

23<sup>rd</sup> October 2015

Dear Complainant,

**Complaint against the Financial Conduct Authority  
Reference Number: FCA00105**

Thank you for your emails of 6<sup>th</sup> October 2015. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint.

**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.

As you can find full details of how I deal with complaints at [www.fsc.gov.uk](http://www.fsc.gov.uk) I do not intend to set them out fully below. If you need further information, or information in a special format, please contact my office at [complaintscommissioner@fsc.gov.uk](mailto: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 records you and the regulator have sent us. My decision on your complaint is explained below.

**Your complaint**

I understand that you do not feel that the FCA has addressed your concerns that, on 4<sup>th</sup> June 2012 you applied for a Consumer Credit licence with the Office of Fair Trading (OFT). Although you paid the £1,500 application fee you say that the OFT advised you that your application was not completed due to a lack of information.

FCA00105

- 1 -

You allege that you did not receive a letter from the OFT requesting the missing information because it was sent to the wrong address. You add that the OFT owes you £1,500 for a refund of your application fee and that you did not receive any response from the OFT to the complaint you made to it on 6<sup>th</sup> December 2012 about this.

You are therefore looking for the FCA, as the regulator which has taken over responsibility for the OFT's Consumer Credit Activities, to refund the application fee to you.

I also appreciate that you are disappointed that the FCA has failed, on two occasions, to provide you with a copy of the letter which it claims that the OFT sent to you on 21<sup>st</sup> December 2012.

### **My position**

I can understand why you are unhappy with the FCA's decision that it will not investigate your complaint about the decisions made by the OFT. In arriving at this decision, the FCA has relied upon paragraph 3.3 of the Complaints Scheme which states:

- 3.3 Complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. Complaints made later than this will be investigated under the Scheme only if the complainant can show reasonable grounds for the delay.

Having reviewed the papers presented to me, I believe that the FCA's decision not to investigate your complaint was correct. In this case you made your application to the OFT on 4<sup>th</sup> June 2012 with your complaint being made to it on 12<sup>th</sup> December 2012. If the OFT had not responded to your complaint, as you suggest, it would appear reasonable to assume that you would have been aware of this some considerable time ago.

I would also add that the FCA assumed responsibility for the regulation of the OFT's Consumer Credit activities on 1<sup>st</sup> April 2014. You did not seek to contact it until 12<sup>th</sup> August 2015. Your complaint was made over 12 months after the FCA assumed responsibility for consumer credit from the OFT.

Although the FCA did not undertake a formal investigation into your complaint it did ask the area responsible for Consumer Credit to review its papers to establish if the papers the OFT transferred to it included any details relating to either your application or your subsequent complaint.

Whilst the papers which the OFT transferred to the FCA do not appear to include specific details relating to your application, they do include a copy of the letter which the OFT electronically sent to you in response to your complaint. As this letter sets what the OFT did and the OFT's position at the conclusion of your complaint, I do not intend to revisit the OFT's investigation.

I have also noted your comments about the FCA's failure to provide you with a copy of the OFT's letter of 21<sup>st</sup> December 2012. As the letter was clearly available it is disappointing that the FCA failed to attach the correct document to its email. However, although I am disappointed by the FCA's conduct here, I do not believe that this alters the overall position. I have enclosed a copy of the OFT's response of 21<sup>st</sup> December 2012 as an addendum to this letter.

I appreciate that you will be disappointed with my decision that the FCA was correct not to investigate your complaint, but hope that you will understand why I have reached it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend'. The signature is fluid and cursive, with a large loop at the end of the last name.

Antony Townsend  
Complaints Commissioner

Mr K  
Firm P

**By email**

[email-address@domain.co.uk](mailto:email-address@domain.co.uk)

Our ref	Epic/Enq/E/138979	Tele No	(084) 5722 4499
Date	21 December 2012	Fax	(020)7211 8877
		Email	headofERC@oft.gov.uk

Dear Mr K

**Your complaint about Consumer Credit Licence application 647188**

Thank you for your email of 6 December in which you complain about the way in which the Office of Fair Trading (OFT) handled your application for the consumer credit licence above. I am replying to your complaint in my capacity as the Head of the Enquiries and Reporting Centre at the OFT in line with our published complaints policy.<sup>1</sup>

As I understand it, on 21 October 2011 you submitted an application form for a Consumer Credit Licence. On 10 and 16 January 2012 you contacted your caseworker to alter the name of your business from Firm E to Firm P and to request that your principal business address be changed to New Business Address. Your caseworker updated your application to reflect this change.

