

22 May 2023

**Final report by the Complaints Commissioner****Complaint number 202201693***The complaint*

1. On 6 January 2023 you asked me to investigate a complaint about the FCA.

*What the complaint is about*

2. The FCA summarised your complaint as follows:

Part One – The FCA poorly administered your applications.

Part Two – The FCA pressured Firm X into withdrawing your application.

Part Three – The FCA failed to interview you, which you consider would have been appropriate given the complexity which you see in your case.

Part Four – The FCA handled a call with you in a rude and dismissive manner.

*What the regulator decided*

3. The FCA did not uphold your complaints.

*Why you are unhappy with the regulator's decision.*

4. You referred a complaint to me and said that your applications for SMF 16 and SMF 17 with Firm X were poorly administered by the FCA and what you wish to achieve as remedy under the Complaints Scheme is

‘Compensation for my loss of salary and benefits. To apologise for the way I have been treated. To exonerate me fully and refer to the accurate version as per the Information Commissioner Office steer so that future applications are considered professionally and appropriately’.

### *My analysis*

5. The background to your complaint is that Firm X submitted two applications to the FCA for your authorisation as an SMF 16 and SMF 17. The firm ultimately withdrew both applications. You allege you were informed by the firm that the FCA had pressured it into withdrawing the applications. You say because of all this you lost your position with Firm X which has disadvantaged you financially.
6. It is your view that throughout the process, the FCA made incorrect assumptions about your fitness and propriety and did not engage with you, through an interview, to ascertain the facts of the case. You also allege FCA authorisations staff were dismissive and disrespectful to you during the process.
7. I have carefully reviewed the evidence before me: It is the same chronology of events which the FCA reviewed connected to the two applications in question. My comments are as follows:
8. I have not seen any evidence that the FCA pressured Firm X to withdraw your applications. You say you were told by Firm X that it felt pressured to withdraw your applications. I cannot comment on the conversation Firm X had with you when it allegedly told you the FCA was pressuring it to withdraw the application, there is no record of this conversation, and even if there were, it is not my role to review the actions of Firm X, including any reasons it chose to give you for withdrawing your application. What is clear however, is that the FCA Authorisations Team wrote to Firm X to express the exact same concerns which were also communicated to you, and which were also recorded in the second Form B submission, which is that it had concerns over FIT 2.1 Honesty and Integrity and FIT 2.2 Competency and Capability with respect to your application.
9. The FCA did not, however, in my view, pressure the firm to withdraw the application.
10. You have said that 'it was clear to me that he [FCA staff member] had misinterpreted the situation, correspondence, and my tenure at Firm Y.' My view is that any challenge to the FCA's opinion should have been raised by progressing your application with or without the support of your firm, as advised to you by the FCA. It is not a matter for the Complaints Scheme.

11. Similarly, the FCA has told you that both Forms B will be retained on your file. I appreciate you are not happy with this, but it is also not a matter for the Complaint Scheme.
12. I can however, review matters related to process. Although the FCA did not arrange a face to face meeting with you during the application process, I consider there was ample opportunity for you to engage with the FCA through other channels of communications. Ultimately, the issue boils down to interpretation of the facts, which were established, rather than lack of opportunity to establish the facts.
13. It is clear that the FCA and you have different opinions on what and how, if anything, should have been disclosed by you on your applications about your tenure at Firm X as well as the issues surrounding competency. However, that is not a matter the Complaints Scheme can settle for you.
14. In terms of process, I am satisfied the FCA has not been dismissive or unprofessional in its dealings with you. I appreciate you are disappointed with the outcome of your applications, as well as the loss of your employment with Firm X, but in my view that is not the fault of the FCA.

*My decision*

15. I note you do not agree with my decision, however, for the reasons above, I do not uphold your complaint that your applications were poorly administered by the FCA

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Complaints Commissioner  
22 May 2023