

17 July 2023

Final report by the Complaints Commissioner**Complaint number 202201774***The complaint*

1. On 31 March you asked me to review a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint in its decision letter dated 31 March 2023 as follows:

Part one

You are unhappy with the handling of your case by an FCA staff member. You state that they work part time, and this has resulted in an unreasonable delay in them responding to you.

Part two

You are unhappy with an FCA staff member who you state has failed to release money from your account.

Part three

You are unhappy with an FCA staff member who you state has failed to supply you with documents concerning your case.

Part four

You are unhappy with an FCA staff member who you state has failed to resolve your banking issue.

Part five

You are unhappy with the request the FCA has made in relation to child maintenance payments. You state that the request is “unreasonable and groundless”.

Part six

You are unhappy that the FCA has been unable to give you a clear answer to your query regarding the proposed property purchase. You have asked whether you can use the money that has been retained but have not received a clear answer.

To resolve your complaint, you would like someone to handle your case who works full time.

What the regulator decided

3. In its decision the FCA said the following:

I have not upheld your complaint.

I can appreciate that you are in a stressful difficult situation that has been ongoing for a considerable time. I can also understand how it may feel uncomfortable being asked to provide personal information to the FCA.

Unfortunately, as there is a Restraint Order in place, the FCA need to understand the need for any changes or requests in order to understand the amounts being asked for. I believe the team tried to respond to your questions as best as they were able to and sought to make their questions and requests as clear and straightforward as much as possible.

I have not considered the Restraint Order itself or the provisions under the Order, as this is a matter for the Court and not the Complaints Scheme. If you have any questions about the Restraint Order or wish to change anything agreed under the Order then you would need to bring the matter to the Court.

It is my understanding that the next court hearing is scheduled for 4 April 2023.

Why you are unhappy with the regulator's decision

4. In your complaint to my office dated 31 March 2023, you set that out you 'fail to see how the FCA is allowed to investigate complaints about themselves and conclude that they have done nothing wrong.' (Element One)
5. My understanding is that you are not happy with the FCA decision letter and you have asked that to resolve this complaint you are looking for the FCA to

respond in a reasonable time and put someone who works full time on your case.

Preliminary points (if any)

6. Your complaint stems from an ongoing relationship with the FCA Criminal Prosecution Team relating to a restraint order imposed by the Courts which has been in place since 2018. The restraint order impacts your financial affairs and you had contacted the FCA to try to increase the amount of money you receive for living expenses and to release additional funds for various reasons. The FCA has requested additional information that you deem to be personal and unnecessary for the FCA to request. This has been, and clearly continues to be a very stressful and frustrating experience for you.
7. The restraint order has been issued by the courts, as such any issues that you have in relation to the restraint order or any changes you want to be made to the restraint order are matters for the court to consider and cannot be considered under the complaints scheme. I understand that you may have had a further court date since you made your complaint to my office. If you did not raise the issues with the court on that occasion, you may wish to do so at a future date if the matter is still not concluded through the courts, as that is the appropriate forum.

My analysis

Element One

8. In your complaint to my office, you said that you fail to see how the FCA is able to investigate complaints about itself and conclude that it has done nothing wrong. I appreciate that you think that it is not appropriate for an organisation to self-review complaints, however, I consider that it is entirely appropriate that the FCA was given this opportunity.
9. It is common practice in most industries that companies have an internal dispute resolution mechanism to try and resolve complaints before they are taken to an external body such as an ombudsman, commissioner or a tribunal. Organisations are best placed to review what has taken place against their own guidelines, rules as well as relevant legislation and regulations. If following the internal dispute resolution process, the matter is still not resolved, that is the

point at which it is appropriate for another entity to be brought in to consider whether the complaint has been investigated correctly and where appropriate conduct its own investigations into the matters complained about.

10. As such, I think that it is appropriate for the FCA to investigate complaints about itself and consequently I **do not uphold** this element of your complaint.

Element Two

11. Your complaint to my office did not set out specifically how you disagreed with the FCA decision letter, only that you did not see how it could investigate a complaint about itself and that you wanted the FCA to respond in a reasonable time and to assign someone to your case who works full time. From your complaint I have concluded that you disagree with the FCA decision letter and wanted me to review this.
12. Firstly, I note the outcome that you would like to achieve through this complaint is for your case to be assigned to someone who works full time, but this not a recommendation that I am in a position to make under the complaint scheme. I am not able to consider complaints about the regulator's relationship with their employees, and the roles and work patterns of their employees would fall into this category. Whilst I do acknowledge that there was a slight delay at the start of your interactions in relation to the increase in your living expenses, I can also see that the case officer apologised for that at the time and that generally the case officer then responded within reasonable time frames from that point onwards.
13. Moving on from this point, I have reviewed the decision letter along with the complaint investigation file that includes the correspondence between yourself and the FCA, I do not see any merit to me setting out separately each of the six parts of your complaint to the FCA in my analysis and repeating the background to each part, the FCA's position and my findings.
14. Instead, I have summarised that the key aspects of your complaint that were that the FCA did not handle your case well, you consider that this is as a result of a team member being part time which has resulted in delays in your case. You feel that the FCA has failed to release money to you, failed to supply you with copies of documents and failed to resolve your bank issue. In addition to

this you consider that the requests made by the FCA were unreasonable and groundless and that the FCA has failed to provide you with a clear answer to a query about using retained money towards the purchase of a property.

15. The restraint order is in place to ensure that the value of restrained assets are preserved pending the making (or enforcement) of a future confiscation order: s.69 of the Proceeds of Crime Act 2002. Living expenses are a permitted exception to restraint orders, however these are only for an amount necessary for the purposes of reasonable living expenses. The FCA is required to monitor the restraint order and consider whether living expenses are 'reasonable'.
16. It is therefore appropriate that when there is a change or further releases requested to the retained money, that additional information is requested by the FCA to support any proposed changes or further releases of the money. Whilst you may not feel that the information requested was relevant and you have set out that you do not trust the FCA to provide them with some of the requested information, it is my opinion that the FCA was entitled to request the information before it considered each of the requests you had made. The requested information appeared to be appropriate and the failure to provide the information has ultimately resulted in the delays to your requests to the FCA being considered and actioned.
17. From my review of the information made available to me, I have to conclude that I cannot uphold this element of your complaint. In my investigation I have found that for each of the six parts to the FCA decision letter I could see that the FCA has reviewed the relevant correspondence, considered the information available, considered its own guidelines appropriately to reach the correct conclusion that each part of your complaint was not upheld. As such I am satisfied that the FCA carried out the appropriate steps to investigate your complaint and taking that into consideration that its decisions to **not uphold** each of the six parts was reasonable.

My decision

18. I have **not upheld** your complaint.
19. This is my final report about your complaint and concludes my investigation.

Amerdeep Somal
Complaints Commissioner
17 July 2023