

20 March 2023

Final report by the Complaints Commissioner**Complaint number 202201087***Summary of Complaint*

1. *In this section I have set out a very brief and simplified summary of the findings of my investigation, for ease of reading. I have set out below my full report which goes into more detail about my investigation and the reasons I have reached my positions in relation to your complaint.*

- *I have reviewed the FCA's decision letter and listened to the call you had with the FCA on 4 April 2022 and I am satisfied that the Decision Letter did correlate with the complaint discussed in that call.*
- *The FCA were correct that it cannot consider the part of your complaint that relates to the legislative/rule making function of the FCA in relation to One Time Password verification and Strong Customer Authentication.*
- *The FCA has set out that it has provided the information you have provided about the banks to the relevant supervision team, but due to policy reasons will not be able to provide you with the detail of what action, if any has been taken as a result of the information you have provided*
- *I have been provided with evidence that the information your provided was logged and available to the relevant supervision teams.*
- *I agree that the signposting in the FCA's decision letter was not helpful in view of the background to your complaint you had already provided to the FCA.*
- *I am satisfied that the FCA had noted the reasonable adjustments you have advised it you require over the course of your complaints and that it attempted to comply with these adjustments when it issued its decision letter to you.*

- *I have not upheld your complaint and do not think that you will be able to take this issue any further through this Complaint Scheme.*

The complaint

What the complaint is about

2. The FCA summarised your complaint that:

.... you feel the FCA should ensure that regulated firms take more responsibility for ensuring that their vulnerable customers have more options for One Time Password (OTP) verification as you struggle with your mobile phone due a lack of signal and your disabilities.

What the regulator decided

3. The FCA said that it could not investigate your complaint under the Complaint Scheme because the 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.

Why you are unhappy with the regulator's decision

4. On 21 April 2022 and in later calls you have asked me to investigate a complaint about the FCA. I have broken your complaint down into three elements.
5. You are not happy with the FCA's decision letter. You have set out in your telephone calls to my office that you do not feel that the FCA's decision letter correlated with the call you had with the FCA Complaints Team on 4 April 2022. (Element One)
6. You have also set out that you are frustrated that the FCA signposted you back to organisations that you had already advised them you had been to and failed to get assistance. (Element Two)
7. You set out that you found that the documents that the FCA sent you were not appropriate for your communication needs. (Element Three)

Preliminary points (if any)

8. In your calls with my office you have said that you feel frustrated that every time you go through an organisations complaint process that you reach the end and

you are told that your complaint is not within the remit of that complaints process.

9. I must tell you that I am also limited at looking at complaints and can only look into those that fall within the remit of the Complaints Scheme as set out by the Financial Services Act 2012 and by the Financial Services Market Act 2000. This means that I can only look at complaints that do relate to the relevant functions of the FCA.
10. It is my understanding one of the remedies you are seeking from the Complaints Scheme in relation to this complaint is for policies to be introduced for regulated firms which are specifically for neurodiverse/ADHD individuals. Under the Complaints Scheme I am not able to look at complaints that look at the legislative function of the FCA, this includes its function in making rules and issuing general guidance. As such this is unfortunately a remedy that is not available under the remit of the Complaints Scheme, so this is not remedy that the FCA or I will be able to provide for you.
11. In your email to my office dated 24 January 2023, you noted that the Financial Ombudsman Service (the FOS) have told you that they do not have the power to address the equality matters under its remit, this is also case for the FCA and myself.
12. I believe that the FCA's obligations under the Equalities Act do not fall under its relevant functions under the Complaint Scheme as such any complaints relating to this do not fall under the Complaints Scheme. In your email dated 24 January 2023 you set out that if these issues relating to failures under the Equalities Act were not addressed you would need to escalate these matters to the office of the Prime Minister. If you consider that there are any improvements to the legislative provisions around the relevant functions of the FCA or my office that you believe should be implemented, you should write to your local member of parliament or to the relevant government department to pursue on your behalf.

My analysis

13. I acknowledge that you have set out that you have a number of complaints across a number of Ombudsman and complaints organisations, across a

number of different areas. You have expressed how frustrated you find the experience of managing multiple complaints and having to explain your circumstances and need repeatedly to different organisations, having to filter the different issues with each organisation.

14. You have explained the work and campaigning you have carried out over the years to champion the cause for organisations to work to build frameworks to assist people with neuro-diversity needs in future, so that others can avoid the experiences you have had.
15. It is clear that at this time such frameworks are not in place and that you are trying to work with the individual organisations who also do not appear to have the relevant measures in place to meet such needs.
16. At the time of writing my preliminary report you told my office that you did not currently have the support you need to communicate your reasonable adjustments and the specifics of your complaint to my office. You have now had assistance from a support worker who has assisted you in corresponding with my office and provided your response to my preliminary reports on 7 March 2023. I hope that she is also able to assist you in moving forward with your other matters too.
17. I have written this report taking into account the points you have made to my office over the phone about your needs. Whilst I have a small office, it has tried to make reasonable adjustments where possible.
18. I have noted in your calls that you have set out that you prefer one point of contact within an organisation, so my colleague who has previously spoken to you will continue to be your point of contact, provided she is not away from the office, for reasons such as annual leave, sickness etc. You have said that you may need to provide your responses by phone. As my colleague has previously explained if this is how you chose to respond you can call our service desk and let them know that you require a call from my colleague to note your response. My colleague will not be able to discuss the merits of this report with you.
19. In the meantime, with your agreement I have conducted my investigation using the telephone call recording of the call you had with the FCA complaint's team on 4 April 2022, to understand your complaint points and I have also listened to

the calls you have had with my office to inform my understanding of your complaint.