On 23 March, we sent a letter requesting further information in relation to your application. This letter asked you to provide this information by 19 April or your application could be made 'of no effect'. Unfortunately, due to a human error this letter was sent to your old

---

<sup>1</sup> [www.oft.gov.uk/about-the-oft/oft-structure/accountability/complaint](http://www.oft.gov.uk/about-the-oft/oft-structure/accountability/complaint)



INVESTOR IN PEOPLE

Office of Fair Trading  
Fleetbank House  
2-6 Salisbury Square  
London EC4Y 8JX  
Switchboard: (020) 7211 8000  
[www.oft.gov.uk](http://www.oft.gov.uk)

business address of Old Business Address. On 27 March, you contacted the OFT to confirm a name change of your company had been initiated. During this conversation you also confirmed you had received our letter of 23 March and stated that the information we had requested would be sent shortly.

The OFT did not receive the information we requested and we therefore sent a second letter, by both post and email, on 8 May. Regrettably, this hardcopy letter was once again incorrectly sent to Old Business Address. This letter outlined that your application was to be made of no effect as we had not received the information that we requested. This letter made it clear that if you wished to carry on any business activity for which a licence was required, you would need to submit a new application and pay the appropriate licence fee.

Your application was made of no effect on 23 May. Your complaint against the OFT is that you were denied adequate opportunity to provide the information we request as our letters to you were sent to the incorrect address. You now ask that your application is reinstated.

Before specifically addressing your complaint against the OFT I feel that it would be prudent to explain the approach I have taken in considering your complaint. I have chosen to consider your complaint in terms of maladministration, injustice and worthwhile outcome. None of these terms are strictly defined but can broadly be considered to be an administrative error or fault (maladministration) which directly or indirectly results in an adverse situation for an individual or group (injustice) for which there is some sort of meaningful remedy (worthwhile outcome).

These three aspects are interlinked and it is my view that all three must be satisfied in order for your complaint to be justified. It is entirely possible to have an administrative fault from which no adverse effects flow - for example a minor typographic error in a letter could be considered to be an administrative fault but no injustice would flow from this fault provided that the remainder of the letter was sufficiently accurate to ensure that the purpose of the letter was clear.

I now turn to your substantive complaint against the OFT and will begin by specifically considering the question of maladministration. Having considered the papers relating to your application, it is clear to me that you specifically asked for your business name and address to be changed on 10 and 16 January. It is also evident that the OFT made

these alterations. That being the case, I can find no reason why the OFT sent our letters to you of 23 March and 8 May to your old business address. I am minded to concede that this was an administrative fault on our part. I sincerely apologise for these errors and I have spoken with the team involved in dealing with your application to ensure that such errors are not repeated.

I now turn to the second question of whether an injustice flowed from these errors. Matters are less clear here. Although I concede that our letter of 23 March was incorrectly addressed, I note from a conversation that you had with Case Officer W at the OFT on 27 March that you confirmed that you had received this letter. This appears to me to indicate that you were in receipt of our letter some four days after it was issued, thereby providing you with ample time to respond.

The circumstances surrounding our second letter of 8 May are slightly different. Once again, our letter was sent to the incorrect address. However, in accordance with our licensing procedures, an electronic copy of this letter was sent to the email address listed on your application ([email-address@domain.co.uk](mailto:email-address@domain.co.uk)). This email was correctly addressed and there is nothing to indicate that it was not delivered.

Given the above I am unable to conclude that you suffered an injustice as a result of our administrative faults. I therefore do not propose to proceed with a discussion of possible worthwhile outcomes. Furthermore, as it appears that you were in receipt of our letter of 23 March and there is nothing to indicate that you did not receive the electronic version of our second letter of 8 May, I can see no grounds to reinstate your consumer credit licence application.

I am sorry to send you what I know will be a disappointing response but I hope that it clarifies our position in respect of the complaint you have made. However, if you are unhappy with the way we have dealt with this matter you can make a further complaint to the General Counsel's Office (GCO) of the OFT at the above address or by email to [generalcounsel@oft.gov.uk](mailto:generalcounsel@oft.gov.uk).

If, having received a response from the GCO, you still remain dissatisfied you can then consider making a complaint to the Parliamentary Commissioner for Administration ([www.ombudsman.org.uk](http://www.ombudsman.org.uk)) who has the power to investigate further.

Thank you for bringing your concerns to my attention.

Yours sincerely

Investigator S

**Head of the Enquiries and Reporting Centre**