

9th December 2015

Dear Complainant

**Complaint against the Financial Conduct Authority
Reference Number: FCA00101**

You recently wrote to us and asked us to review the Financial Conduct Authority (FCA)'s decision not to investigate your complaint under the Complaints Scheme. I have now completed my review of the FCA's decision.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

You can find full details of how I deal with complaints at www.fsc.gov.uk. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

We have now reviewed all the papers you and the regulator have sent us. My final decision on your complaint is explained below.

Your complaint

You are unhappy that the FCA decided not to investigate your complaint that it failed to act upon the information you provided to it. Specifically you are concerned that consumers may have suffered detriment as a result of unauthorised and unqualified call handlers from Firm C providing regulated advice to customers of Firm P, and that 'that the FSA were therefore complicit in market abuse as well as allowing mis-selling to go uncorrected'.

You are unhappy that, when your concerns were referred to the FCA's Complaints Team, it decided not to investigate your complaint. In your letter to me you stated that "the complaints team are involved in one massive cover up here" and you have, during our correspondence, asked that I review the FCA's decision and make a ruling that it was incorrect to do this.

My position

As part of my investigation into your concerns I have obtained and reviewed the FCA's file. I have also considered the comments you have made when corresponding with the FCA.

Before I make any comment on the specific nature of your complaint I feel that I need to provide you with some background on the operation of the Complaints Scheme. Once the regulator has investigated a complaint the complainant is able to refer the matter to me as you have done.

When the papers were passed to my office they were reviewed and my Senior Investigator had a number of questions about the FCA's handling of your disclosures. As a result of these questions the FCA reviewed the papers themselves and requested the opportunity to re-visit your complaint before I considered a Stage Two investigation. The FCA's rationale for requesting the opportunity to revisit the complaint is based on two considerations: the first is that, because you had suggested that your whistleblowing disclosure had been "dismissed due to loyalty to the firms your information relates to" this means that the FCA should not have relied upon the paragraph 3.5 of the complaints scheme, which relates to complaints "where no unreasonable, unprofessional or other misconduct is alleged". The second is that revisiting the complaint would allow it to consider the questions that my Senior Investigator had raised.

When the FCA requested the case back it accepted that it had made an error in not investigating your complaint and it intended to apologise for this to you. Given that this would have allowed the issue about which you are unhappy to be investigated more quickly, and would not have affected my ability to consider the matter at a later stage, it seemed to me entirely appropriate to pass the matter back to the FCA for review. However, you were unhappy with this proposal, and asked me to undertake a stage two inquiry into the FCA's decision not to investigate. I have therefore done so.

Having reviewed the papers the FCA has presented to me it is clear that you were alleging that the FCA had not considered your whistleblowing disclosures entirely impartially, but had dismissed your concerns due to loyalty to the firms that it regulates. When making your complaint you therefore suggested that the FCA had acted unreasonably, unprofessionally and/or with bias. Therefore the FCA should have undertaken an investigation into your complaint under paragraph 3.1 of the Complaints Scheme and was wrong to rely upon paragraph 3.5 of the Complaints Scheme to support its decision not to investigate your complaint.

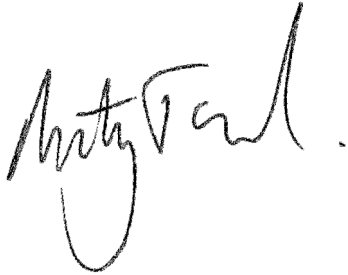
I have also noted your comments on my preliminary decision. You requested that the FCA undertake a root cause analysis of its error and report back to you. Whilst I understand why you have made this request, I do not consider this to be necessary: the error in rejecting your complaint without investigation has been accepted by the FCA, and the need to ensure that similar errors do not recur has been discussed by my office with the FCA.

You have also asked that I should appoint someone to undertake an independent investigation into your complaint. Again, while I understand the reason why you make this request, I do not consider that this is necessary. Following the investigation which the FCA has already agreed to undertake, you will have the opportunity to refer the matter back to me if you are unhappy with the outcome. In those circumstances I would undertake an independent investigation, with the right of access to all the FCA's records.

Conclusion

It is my decision that the FCA incorrectly decided not to investigate your complaint. I therefore recommend that the FCA apologises for making an incorrect decision and that it should reconsider your complaint.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner