCA. This means we are more data-led in our understanding of the volumes, nature and causes of complaints. Over 2023/24, we have increased our engagement across the organisation, regularly sharing our insights with Senior Leadership Teams.

We will continue to improve engagement in the coming year, coupled with further developing our root cause analysis to increase our understanding of the causes of complaints and continue to improve.

**Figure 2. Year-on-year comparison of all opened vs concluded complaints**

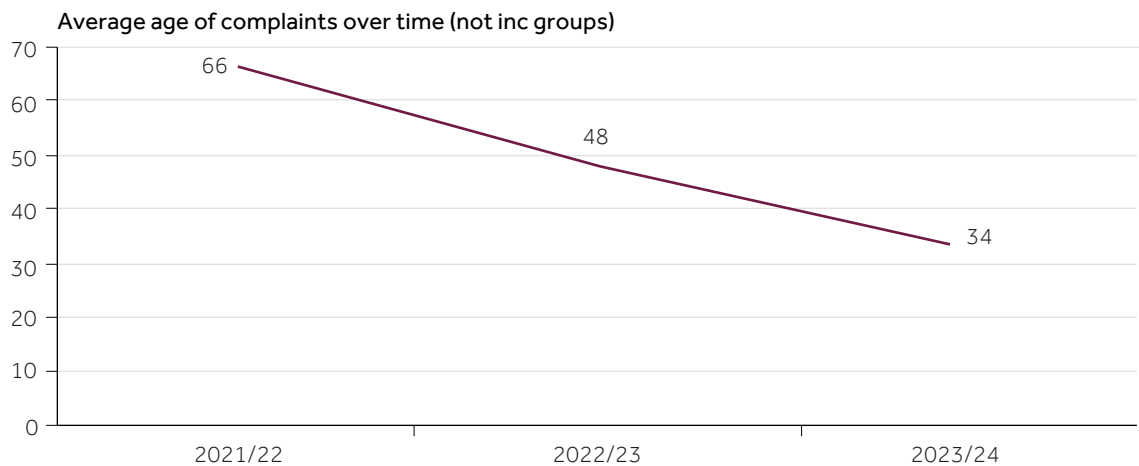


We continue to communicate with complainants and answer complaints in a timely manner, meeting our operating service metrics across standard complaints (See Table 4). The number of cases where we made an offer of payment for delay in handling a complaint reduced from 308 in 2022/23 to 198 in 2023/24.



We have continued to improve our ways of working to find efficiencies in how we do things. This has enabled us to reduce the average age of standard and local area complaints from 48 days in quarter 4 of 2022/23 to 34 days in the same period of 2023/24 (see Figure 2) and reduce the amount of cases where we offered a payment for delay in line with our published approach.

**Figure 3. Average age of standard and local area complaints over time**



Following the improvements to our quality assurance framework in 2022/23, we continue to focus on the quality of our complaint handling.

The results of our quality assurance measures are informing how we support and develop our complaint investigators to strengthen our quality output. Given the increasing complexity of complaints, we will prioritise learning and capability for 2024/25, including formal training and coaching.

## Summary of complaints about the FCA in 2023/24

In this section, we report on the volume of complaints received and concluded during the year and complaint outcomes.

**Table 1: Summary of FCA Complaints 2023/24**

1,683	Complaints received
1,689	Complaints concluded
242	Decisions reviewed by the Commissioner
198	Decisions fully upheld by the Commissioner (fully agreed with the FCA outcome)
44	Decisions that were not upheld by Commissioner (did not fully agree with the FCA outcome)

Last year we received more complaints overall than in 2022/23. We received fewer local area and standard complaints than in 2022/23 (691 in 2023/24 vs 861 in 2022/23), but 400 more group complaints across 2023/24, an increase of 68% on the previous year.

**Table 2. Volume of complaints received**

Year	All complaints received in the year	% Change
2023/24	1,683	+16%
2022/23	1,454	+20%
2021/22	1,212	-24%
2020/21	1,596	+27%
2019/20	1,261	+17%

## Complaint closures and outcomes

In total, we concluded 1,689 complaints last year, an increase from the 1,285 in 2022/23. The increase was mainly due to concluding 987 group complaints.

We concluded fewer standard complaints last year than in 2022/23 (702 in 2023/24 vs 900 in 2022/23) as the volume of these complaints was also lower year on year (691 in 2023/24 vs 861 in 2022/23). The data from the last 2 years shows that we now conclude a broadly similar volume of standard complaints as we receive.

In Table 3 below, we show an analysis of the outcomes for all complaints concluded during 2023/24. Of these complaints, we did not uphold 697 (41.3%) and did not investigate 835 (49.4%). We fully upheld 74 complaints (4.4%) and partially upheld a further 83 (4.9%)

