

28 June 2018

**Final report by the Complaints Commissioner****Complaint number FCA00462***The complaint*

1. On 9 May 2018 you asked me to investigate a complaint about the FCA. I have carefully reviewed the papers sent to me by you and by the regulator.

*What the complaint is about*

2. In March 2018 you submitted a complaint to the FCA, saying that it had failed to ensure that banks and financial services firms treat customers fairly, had failed to exercise its powers to investigate the conduct of organisations and individuals, and had failed to specify minimum standards and requirements. You said that you consider this amounts to a collective failure on the part of the regulator. The FCA asked you to clarify your complaint and provide further details. You supplied a list of individual companies whose conduct you said had directly and indirectly affected you and left you in financial, physical and mental distress.

*What the regulator decided*

3. In May 2018 the FCA Complaints Team informed you that it would not investigate your complaint because you had not provided specific allegations of misconduct. The FCA said that under Paragraph 3.5 of the Complaints Scheme (the Scheme), *“The regulators will not investigate a complaint under the Scheme which they reasonably consider amounts to no more than dissatisfaction with the regulators’ general policies or with the exercise of, or failure to exercise, a discretion where no unreasonable, unprofessional or other misconduct is alleged.”* The Complaints Team’s letter gave you further information about its supervisory work and invited you to provide specific details about firms and offered to pass on your concerns to the relevant Supervisory department. The letter explained that the FCA’s supervisory work is confidential and you would therefore not be provided with further information about what, if any, action the FCA decided to take.

*Why you are unhappy with the regulator’s decision*

4. You are dissatisfied with the Complaints Team’s response because you say that:
  - 1) *Those involved in the complaint have miscondacted their self to such a degree so as to amount to an abuse of trust in that office without having any reasonable excuse or justification.*
  - 2) *The facts and evidence have been made clear from the beginning and the complaint response amounts to maladministration.*
  - 3) *The FCA are under a legal duty to act and have failed to act in accordance with their statutory duties which imposes liability for a failure to act.*
  - 4) *The FCA are under a contract of employment too and presently failing to*

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*uphold their contractual duties and obligations in relations to their conduct, role and responsibilities.*

5. You would like me to review your complaint because in your view it is not about the performance of the regulators' legislative functions (making rules, issuing codes, issuing statements, giving directions, issuing general guidance) nor does it amount to no more than dissatisfaction with the regulators' general policies or with the exercise of, or failure to exercise, a discretion where no unreasonable, unprofessional or other misconduct is alleged.
6. Instead you consider that offence(s) are being committed by virtue of:
  - s.44 - Magistrates Courts Act 1980
  - s.1, 7, 12 - Fraud Act 2006
  - s.44, 45, 46- Serious Crimes Act 2007
  - s.64 of schedule 15 and s.44 of schedule 15B of Criminal Justice Act 2003
  - s.2 (1) Protection from Harassment Act
  - s.232 - s.472a - s.993 - s.1121 - s.1122, s.1123 of the Companies Act

*My analysis*

7. I have carefully reviewed the FCA's complaints file and your correspondence. I am satisfied that it was reasonable for the FCA to decide that your complaint should not be investigated. You have not provided either me or the FCA with any specific details about the incidents that you say have affected you, or why these are the regulatory responsibility of the FCA. The FCA's complaint response left it open for you to provide more detailed information. You have also made a number of wide-ranging allegations about the FCA to me. However, there is nothing in the documents I have seen that supports the points you have made. I am therefore unable to help you further under the Complaints Scheme.
8. In response to my preliminary report you have told me that you disagree with my analysis because FCA staff would have had a clear idea about your complaints and possessed 'full facts and evidence' to act on even if they were not going to be providing further information about what, if any action the FCA decided to take. You have also commented that this is not the way to meet the expectations of consumers left in distress as a result of being the victims of fraud. You find this to be unfair and you also consider that I have supported the FCA's 'illegal actions'. I have considered these further points but unfortunately you have still not supplied any specific information that would enable your concerns to be investigated.
9. I note that the FCA's complaint response (sent on 9 May) was undated, and that the response letter failed to acknowledge that you had responded to the FCA's request for further information. I understand that the FCA has apologised to you for this oversight and explained that it would not have affected the outcome. I consider this to be reasonable in the circumstances. However, in my preliminary report **I suggested that** the FCA reviews its processes to avoid such oversights in the future. I am pleased to say that in response to my preliminary report the FCA has accepted this suggestion and has informed me that further training and feedback have been provided to ensure these oversights do not occur again.

*My decision*

10. For the reasons stated I do not uphold your complaint. I realise that you will be disappointed by my decision but I hope you will understand how I have reached it.

Antony Townsend

Complaints Commissioner

28 June 2018