Element One – Unhappy with the FCA decision Letter

20. I have had access to the FCA file into your complaint and I have reviewed the FCA decision letter alongside the call that took place between you and the FCA on 4 April 2022. I am satisfied that the complaint set out in the FCA decision letter did correlate with the complaint which the Complaints Team relayed back to you in that phone call.
21. I am also satisfied that the FCA were correct to set out that this complaint mainly relates to its legislative and rulemaking function and as such is excluded under the complaints scheme. For this reason, I have **not upheld** this element of your complaint which I know will disappoint you.
22. Whilst the FCA has not been able to investigate your complaint about the banks One Time Password verification processes on an individual level, its decision letter did set out to you that it has passed the information you have provided about one of the banks to the supervision hub, who are responsible for logging, supervising and potentially following up on regulatory issues and breaches by banks. The FCA has also set out that it is unable to let you know what action, if any, its supervision team have taken in relation to the information you provided to the FCA.
23. I understand that this is frustrating and that you may feel that the FCA has not paid any attention to the information you provided. In my role as the Commissioner, I do have access to your complaint file, and whilst I am restricted by the same confidentiality restrictions as the FCA, what I can usually do is to confirm to you that the FCA has in fact passed the information onto the relevant team to action. In my preliminary report I noted that I had not been able to locate relevant information to confirm this at that time. In its response to my preliminary report the FCA has confirmed that its investigator referred to the information from the FCA systems to confirm that your concerns were accurately logged for the relevant supervision teams to see and consider in their day-to-day supervision. In view of the information now provided to me in the

FCA's response, I am satisfied that the FCA did not ignore the information you provided to it and it was processed in an appropriate way.

Element Two - Signposting

24. I understand that you are frustrated that the FCA signposted you back to organisations which you have previously told them you have already approached without success.
25. I consider that the FCA signposted these organisations with the best intentions to ensure that you were aware of all other potential options as it recognised that it was unable to help you any further with your individual issues under the Complaints Scheme.
26. I **uphold** this element of your complaint because I feel that given the detail you had provided in your calls about all your previous issues and complaints you have undertaken, that you found the FCA providing this information to be unhelpful and frustrating.
27. I have taken your frustration on board and whilst noting that I am unable to take your complaint any further under this Complaints Scheme, I accept that as much as I want to provide you with an alternative route to follow, I know that you feel you have already tried and exhausted these paths.

Element Three – Not meeting your communication needs

28. You have said that the FCA documents were not appropriate for your communication needs.
29. As discussed in your calls with my office, you have not had the help you needed to provide my office with the adjustments you need my office to make. I know that you had an earlier complaint with the FCA and that you on a number of occasions have flagged that the case manager on the previous complaint understood your needs.
30. The FCA has provided my office with the details of the adjustments it had noted on its system for you. I can see that the FCA updated these requirements over time as it received your further requests. The FCA have noted that there were occasions when you called and left messages and when it attempted to call you and was unable to speak with you, so it followed up its call in writing. I am

satisfied that the FCA had recorded your reasonable adjustments and it appears to me from the information available that it took steps to apply these in its communications with you when reasonably possible.

31. As such I have **not upheld** this element of your complaint as it appears that the FCA had recorded your requirements and tried to meet them where possible.
32. In your responses to my preliminary reports, you and your support worker have both expressed that you do not consider that the FCA or my office have met your needs appropriately. I am sorry that you feel this way. I note that my office has tried to meet the adjustments you have set out. This has included and is not limited to providing you with substantial extensions of time to provide your response to my preliminary responses, to afford you the time to obtain a support worker to assist you with your communications with my office.
33. I am aware that unfortunately our telephone recording program did fail on one occasion (16 January 2023) when you called. I am very sorry that this occurred. It was our intention to record the call, but the software system failed on that one occasion. We have liaised with the organisation who supply the software to try and ensure that this does not occur in the future.
34. Your support worker noted in her email to our office on 7 March 2023 that you feel that services need to adapt to your needs and the needs of other disabled people. She set out that this is a legal requirement laid out by the Equalities Act in order to prevent discrimination. I agree that it is important for all organisations to adapt to meet the needs of people with specific needs, and my office will continue to try and meet those needs within our capabilities as a small office, making reasonable adjustments.

My decision

35. In summary, I have **upheld Element Two of your complaint**. I have **not upheld** Elements One and Three of your complaint
36. This is my final report about your complaint and concludes my investigation.

Amerdeep Somal
Complaints Commissioner

20 March 2023