

12 April 2024

Final report by the Complaints Commissioner

Complaint number 202300621

The complaint

1. On 30 November 2023, you submitted a complaint to my office about the FCA to my office.

Your complaint to the FCA

2. In its letter of 29 November 2023 the FCA described your complaint to it as follows:

“Part One

Our understanding of your complaint is that you are unhappy with an FCA regulated firm.”

Part Two

“You feel that the FCA is ineffective.”

Part Three

“You are unhappy with the interactions that you have had with the FCA’s Supervision Hub.”

What the regulator decided

3. The FCA did not investigate Part One and Part Two your complaint and did not uphold Part Three. The FCA told you:

“After carefully considering the information you have provided, we have concluded that we cannot investigate Part One of your complaint under the Complaints Scheme (November 2023).

This is because the Complaints Scheme covers the investigation of complaints that arise in connection with the exercise of, or failure to exercise, any of the FCA's relevant functions.

The 'relevant functions' of the FCA are defined in the Complaints Scheme and Part 6 of the Financial Services Act 2012, and broadly speaking cover the FCA's regulatory functions that arise under the Financial Services and Markets Act 2000, or such other functions as may be ordered by HM Treasury.

Part One of your complaint relates to a firm regulated by us. Under the Scheme, we cannot investigate complaints about the firms we regulate. If you have a complaint about a regulated firm, you should complain directly to the firm involved in the first instance. The Financial Ombudsman Service may be able to help if you are dissatisfied with the response you have received from the firm. Further information about doing this can be found [here](#).

After carefully considering the information you have provided, we have concluded that we cannot investigate Part Two your complaint under the Complaints Scheme (November 2023).

The Complaints Scheme provides that we will not investigate complaints that we reasonably consider amount to no more than general dissatisfaction with our policies or practices (i.e. you are not alleging any specific unreasonable, unprofessional behaviour or other misconduct).

Part Three -I have not upheld your complaint.

On 5 October 2023 under reference 210410239, you called the Supervision Hub to complain about a firm we regulate and proceeded to state that you do not believe FOS are well equipped to handle complaints. The supervisor explained to you that we do not deal with individual complaints as we do not have the dispute resolution powers, and it is something Financial Ombudsman Service deals with and directed you there with legal guidance. The supervisor also advised that we could log the information you provide against the firm which will

help the FCA supervise them closely. You weren't happy with this guidance so was offered to be referred to the Complaints team. You left a voicemail for the complaints team and proceeded to send an email (reference 210410348) explaining that you are unhappy about the unsatisfactory response given to you by the supervisor and how the email was not given properly.

During the call with the Supervisor, you claimed finding difficulty locating an email address on our website which the Supervisor provided you with, efficiently and repeated it twice for your convenience. Whilst listening to the call, I can confirm that the Supervisor did give the email address in a timely manner and repeated it twice which you acknowledged and noted it down.

On 6 October 2023 under reference 210410299, the complaints investigator called you back after listening to your voicemail and asked you about your concerns. You explained your concerns to the investigator and said you did not want to complain but just wanted to provide feedback, therefore, the investigator closed your case.

Thereafter on 30 October 2023, you were given a call back by the Supervision Hub after requesting one. You expressed your concerns about not receiving any updates on your complaint and you were once again, unhappy about the response you received from the supervisor and the email address situation. The supervisor advised you to complain to the complaints team. The reason why you did not receive any updates on your complaint is because when you had spoken to the Complaint's investigator on 6 October 2023, you stated in your call that you did not want to complain but just provide feedback which was taken into consideration and therefore the investigator closed your case."

Why you are unhappy with the regulator's decision

4. In your complaint to me you provided your "...observations with comments..." of the FCA's decision letter. I have taken account of your complaint and looked at what I perceive to be your main complaint points.

Element One

5. You are complaining about the FCA "...jumping the gun..." regarding the letter it sent to you due to the response time given in it.

Element Two

6. You think "...there are premature findings in the FCA decision letter and that the verdicts were defective ..."

Element Three

7. You mention that "...the FCA omitted the importance of the publicly published email of the Complaints Commissioner..."

My analysis

Element One of your complaint to us

8. You believe that the FCA was "...jumping the gun..." regarding the letter it sent to you, due to the response time provided in the letter. Whilst you have highlighted that the FCA decision letter was issued prematurely, in your complaint to me you did not include any complaint points you had in response to the scope of your complaint, had you been given the extra two days. Nonetheless I have looked into this from a process perspective and I agree that the FCA did not stick to the timescales it set out in its letter to you.
9. In the FCA's letter dated 20 November 2023 it set out what it understood to be your complaint. It additionally asked for a response from you by 1 December 2023 to let them know if its understanding of your complaint was incorrect.
10. You were also informed in the letter that your complaint would be allocated to an investigator in due course. This Investigator would then continue with an investigation based on the FCA's understanding of your complaint as outlined in the letter, subject to any further comments and/or evidence you might provide by 1 December 2023.
11. Subsequently following the issuing of this letter dated 20 November 2023, you were provided with the FCA Decision Letter on 29 November 2023. I am not sure why, but the FCA did not stick to the timelines it set out in its letter dated

