

8<sup>th</sup> August 2017

Dear Complainant

**Complaint against the Financial Conduct Authority****Reference Number: FCA00314**

In your emails of 11<sup>th</sup> May to 15<sup>th</sup> June 2017, you complained that the FCA had deferred consideration of your complaint about the FCA's enforcement of the rules relating to the banks' handling of PPI complaints on the grounds that it should not be dealt with while there were outstanding connected court proceedings. You also complained that the FCA had failed to respond to a complaint which you had sent them on 17<sup>th</sup> May.

I sent you, and the FCA, a preliminary decision on 6<sup>th</sup> July, inviting your comments. In that decision, I said that I was minded to uphold the FCA's decision to defer the principal complaint, and that the secondary complaint about the unanswered email should be sent back to the FCA for them to consider.

In your email response on 25<sup>th</sup> July you said that, while you didn't agree that the JR and the complaint were "cross contaminated", you understood my reluctance to "force the FCA's hand" at this stage, and you were prepared to treat that element of the complaint as withdrawn. You intended to "sample again" at the end of the JR process.

I confirm that I have treated that element of the complaint as withdrawn.

That leaves the question of the complaint about the unanswered email, about which I issued a second preliminary decision on 27<sup>th</sup> July, to which you have responded.

**Your complaint**

Your complaint was set out in your email of 15<sup>th</sup> June. The key points are:

- a. On 11<sup>th</sup> May 2017, you drew the FCA's attention to alleged breaches of FCA complaints handling rules by a major high street bank;
- b. On 16<sup>th</sup> May, you received an acknowledgement which said that the FCA would "carefully consider the information that you have provided but cannot comment on an individual firm's complaint handling practices or what action, if any, we may take as a result";
- c. On 17<sup>th</sup> May 2017, you responded, saying that you did not think that the FCA's reply was "remotely acceptable". In your view, the FCA could say "quite simply whether you will stop it.....The fact that you won't say it will stop can only lead us to conclude that you will allow it to continue. (And frankly that is rude, unresponsive and unprofessional to boot)....Consequently, you can consider this a part 6 complaint. I look forward to a more complete and comprehensive answer....";
- d. On 30<sup>th</sup> May and 10<sup>th</sup> June you sent emails asking for a response;

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- e. On 15<sup>th</sup> June you approached me, complaining that you had “not even had the courtesy of an acknowledgement”.

### **My analysis**

I consider this matter in two parts: the failure to respond, and the refusal to give you the full reply which you asked for.

In relation to the failure to respond, it is a simple fact that you clearly indicated to the FCA that you wished to make a formal complaint about the FCA’s response of 16<sup>th</sup> May, and you did not receive a reply. The fact that the FCA were dealing with a large number of related emails may be a partial explanation of why that happened, but it does not excuse it.

The FCA concedes that it did not respond to your email of 17<sup>th</sup> May 2017, and has offered its apologies.

In relation to the FCA’s refusal to give you further details about what, if any action, it was taking in response to your information about the bank’s complaint handling practice, my view is that the FCA were simply explaining their standard legal and policy constraints on divulging information about their regulatory work with individual firms.

The FCA says that it stands by its view that it cannot discuss its supervisory approach to individual firms, but has invited you to supply any further information you have about the alleged breaches.

I recognise that it is very frustrating for informants and complainants not to know what, if anything, is happening with the information which they supply, but there are good reasons why the FCA cannot be entirely open on these matters. The reasons can be found at <https://www.fca.org.uk/freedom-information/information-we-can-share>. While there is a legitimate debate about exactly where the line should be drawn in terms of what is or is not published, that is a policy matter, and not one for this Complaints Scheme. In my view, the FCA’s response of 16<sup>th</sup> May was simply an expression of a well-established policy.

In your response of 2<sup>nd</sup> August to my second preliminary decision, you suggest that I may have misinterpreted your complaint: you emphasise that you were not seeking confidential information about the FCA’s supervisory interactions with the particular high street bank, but a simple statement as to whether or not the behaviour you have complained about is or is not compliant with the rules.

I understand the distinction which you are making, but I do not think that the matter is as simple as you suggest. I cannot comment upon the particulars of the individual instances which you have raised, but as a matter of general policy and approach the FCA must take great care not to inadvertently breach the confidentiality of its interactions with the firms which it regulates. It is not hard to see how debates about whether or not a particular practice is compliant may be controversial, and may be part and parcel of the FCA’s interactions with a particular firm. For that reason, I think that the FCA’s decision to stick by its general policy in responding to you was correct.

**Conclusion**

The FCA has now apologised to you for its failure to respond to your complaint of 17<sup>th</sup> May – that element of your complaint is upheld.

I do not uphold your complaint about the FCA's response of 16<sup>th</sup> May.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend'.

Antony Townsend

Complaints Commissioner