

05 September 2023

Final report by the Complaints Commissioner

Complaint number 202300208

The complaint

1. On 18 May 2023 you contacted my office as you were unhappy with the FCA's decision letter dated 16 May 2023.

What the complaint is about

2. The FCA set out in its scope letter to you on 24 April 2023, that your complaint was that you are 'unhappy with an email that you received from the Supervision Hub stating that they are no longer considering your complaint about loss of important data by Organisation X while you worked there'.
3. The scope letter also set out that you did not consider that the Supervision Hub had completed their job correctly or taken the issue seriously.

What the regulator decided

4. In its decision letter dated 16 May 2023, the FCA complaints team set out that it did not uphold your complaint because it found that the quality of information and customer service that you received met the FCA's standards and there were no concerns with how the Supervision Hub interacted with you.
5. It set out that as this is a matter outside of the FCA's regulatory remit and the Supervision Hub had already provided you with all the relevant guidance or advice that they could give, it did not consider that Supervision Hub's email to you on 14 March 2023 stating that they were unable to help you any further with the matter was unreasonable given the circumstances.
6. In its decision letter the FCA repeated the details of the referrals previously provided to you of organisations that might be able to assist you with your issues going forward.

Why you are unhappy with the regulator's decision

7. Following the receipt of the FCA's decision letter, you have restated to my office that you are unhappy with an email that you received from the Supervision Hub (the Hub) stating that they are no longer considering your complaint about loss of important data Organisation X while you worked there.
8. You have advised that you consider that the interview that you had with Organisation X was illegal and you feel that this has not been investigated properly.
9. You feel that the Hub has not done its job correctly or taken the issue seriously.

My analysis

10. I am very sorry to hear about the issues you have experienced with your former employer, Organisation X, and the upset that it has clearly caused to you.
11. In my investigation of your complaint, I have reviewed the information relating to your complaint including the correspondence between you and the Hub, alongside the complaint team's decision letter which you did not agree with.

My investigation has led me to conclude that the position set out in the FCA's decision letter was reasonable and it was correct not to uphold your complaint. As such my position is that I **do not upheld** your complaint as I consider that the Hub did take the issues you raised seriously and it handled your complaint in a reasonable and appropriate way. I will set out my reason for my decision below.

12. Your complaint stems from the actions of employees of your former employer in meeting you attended, and your former employees failure to satisfactorily address the complaints you raised with them. Having failed to obtain satisfactory resolution to your complaints through your former employer, you then contacted the FCA who you believed were the appropriate body to follow up on your former employer's failure to address your complaint.
13. In your correspondence you have identified that you thought that the FCA were the appropriate body to raise your complaint with firstly because Organisation X is a mutual society and the FCA regulates mutual societies. Secondly, you

have noted that Organisation X is a funeral provider and you believe that the FCA regulates funeral providers.

14. Through your interactions with the Hub in relation to the initial complaint point, a number of further issues became apparent and you sought assistance from the Hub in relation to these additional issues. In its decision letter the FCA set out the what the issues you raised were, the date you raised the issue and detailed the response and referrals the Hub had provided to you. I see no merit it restating the full contents of the decision letter word for word, and I will instead refer to key points below.
15. Your original complaint about Organisation X to the FCA were about issues that occurred in meetings which led you to resign immediately and included allegations of sexual assault against you. In relation to this complaint point as noted in the FCA decision letter that the Supervision Hub in its response to your complaint about Organisation X set out that it is not in the FCA's remit to investigate individual complaints and that it does not have jurisdiction to investigate employment disputes. The Hubs response provided referrals to the Advisor Conciliation and Arbitration Service in relation to the employment dispute and to the Citizens Advice Bureau for general legal advice. It informed you that the information about Organisation X would be provided to the relevant supervisory team but that it would not be able to disclose any follow on information. Having reviewed the relevant correspondence I consider that the Hub's response was appropriate.
16. You followed up your original complaint to the Hub with emails in relation to your complaint to the police. In this correspondence you set out that you felt that your complaint in relation to the sexual assault had not been taken seriously. The Hub response reiterated that it had logged the information you had provided with the relevant area of the FCA. The Hub encouraged you to continue your direct contact with the police in relation to the criminal aspect of your complaint and provided the details of MIND, a mental health charity to contact, if it would benefit you. Again, having reviewed the correspondence I feel that the response was reasonable and appropriate. I appreciate that the FCA had considered the level of distress you appeared to be experiencing and sign posted an organisation that you could approach.

