

08 November 2022

Final report by the Complaints Commissioner**Complaint number 202201170***The complaint*

1. On 20 August 2022 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

My understanding of your complaint is that you are unhappy with the FCA's annual fee increases, which you believe to be excessively disproportionate and that as a result, you are struggling to survive as a company.

You have also advised that you complained about this previously, under Case reference: 207754021. However, you believe your concerns were overlooked and the matter was not formally investigated.

What the regulator decided

3. The FCA excluded your complaint and advised you:

After carefully considering the information, you have provided, we have concluded that we cannot investigate your complaint under the Complaints Scheme.

This is because the Complaints 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.

The 'relevant functions' of the FCA are defined in the Complaints Scheme and Part 6 of the Financial Services Act 2012, and broadly speaking cover the FCA's regulatory functions that arise under the

Financial Services and Markets Act 2000, or such other functions as may be ordered by HM Treasury.

Expressly excluded from the definition of 'relevant functions' is anything arising from the FCA's exercise of legislative functions or standards review functions. 'Legislative functions' of the FCA include the making of rules, and the issuing of general guidance.

As per our letter of 21 October 2021, where you have raised the same allegation as prescribed above (albeit this relates to new year fees), unfortunately, our decision remains the same. This is because your complaint continues to relate to the performance and exercise of our legislative functions. Therefore, your complaint is excluded from being considered under the Complaints Scheme, as confirmed in paragraph 3.4(c) of the Scheme, and cannot be investigated again.

I am very sorry to hear of your dissatisfaction and can appreciate this is not the response you were hoping for.

Why you are unhappy with the regulator's decision

4. You have asked me to review the FCA's decision.

My analysis

5. You have told me:

The fee has increased from £326 to a whopping £766 per annum. In the last two years it has increased by £200 each year without any justification.

As a result I have been affected financially by these recent excessive disproportionate fees and my business is struggling to survive in this current financial climate.

The FCA has not considered individual circumstances and appears to have taken a blanket approach with fees. The financial damage and consequences have not been thought through as the FCA seems to have a lack of understanding as to how small businesses work.

I have complained previously to the FCA about their fees, but my concerns were overlooked. We received a letter from them dated 20.10.21 where they have admitted that this part of our complaint was not formally investigated.

6. I can sympathise with your situation, however your complaint about your annual fee relates to the FCA's legislative functions as such your complaint about this fee falls outside the Complaints Scheme and for those reasons, I am unable to investigate this matter for you. Although your complaint is excluded from the Complaints Scheme, I am pleased the FCA provided you with information on why and how the fees are calculated in its letter to you in October 2021.
7. Whilst your complaint is excluded from the Complaints Scheme, there may be a debate to be had about the merits of the FCA's approach to fees, I would suggest you may want to contact your MP about this matter.

My decision

8. For the reasons outlined above, I am unable to investigate your complaint.

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Complaints Commissioner

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