

04 April 2024

**Final report by the Complaints Commissioner****Complaint number 202300468***The complaint*

1. On 21 September 2023, you asked me to review a complaint about the FCA. I issued my preliminary report on 26 February 2024, and both you and the FCA have provided your comments in response which I have taken into consideration.

*What the complaint is about*

2. The FCA set out in its decision letter dated 20 September 2023 that your complaint was as follows:

“Part one of your complaint is that you had contacted the FCA several times, originally in January, to report an issue with Firm X and their handling of your late stepfathers affairs, including transactions wrongly leaving his account and issues with the executor. I am sorry to hear of his passing.

You have also raised issues with Firm Y and their handling of an insurance claim, due to an issue with your vehicle, on the 24th of August. You state the FCA had asked that you send in documents, including those of a sensitive nature such as a copy of the Will, which you provided but received no formal acknowledgement of receipt from the FCA.

Part two of your complaint is that you had called the FCA on the 6th September to express your dissatisfaction with the FCA in not acknowledging the information you had provided regarding your Firm Y complaint. You found our supervisor rude and that they kept

interrupting you before you were able to explain the reason for your call.

Part three of your complaint is that you feel the FCA is not going to use any of the information provided to investigate the firms and that you would like the FCA to contact these firms.

As a result, you would like to receive financial compensation from the FCA for the issues outlined above and for the FCA to contact the firms to remind them they are regulated and advise them you have made these complaints to the FCA.”

*What the FCA decided*

3. The FCA concluded in its decision letter dated 20 September 2023 as follows:

“I have upheld Part One of your complaint. Our supervisors have not provided you with an acknowledgement of the receipt of the information. This will be fed back to our supervisors in question and a further email will be sent to you to address this.

I have not upheld Part Two of your complaint. Our supervisor dealt with the call in line with FCA expectations and processes.

I have not upheld Part Three of your complaint. The FCA has escalated the information you provided to the relevant department.

Therefore, I have partially upheld your complaint. Please accept my apologies that on this occasion we did not respond to all your correspondence in a timely manner.

Please note the FCA are not able to contact these firms on your behalf, as advised this is not the role of the FCA and we do not have authority to do so. The FCA are not able to offer you financial compensation for your complaint. I appreciate this may not be the outcome you are seeking, but feedback will be provided to our supervisors. I apologise for any inconvenience caused.”

### *Why you are unhappy with the FCA's decision*

4. In your complaint to my office dated 21 September 2023, you have set out that the FCA failed to acknowledge very sensitive information that you had sent to it as per the FCA's request. You noted that even though this complaint has been acknowledged and responded to, that the FCA had still not acknowledged receipt of the sensitive information in relation to the two matters you had raised with them. (Element one – failure to respond to correspondence)
5. You also set out that the two matters about two separate firms are very serious and very upsetting for you. You explained that you have made several calls to the FCA regarding these matters and despite doing this, which has been very upsetting, you do not feel that the FCA have acted on this information or taken your information seriously and have not used any of the information to contact or investigate the firms. (Element two – Failure to act on information)
6. You also complained to the FCA about one of its supervisors in the supervision hub being rude to you during a phone call regarding these cases. You felt that she had abruptly disturbed your conversation and this left you feeling frustrated. (Element three – Telephone Call)
7. To resolve your complaint, you asked the FCA for compensation redress as an apology. You do not accept that the FCA have set out that they have partially upheld your complaints but then state they don't offer compensation redress for their poor service. You consider that the FCA are responsible for putting this right financially.

### *My analysis*

8. Your complaint has stemmed from the FCA failing to acknowledge receipt of information you provided to it in relation to complaints you made about two firms. Your complaints involve your dealings with two firms, one in relation to the account of your late stepfather. I am sorry to hear about your loss and I appreciate that handling these matters must be upsetting for you.
9. Firstly, I want to note that in your response to my preliminary report you provided some clarification on which of the complaints related to your late stepfather's account and which related to your insurance account as it appears that the detail set out 'Part One' in the FCA's decision letter (and quoted above

in paragraph 2.) was not accurate. You have confirmed that Complaint X related to your late stepfathers account and it was in relation to this complaint that the FCA failed to acknowledge the Will. Complaint Y related to your own insurance account and again the FCA failed to acknowledge the documents for this complaint. Thank you for this clarification.

