

06 January 2023

Final report by the Complaints Commissioner**Complaint number 202201142***The complaint*

1. You have been in correspondence with the FCA about regulated Firm X and contacted it on many occasions regarding this firm first starting in 2014. You alleged that this firm breached your original mortgage contract and you were unhappy with various aspects regarding this issue.
2. Over the subsequent years the FCA issued five investigation reports on several complaints from you, focused primarily on
 - a. The FCA with connection to Firm X (and sometimes about Firm Y);
 - b. Your unhappiness with how your contact with the Supervision Hub and the FCA complaints team have been handled.
3. The FCA did not uphold any of your complaints in connection with Firm X and Y and referred you to the Complaints Commissioner over the years. You did not refer your complaint to the Complaints Commissioner over the years (until 2 November 2022, see below), but continued to correspond with the FCA.
4. With regard to your contact with the Supervision Hub and the Complaints Team, although the Complaints Team felt there was one occasion when the Supervision Hub should have asked you for evidence to substantiate your claim that an issue you were describing regards Firm Y was affecting thousands of people, in general it did not find that FCA staff had not handled the calls with you well under sometimes difficult circumstances. Finally, on 17 January 2020 the Complaints Team wrote to you that it would only communicate with you going forward in writing.

5. On 5 July 2022 you made yet another complaint to the FCA about its supervision of Firm X and on 8 August 2022 you made a complaint that FCA members of staff were not returning your calls.
6. The FCA accepted your complaint for investigation and issued a decision letter to you on 4 October 2022 in which it explained that it had investigated your complaint about its oversight of Firm X in a decision letter issued 8 August 2019 in which it gave you referral rights to the Complaints Commissioner and that it would not look at this matter again. It also said that it had informed you on 17 January 2020 that it would only communicate with you in writing and therefore did not uphold your complaint about its staff not returning calls: it said you were aware that the FCA might not do so.
7. The FCA also apologised:
 - a. That it had initially told you that it would investigate your complaint but then wrote to say that it would not as it had already done so in 2019 and;
 - b. for the delay in issuing its decision letter to you.

My analysis

8. You submitted your complaint to the FCA on 5 July 2022. On 13 July 2022 you contacted my office to ask that I intervene in your complaint as you felt the FCA were taking too long to address it. I declined to do so as I considered it would be desirable for the FCA to complete its own review in the first instance as that is usually the swiftest way of resolving matters.
9. You continued to email my office challenging my decision not to intervene and submitted a formal service level complaint which I deemed was not a complaint about service levels my office provided you but was discontent with my decision not to intervene. It was explained to you that complainants who wish to challenge the Complaints Commissioner's decision may do so by applying to the High Court (at their own expense) to seek leave to apply for a judicial review of the Commissioner's decision.
10. After the FCA issued its decision letter on 4 October 2022 you referred your complaint to me. I declined to investigate your complaint about the FCA in connection with Firm X because you were out of time to bring it to me, and you

did not provide any good reason why you did not refer your complaint to the Complaints Commissioner within three months of receiving the FCA decision letter on this matter on 8 August 2019. You have told me ‘that we were in a Covid period, and I was in turmoil fighting this case for some 6 years mainly as Lip. This affected my mental health as recorded by my GP and is another good reason for delay. In addition I was recovering from serious injuries after a car crash that instigated the wrongful proceedings commenced by X in 2017’, I sympathise with your situation but I note you continued to correspond with the FCA after it issued its decision letter to you on 8 August 2019; therefore you could have corresponded with my office and also referred the matter to me as well.

11. I appreciate you do not agree with me that your complaint is out of time, however, that is my decision on the matter. You recently made a data subject access request to my office and have requested that I do not issue my final report until you have reviewed the data and commented on the FCA’s actions (or lack of) with respect to X. My office has repeatedly told you that neither the FCA nor I have reviewed your complaint about the FCA in connection with X as it is out of time. This report is only concerned with the time bar issue and I do not find that you have provided sufficient reason for the time bar to be lifted.
12. I explained to you that I could look at your complaint about how FCA staff handled your complaint and several times I asked you for details about this complaint and why you were unhappy. Your response was that ‘Details of the complaints about staff behaviour at FCA were already provided and you should check with them as they recorded it’
13. Bar any further details from you, despite having been given the opportunity to do so, my understanding is that you are referring the matters reviewed in the FCA decision letter to me for review. I will turn to them below:
14. I understand you are unhappy that the FCA would not return your phone calls, but I agree with the FCA that you were aware as of 17 January 2020 that this would be the case. The FCA said in its decision letter dated 4 October 2022: ‘Although we spoke to you on 6 July 2022 to take your complaint, you should have been aware that we may not have spoken with you over the telephone due

to your conduct during our previous investigations'. Therefore, I do not uphold your complaint as you would have been aware from 17 January 2020 that the FCA would not speak with you on the telephone.

15. There is considerable background information on the interactions between the FCA and you leading up to the FCA's decision in 2020 to only correspond in written form with you. On 13 August 2019, the FCA issued a decision letter to you which covered various matters connected to the nature of various telephone calls between the FCA and you which it felt had become 'untenable' and which it had terminated. You did not refer that decision to the Complaints Commissioner at the time.
16. On the matter of the FCA accepting your complaint for investigation, and subsequent delay, it has apologised for both. I appreciate that you were left with the impression for some three months that the FCA would be investigating your complaint, and therefore you were left disappointed when the FCA failed to manage your expectations. The FCA has apologised, and I agree that this is an appropriate remedy. Having said that, I invite the FCA to comment whether it considers this is a one off unfortunate incident and whether it is confident it has robust enough systems to ensure that other complainants do not have their expectations mismanaged in a similar way.

My decision

17. I appreciate you are disappointed but my view is that your complaint about the FCA in connection with X and Y is out of time to be referred to me and I will not investigate it. I also agree that the FCA was right not to investigate it. I am however critical of the FCA for initially having promised you it would investigate your complaint, and I note the FCA has not responded to my invitation to explain if it considers this is a one off unfortunate incident and whether it is confident it has robust enough systems to ensure that other complainants do not have their expectations mismanaged in a similar way. I invite it to do so in response to my Final Report.
18. I have reviewed your concerns about the FCA not answering phone calls from you but for the reasons given above, I do not uphold your complaint.

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Complaints Commissioner
06 January 2023