20 November 2023 and instead, it issued you with its Decision two days earlier before a response was due from you.

12. My office also brought this to the attention of the FCA during my investigation of your complaint. We informed the FCA that you had been provided with a deadline date of 1 December 2023 to respond and the Decision Letter was issued to you on 29 November 2023. The FCA provided no response to my office on this particular matter nor acknowledged the fact that it had made an error. The FCA should have dealt with response times and the issuing of the Decision Letter consistently in your case and I can find no good reason as to why this didn't happen.
13. Therefore in light of the above, I uphold element one of your complaint.
14. In its response to my preliminary report I am pleased to share that the FCA have accepted my findings regarding Element One of your complaint. The FCA has provided feedback internally to those concerned and provided feedback to its wider Complaints Department. Once my Final Report is published, I am told the FCA will also write to you to apologise as per my recommendation.

Element Two of your complaint to us

15. I understand you are unhappy with the FCA's response to Part One and Part Two of your complaint. I agree with the FCA to exclude Parts One and Two of your complaint for the reasons it gives. Part One of your complaint referred to a complaint about a regulated business which would not be for the FCA to investigate. The information the FCA gave you in its letter dated 20 November 2023 was correct this matter is for the Financial Ombudsman Service (FOS). Additionally the FCA provided a link to the Financial Ombudsman Service website on how to complain. In your response to my preliminary report, you have also made new complaint points about several different Firms. Again, as I have stated this would be excluded under the Complaints Scheme. Complaints about Firms are a matter for the FOS.
16. Part Two of your complaint to the FCA centred upon you being unhappy that the FCA was ineffective in its role in Supervision. Again, I agree the FCA were correct in its evaluation that it could not look at this under the Complaints

Scheme as this point was no more than a general dissatisfaction with the FCA's policies or practices.

17. I understand that you feel the findings in the FCA Decision Letter are defective due to the Decision Letter being issued prematurely. I have already agreed earlier in my report that the FCA Decision Letter was issued prematurely and I have criticised the FCA for this for not following processes. Nevertheless, I agree with the FCA's overall conclusion and I also exclude this element of your complaint.

Element Three of your complaint to us

18. You mention that my office's email address was not present in the FCA's Decision Letter. The letter did include a URL link to our website which displayed our email address. The Decision Letter also gave a contact number and postal address for my office. However I do think it would be a good idea for the FCA decision letters going forward, to include the email address of my office which is info@frccommissioner.org.uk . Therefore, I uphold this element of your complaint.
19. In the FCA's response to my preliminary report, the FCA has informed me it is happy to accept this recommendation of Element Three of your complaint and it is in the process of changing its letter templates to include my office's email address which is info@frccommissioner.org.uk.

Your response to my preliminary report

20. I have read your response to my preliminary report. The parts that were relevant which I have assessed include the following:
 - a. You question why the FCA does not have a generic email address on its website
 - b. You think the FCA should have a freepost address included on its website for anyone especially those trying to whistle blow.
21. As these are new complaints you have raised with my office, I will not be able to investigate them at this stage. I also cannot see that the FCA have investigated these specific complaint points and in turn, provided you with a decision on them. I suggest that the FCA set up a new complaint for these complaint points

and investigate this for you. Subsequently I suggest that the FCA contact you to keep you informed of the progress of this.

My decision

22. In my analysis above I have identified where the FCA has failed in its interactions with you. I understand the frustrations and confusion this may have caused you.
23. Element One: The FCA issued its decision letter to you on 29 November, 2023 two days before the deadline it had given you to submit any comments on the scope of the complaint. I uphold this element of your complaint and I **recommend** the FCA provide feedback to the Complaints Team so that this does not happen again. The messaging should reflect that FCA Decision Letters should not be issued prematurely thus allowing a complainant to respond within the time frame they have been given. The FCA has accepted this recommendation and acted on these points as mentioned earlier in my report.
24. I **recommend** the FCA provide you with an apology due to the trouble and upset this has caused you. The FCA has accepted this recommendation and will be contacting you once my Final Report is published.
25. Element Two: I do not uphold this point. I agree with the FCA to exclude Parts One and Two of your complaint for the reasons it gave. Complaints about a regulated business are for the Financial Ombudsman Service. Also, a general dissatisfaction of the FCA's policies or practices is not something that can be investigated under the Complaints Scheme.
26. Element Three: I uphold this element of your complaint. I **recommend** the FCA include the email address of my office info@frccommissioner.org.uk in its decision letters going forward. The FCA has accepted this recommendation and is in the process of updating its letter templates.

Rachel Kent

Complaints Commissioner

12 April 2024