**Table 3: Outcomes of all complaints (standard, group & local area) concluded in 2023/24**

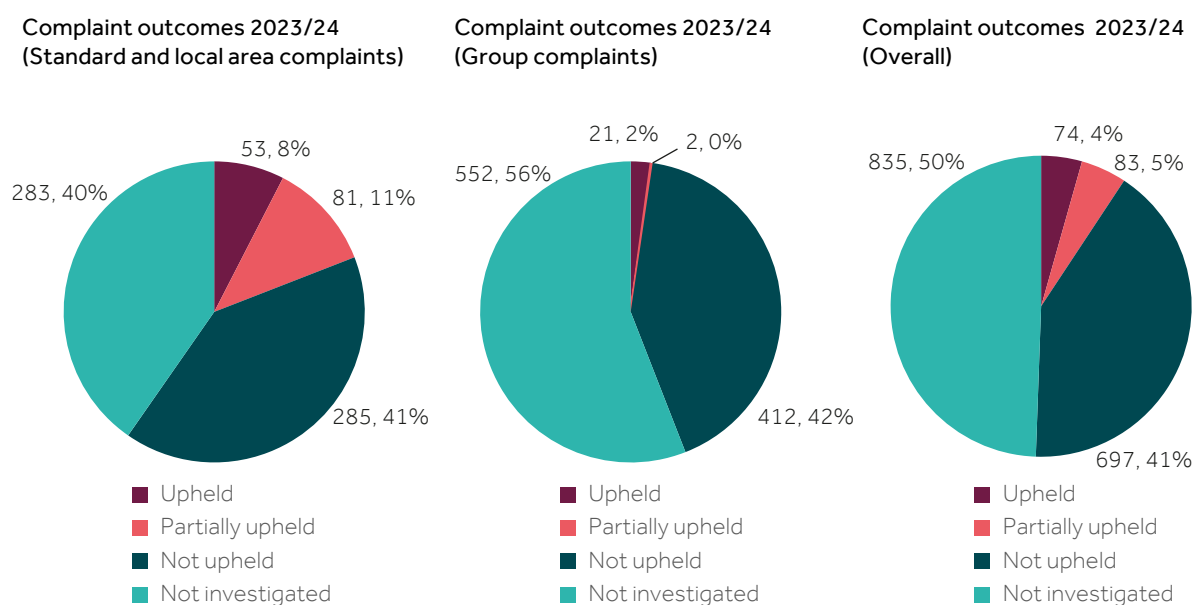
Outcome	Total
Upheld	74
Partially upheld	83
Not upheld	697
Not investigated	835
<b>Total</b>	<b>1,689</b>

Last year we upheld or partially upheld 9.3% of concluded complaints compared to 36% in 2022/23. The proportion of complaints not upheld increased in 2023/24 to 41%, up from 31% for 2022/23. The number of complaints we did not investigate has increased year on year from 419 in 2022/23 (33% of outcomes) to 835 in 2023/24 (49.4% of outcomes). Although we did not investigate a higher proportion of complaints in 2023/24 compared to 2022/23, we still invested a lot of time in reaching that conclusion and in providing helpful information to complainants.

These figures are affected by the large volume of group complaints we received and concluded last year, with several complaints about the same issue not upheld or not investigated in 2023/24.

Excluding group complaints, we upheld or partially upheld 19% of standard and local area complaints, did not uphold 41% and did not investigate 40% of complaints we resolved in 2023/24.

**Figure 4. Complaints outcomes 2023/24**



## Our operating service metrics for complaints

We aim to conclude 75% of the standard and local area complaints we receive within 8 weeks. We do not measure this service for group complaints as these are often deferred due to ongoing regulatory action. Last year we concluded 90% of standard cases within 8 weeks. This is a 7-percentage point increase on the previous year's performance.

**Table 4. Percentage of standard complaints resolved within 8 weeks**

Year	Operating Service Metric
2023/24	90%
2022/23	83%
2021/22	60%
2020/21	56%

For the coming year, we are committed to maintain the operational performance we have set over the last few years.

As set out in the Scheme, we have set operating service metrics for acknowledging complaints within 5 working days, responding to local area complaints within 10 working days and providing complainants with a scope or decision letter within 20 working days.

Table 5 sets out our performance against these operating service metrics, showing largely sustained performance (with the exception of local area complaints) compared with 2022/23.

87% of local area complaints were concluded within 10 working days in 2023/24. This represents a 4-percentage point decrease on 2022/23. We receive a relatively small number of local area complaints, which can lead to volatility in our results. For example, 10 cases missed the service level by an average of 2.6 days. We have developed our systems to improve our complaint management in this area across the wider organisation.

Last year we delivered a consistent performance in acknowledging 98% of complaints within 5 working days (vs 98% in 2022/23) and provided complainants with a scope letter (which confirms our understanding of the complaint) or decision letter within 20 working days in 96% of cases. This was a slight reduction of 2 percentage points compared to the previous year.

**Table 5. Year-on-year operating service metrics performance for standard and local area complaints**

Operating Service Metric	Target	22/23	23/24
Local area complaints responded to within 10 working days	95%	91%	87%
Standard & Local area acknowledgement sent within 5 working days	95%	98%	98%
Standard complaints receive scope or decision letter within 20 working days	95%	98%	97%

## Conclusions

We are pleased to have largely maintained the strong performance achieved in the previous year across 2023/24. Our multi-year investment in the Complaints Department's resources and processes has enabled us to eliminate backlogs and respond promptly to the complaints we receive. It has also allowed us to invest in our data and analysis on the complaints we receive, sharing more information about complaint drivers across the organisation.

Looking ahead, we expect another busy year as we balance maintaining our operational performance across our standard and local area complaints whilst also responding to the increased volume and complexity of active group complaints. The complexity and nature of group complaints presents a challenge for both us and the Commissioner's Office.

We remain committed to continuing the open and transparent relationship we have built with the Commissioner so far and ensuring they have the appropriate resources to provide the necessary robust challenge and hold us to account.

