

29 September 2023

**Final report by the Complaints Commissioner****Complaint number 202300231***The complaint*

1. On 7 June 2023 you asked me to investigate a complaint against the FCA.

*What the complaint is about*

2. The FCA said that it had two separate complaints from you. It said it had not investigated complaint reference 209101920.
3. The FCA said it had investigated complaint reference 208912963. This complaint was about the fact that you received certain emails from the FCA which contained tracking pixel technology. When you first queried this with the FCA, it was not aware that this was happening and it told you that no such technology was in use. After it investigated your complaint, it upheld it and said to you:

certain FCA emails do include a tracking pixel that tracks when an email is opened. This feature is a default setting within our Customer Relationship Management (CRM) platform used to manage FCA emails with the general public and consumers. We were unaware of this setting until it was brought to our attention by yourself. After our initial response to you on this matter, we escalated this to our IT team and began a full investigation. After concluding this investigation, we established the platform was indeed adding tracking pixels on emails. We have now disabled this feature and are no longer including tracking pixels within our emails. We are now taking steps to delete all recorded data relating to the pixel tracking.

I can confirm that the email tracking capability was not being actively used and I hope to reassure you that the data was not used or passed to any other part of our organisation.

4. You also requested a copy of the data collected through tracking pixels in emails sent to you. This was provided to you on 6 March 2023.

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

5. You wrote to me on 7 June 2023 to say that:
  - a. You are not happy with the FCA decision and you wish to refer it to me;
  - b. You never received the data you asked for;
  - c. You quoted FCA reference 209101920.

*My analysis*

6. You have two complaints with the FCA. Complaint 20910920 has not yet been investigated. Under the Complaints Scheme (see <http://frccommissioner.org.uk/complaints-scheme/> for further details), the FCA usually do their own investigation first, as that is usually the best way of resolving matters. Once the FCA has completed its review, you can ask me for an independent investigation if you are not satisfied with the FCA's decision.
7. The FCA has investigated complaint 208912963. I assume this is the complaint you are referring to when you say you never received the data you asked for. However, I can see from the file that you were sent an email by the FCA on 6 March 2023 which contained an attachment with the data you requested. My conclusion therefore is that you were sent the data.

*My decision*

8. Like the FCA, I agree that your complaint with FCA reference 208912963 is upheld. However, I consider that the FCA has rectified matters, and there is no further remedy available to you under the Complaint Scheme. You have said to me that you wish to also complain about the FCA data practices as a whole: this complaint is excluded from the Complaint Scheme. I cannot review complaints about the FCA data practices in general. You have also said to me that you have concerns about the FCA exceeding its time limits in providing you with

data subject to your Freedom of Information request: again, these are issues which should be directed at the Information Commissioner's office. You have said to me that the 'The ICO require me to fully exhaust the FCA complaints process prior to raising my concerns'. Please note that the issues you have referred to me are not within my remit, you are free to refer them directly to the ICO.

9. I have not investigated complaint FCA reference 20910920.

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Complaints Commissioner

29 September 2023