

21 June 2023

**Final report by the Complaints Commissioner****Complaint number 202201762***The complaint*

1. On 13 March 2023, you asked me to review a complaint about the FCA.

*What the complaint is about*

2. You have concerns connected to Firm X's zero interest loans.

*What the regulator decided*

3. The FCA summarised your complaint in four parts as follows:

## Part One

You didn't receive a response to your letter dated 7 October 2022.

## Part Two

When you did receive a response on 26 October 2022 following resubmission of your letter and attachments, the Hub didn't summarise your concerns correctly.

## Part Three

Your attempts to get an explanation as to how we incorrectly summarised your concerns and how the information had been logged was 'stonewalled' by the Supervision Hub on multiple occasions.

## Part Four

Following the Financial Ombudsman Service's conclusion to your complaint, you provided us with their outcome report on 31 December 2022. You didn't receive a response, so you chased up your email on 12 January 2023 for a reply but have not received a response to date.

4. The FCA upheld Parts One, Two and Three but did not uphold Part Four. It explained: 'In the email from the Hub of 14 November 2022 it reads 'As such, this is our final response on the subject of the information you provided and how we may use it. Any further correspondence received from you on this subject will not be responded to.' This response is consistent with our unacceptable behaviour policy and I am afraid I cannot uphold this part of your complaint as the policy has been followed and this is the reason you have not received a reply to your emails after 14 November 2022. Here is a link to our unacceptable behaviour policy for you to better understand why further communication from you on this matter was not responded to. <https://www.fca.org.uk/contact-us/unacceptable-behaviour-policy> Under the heading Unreasonable behaviour the relevant parts which meant the Hub would not respond are: • persistent refusal to accept a factually correct answer • persistent refusal to accept explanations relating to what we can or cannot do.

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

5. You wrote a detailed letter to me explaining the background to your interaction with the FCA. You have expressed concern about how post is processed in general by the Supervision Hub and whether other people's post also goes missing. In particular, you raise the following two points:
  - a. You are not certain whether the Supervision Hub has amended the flawed summary of your submissions. (Element One)
  - b. You do not understand why Part Four was not upheld. (Element Two)

*My analysis*

6. The background to your complaint is that you referred information to the Supervision Hub on 7 October 2022 about Firm X's zero interest credit loans. The Supervision Hub did not scan your post, and when you followed up later to request an acknowledgement, it did not summarise your concerns correctly. Despite repeated attempts by you to ensure that a correct summary be made available to the FCA Supervision area, you were not provided with a revised summary and eventually you were told that the Supervision Hub would no longer correspond with you on this matter on 14 November 2022.

7. Sometime after this ( you say on 21 October 2022) you took your case to the Financial Ombudsman Service (FOS), seeking clarity on one of the terms of the agreement which stipulated that Firm X can add new charges in respect of inflation and other costs. The FOS was able get the firm to explain that such charges would only be applied if the customer requested the loan to be modified or if a debt collections agency had to be appointed in the event the customer did not maintain payments.
8. You did not feel satisfied that the explanation above adequately addressed the reference to inflation, and so you emailed the FOS decision to the Supervision Hub on 31 December 2022 pointing this out. The Supervision Hub did not respond to you.

#### Element One

9. The FCA complaints Team has upheld your complaint that the Supervision Hub did not accurately record your concerns, and it has assured you that it has made your original letter available to the Supervision Area responsible for Firm X.
10. The FCA has confirmed that the Supervision Hub now has an accurate summary of your complaint and has provided constructive feedback to the Supervision Hub on this matter.
11. I consider this matter now to be resolved.

#### Element Two

12. You have referred Part Four of the FCA decision to me. I do not agree with the FCA's decision on this element of your complaint and I uphold this element of your complaint.
13. The background to this particular issue is that on 14 November 2022 the Supervision Hub wrote to you, after yet another attempt by you to obtain an accurate summary of your complaint, that the information had been made available to the appropriate supervisory team and that the Supervision Hub would no longer respond to any correspondence from you on this subject.
14. On 31 December 2022, you wrote to the Supervision Hub again and submitted your FOS decision, as well as your concerns about the fact that Firm X's

contract terms are unclear with reference to potential costs in relation to inflation. The Supervision Hub did not respond to you, and it did not make the information you provided available to the supervisory area.

15. In my view, the information you provided on 31 December was different from your previous correspondence, and the Supervision Hub should have acknowledged it and forwarded it to the supervisory area. Not least, you had included a FOS decision which was issued subsequent to any previous correspondence you had with the Supervision Hub. I am pleased to see that the FCA Complaints Team has also realised this and has now forwarded your correspondence of 31 December 2022 to the supervisory area.
16. Given that the FCA Complaints Team has now forwarded your correspondence of 31 December 2022 to the supervisory area, in my view it should have:
  - a. Recognised that it was wrong of the Supervision Hub to invoke an unacceptable behaviour policy response on 14 November 2014 with respect to your correspondence given that the correspondence was continuing only because the Supervision Hub had failed to correct its summary of your complaint rather than because you were persistent in refusal to accept a factually correct answer or persistent in refusal to accept explanations relating to what the FCA can or cannot do.
  - b. Recognised that in any event your communication on 31 December 2022 was sufficiently different that it should not have been captured under the Supervision Hub's wrongly invoked, in my view, unacceptable behaviour policy and
  - c. Reiterated to the Supervision Hub the importance of distinguishing new/different information received from complainants on a given topic rather than imposing a seemingly 'blanket ban' on communication.
17. I recommend that the FCA:
  - a. accepts the points above: the FCA has confirmed it has done so, and that with respect to paragraph 16 c above the FCA considers it has upheld this element of complaint and has given feedback to the Supervision Hub.

- b. Asks the Supervision Hub to lift the unacceptable behaviour policy with respect to your correspondence on this topic. The FCA has accepted this recommendation.
- c. explain what recommendations it made to the Supervision Hub to ensure these mistakes are not repeated: the FCA has done so.
- d. apologise to you for poor complaint handling with respect to this element starting from your contact with the Supervision Hub through to your interaction with the FCA complaints Team. The FCA has confirmed that it has apologised to you where it upheld parts 1, 2 and 3. In addition, it also apologises 'on behalf of the Supervision Hub for imposing limitations on our contact with him, when this should have been avoided'.

*My decision*

18. I have ascertained that the correct information is held by the Supervision Hub under element one of your complaint. I have upheld element four of your complaint and made four recommendations to the FCA which it has accepted.

Amerdeep Somal

Complaints Commissioner

21 June 2023