

13 May 2024

Final report by the Complaints Commissioner**Complaint number 202300455***The complaint*

1. On 14 September 2023, you submitted a complaint to my office about the FCA, in which you raised concerns that the FCA had failed to act on intelligence you had provided it with in relation to certain practices within Firm X and that it had failed to take the opportunity to update ICOBS to prevent such situations arising again. Both you and the FCA have provided your responses which I have taken into account in this final report.

Your complaint to the FCA

2. Your complaint was raised on 8 August 2022, as “*you provided the FCA with intelligence on 15 July 2021 regarding anti-competitive behaviour by [Firm X]. You followed up the status of this submission and were advised to monitor the FCA website as this is the way the FCA would communicate publicly on any action they take against a firm. You were advised that owing to confidentiality restrictions we would not be able to share any action we take or choose not to take on an individual basis.*

As you had not seen any notices regarding the submission on the FCA website you enquired again on 28 March 2022 and received a further reply from the FCA on 30 March 2022.” but you remained dissatisfied with the information you were being given.

What the regulator decided

3. Having reviewed both the actions of the Supervision Hub and the relevant supervisory team in relation to the information you had provided, the FCA decided that “*the information was handled appropriately*” by both teams. You

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were also informed that due to legislative and policy restrictions, the FCA cannot provide you with details of how your information was handled. Your complaint was not upheld.

Why you are unhappy with the regulator's decision

4. In your complaint to me, you set out that the confidentiality point is *“a red herring, I am not interested in the details of what takes place between the FCA and the institution it is investigating, and I never asked for that. I am interested in the outcome. In this instance, action by the FCA to address the issues I raised would manifest itself in a change to [Firm X's] terms and Conditions document.”*
5. You state that as you cannot see any changes to the publicly available documents and as there is no information published on the FCA's website about Firm X, the FCA *“has not discharged its responsibilities in a meaningful way...The FCA has also failed to take the opportunity to update the ICOBS handbook to prevent such abuses from occurring in the future.”*

My analysis

6. Before I turn to my decision, I will point out that I have made findings about how the FCA's Supervision Hub, Supervision Team (including the Consumer and Retail Policy Team) and the FCA Complaints Team dealt with your concerns.
7. I turn to how the FCA Supervision Hub and the Supervision Team dealt with the information you provided. You have set out that there was no evidence that action was taken on either the FCA website or in changes to Firm X's published Terms and Conditions. Whilst this may be the case it does not mean that the information was not considered.
8. Having reviewed the FCA's files, I can see that the information including the 5 suggested changes for Firm X you provided to the FCA was shared with the relevant Supervisors in relation to both the consumer transparency in its communications and in relation to policy considerations in relation to competition issues, who duly considered your submission both at the time you originally contacted the FCA in 2021 and a second time following you raising your complaint in 2022.

9. In my Preliminary Report I set out that you may have already seen from Firm X's website that changes had been made to the information they provide to customers to ensure their terms and conditions are clearer. Whilst these changes might not exactly replicate all the suggested changes that you set out in points 1-5 of your original submission, I am satisfied that the FCA has liaised with Firm X to ensure that changes have been made to relevant wording in relevant documentation where it considered it was necessary.
10. With regards to the FCA addressing the aspects of your submission that related to addressing competition issues, including the specific documents that insurance companies should be required to issue to customers and what they should disclose, these would require overarching rule changes to be made to all insurance companies. In particular in your complaint to my office you set out that you considered that the FCA should update ICOBS. ICOBS is the FCA handbook rules for insurance companies. Rule making falls within the legislative function of the FCA which is excluded under paragraph 3.4 of the Complaint Scheme. As such I cannot consider this element of your complaint.
11. In my Preliminary Report I invited the FCA to provide any additional information that it could share in relation to the points raised in paragraph 4 above. The FCA responded to me and I am satisfied that the FCA is unable to provide any further information due to confidentiality restrictions.
12. I turn next to the FCA Complaint Team's investigation of your complaint. It fell below the standards I expect of the FCA in certain aspects. These include the fact that your original complaint email was not registered and actioned appropriately (although I accept that this was the result of an anomaly with case reference numbers) and the internal communication between teams. I have written separately to the FCA to explain my concerns and to recommend improvements to their processes. I note that in its response to my Preliminary Report the FCA has again acknowledged the delay you experienced as a result of human error and highlighted that it apologised in its decision letter and offered £125 ex gratia payment for the delay. It has advised that you have not accepted this offer at this time. It has noted that you should respond to its decision letter if you would like to accept this amount.

13. However, although I am critical of aspects of the FCA's complaint investigation, I do not think that those failings had a direct bearing on how the FCA handled the information you provided.
14. For the reasons above, I do not uphold your complaint.

Rachel Kent

Complaints Commissioner

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