17. In further emails to the FCA you set out that the meetings that had taken place with Organisation X were illegal and that you believed that Organisation X had allegedly lost data relating to the meetings which you felt should be investigated. In relation to these points the Hub again set out the remit of the FCA and identified that that the role of resolving individual disputes with organisations sits with FOS and not the FCA. A slight **criticism** I would note about the Hub's response at this point, is that you did then have to follow up on this and request the contact details to raise a complaint with the FOS. In my experience the FCA usually provide a referral to FOS when it sets out that it cannot investigate individual complaints about organisations who are subject to the legislation it regulates. Usually, it does explain that it cannot say that the FOS will investigate a complaint (or not) as this is for the FOS to determine whether a complaint falls within its remit, but you should have been provided with the details to pursue this line of enquiry at that point in time. I do note that the FCA did provide the relevant contact information for FOS a few days later following your request. I hope that you have been able to contact the FOS and they have been able to assist you in some way.
18. In relation to breaches made by Organisation X as a mutual society, on 7 March 2023 the Hub set out what the next steps were, if you as a member of the society wanted, to report breaches of the mutuals legislation to the FCA to investigate. The Hub provided a link to its 'Report a Concern: Mutuals Societies' page on its website. I consider that this response was reasonable in response to the complaint raised. This being said, I welcome that the complaints team provided you with a detailed summary to explain the FCA's role in relation to mutual societies. I consider that it would have been useful for the Hub to provide this information at the same time as the link to report concerns, to ensure that you fully understood the FCA's remit in relation to matters relating to mutual societies. In my preliminary report I **asked** the Complaints Team to provide this feedback to the Hub to consider and **suggest** that it should expand the detail of information it provides to complainants in future so they understand the reasons for the Next Steps a complainant could take in relation to information about mutual societies. The Complaints Team

has informed me that it passed on this suggestion to the Hub team for consideration, I welcome the complaints team relaying this forward.

19. In relation to the data loss complaint, you set out that you felt that the FCA should consider this as it related to a funeral business and your understanding was that the FCA regulated funeral businesses. In its correspondence the Hub correctly set out that the FCA specifically regulates the provision of Funeral Plan Services only. Its coverage relates to organisations providing a funeral plan service and how they adhere to set guidelines for providing the product/services. In relation to the data loss, it set out that concerns about this can be reported to the ICO and provided the link to its website for you to go to. Again, I consider that the information and referrals were again correct, relevant and appropriate. A further minor **criticism** I have of the Hub's response is that I do again consider that the Hub might have considered providing the referral to the ICO in response to your earlier email in relation to the missing data. This is an aspect of your complaint that was not within its remit and it should have provided the relevant referral when you raised this concern.
20. With regards to consideration of your complaint in relation to being a whistle blowing complaint I consider that the FCA approach was correct, it identified that it might be appropriate for your to make your complaint through the Whistle Blowing team but following correspondence with you it confirmed that you were not concerned about maintaining your confidentiality in this matter, as such it was appropriate for the relevant information to be passed to the relevant supervision team to consider and handled through those channels. This information was passed onto be considered from a regulatory perspective rather than from an individual complaint investigation and the Hub correctly set out that it would not be able to provide you any update in relation to the information that you had provided to it.
21. In view of the correspondence and responses provided by the Hub, it is my position that the Hub dealt with each of your issues appropriately, providing relevant information about its remit and role, providing relevant referrals generally within a reasonable timeframe and it was correct that having provided this information, that it could not provide further assistance beyond the details it had already provided to you.

22. As such, I agree with the FCA's position in its decision letter to **not uphold** your complaint. I hope that with the referrals provided to you by the Hub you are able to get resolutions to the issues you have raised with the appropriate organisations and I wish you the best with this.

My decision

23. I know that my decision will disappoint you but I have not upheld your complaint.

24. This is my final report about your complaint.

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Complaints Commissioner

05 September 2023