Element One - Failure to respond to correspondence

10. As set out in the FCA's decision letter dated 20 September 2023, it upheld part one of your complaint to it, that on several occasions it did not acknowledge or respond to you confirming the receipt of the information you provided and have not made you aware of what was done with this information. In its decision letter the FCA apologised for not responding to all your correspondence in a timely manner and said that it would feed this back to its supervisors and a further email would be sent to you to address this.
11. I agree that the FCA was correct to uphold this element of your complaint. It was also right to set out that it would arrange for a further email to be sent to you to address the lack of acknowledgement to the information you provided.
12. Unfortunately, you have informed me that you have received no such emails and my enquires of the FCA have confirmed that this was not actioned. Since making your complaint about the FCA to me, you have also raised an additional complaint with the FCA in relation to its failure to acknowledge later emails which were sent on 28 September 2023. Again, the FCA upheld this complaint in its 7 November 2023 decision letter, stating that 'the supervisor should have responded to your email withing 2-3 business days of receiving the additional information, forwarding the additional information to the relevant team internally.
13. I find this very disappointing given the crux of your complaint stemmed from the FCA's failure to send the acknowledgments. The FCA informed me that the failure to action is apparently the result of a 'miscommunication'. I do not feel that this is acceptable, there should have been appropriate steps taken to ensure that the actions were taken to rectify the original failure, which has not happened and a further failing of the same nature has occurred. I understand your upset and frustration in relation to this aspect of your complaint. The fact

that you had cause to make a further complaint and the FCA acknowledged that the issue had still not been addressed is not acceptable.

14. I note that in the 7 November 2023 decision letter to you the FCA again apologised for its failure to respond to your follow up emails, but it set out that it did not consider that financial compensation was appropriate.
15. I disagree, I consider that the FCA failed to rectify a failing at the first instance following the 20 September 2023 decision letter, which was already the cause of upset and inconvenience to you. The fact that the FCA then repeated the same failure to respond to you when you sent your additional emails is very disappointing. It leads me to question whether the feedback was actually provided to the supervisor in question following the first decision letter, it does not appear to have actioned the relevant actions or reviewed its processes to ensure that the same issue was not repeated. As such I **recommend** that as well as the apology the FCA has already issued to you the FCA that it should also make an ex gratia payment of (£50) for the distress and inconvenience caused by the lack of acknowledgement it provided to you regarding the receipt of this sensitive information in relation to these two matters.
16. I am pleased to confirm that the FCA in its response to my preliminary report has agreed with my recommendation and has said it will write to you following the issuance of this final report.

#### Element Two – Failure to act on information

17. In relation to your concerns that the FCA has not acted on the information that you have provided to it about the firms, I note that the FCA did set out in the 20 September 2023 decision letter that ‘the FCA has escalated the information you have provided to the relevant department’. This is the relevant action that should have been taken with the information you provided to the FCA. It is then for the relevant teams to review and where appropriate take relevant regulatory and/or enforcement action. In my preliminary report I set out that from the information available to me and based on the wording of the decision letter on 7 November 2023, I was unclear whether this did in fact happen and I **asked** the FCA to provide me with further evidence and details about when the relevant information was passed onto the relevant teams. In its response to my

preliminary report the FCA has now provided me with the details that show that the information was referred to the relevant team for consideration in both complaints that you raised.

18. Consequently, I have concluded that the information was passed onto the relevant team and I have not upheld this complaint.
19. A further particular concern that you raised in relation to the information you provided to the FCA not being passed onto the relevant teams, was that the FCA was not taking the information you have provided about the two firms seriously and has not contacted the firms on your behalf to advise them that you have made a complaint to the FCA.
20. In your call with the supervisor on 6 September 2023, you set out that the FCA has previously contacted a firm on your behalf when you made a complaint. Whilst this may have been your previous experience, it should be noted that every matter that the FCA reviews is dealt with on the basis of the specific facts in relation to its regulatory role. The fact that the FCA has previously contacted a firm on your behalf does not mean that it could or should contact either of the firms in relation to your current individual complaints. The Supervisor on the call with you, did correctly set out that the FCA generally does not involve itself in individual complaints and instead relevant information provided by individuals like yourself are passed to the relevant supervision team and maybe used to inform future supervisory or enforcement action against a firm. The supervisor was also correct that the Financial Ombudsman Service is the correct body to enforce any action against a firm because unlike the FCA the FOS does have dispute resolution powers to investigate individual matters. Having listened to the recording of the call I am aware that the firm appears to have not complied with the FOS direction. Whilst this is frustrating for you, the FCA is not able to require a firm to comply with a FOS decision.

#### Element Three - Telephone call

21. In relation to behaviour of the supervisor on the telephone call with you on 6 September 2023, I have been provided with a recording of the call which I have listened to. From the call recording it is clear that the FCA's approach to your complaints about the two firms is causing significant upset to you. The call was

a significant length and I do feel that the supervisor did listen to what you were saying and provided relevant information to the points you raised during the call.

22. After careful review, I do have to agree with the FCA's decision not to uphold this element of your complaint, as I do not think the supervisor was being intentionally rude to you. My view is that towards the end of the call, the supervisor did try to step into the call whilst you were talking, her intention appeared to be to try and clarify the purpose of the call which had been going on for over 25 minutes. I appreciate that you still felt that you had more detail you wanted to set out to her.
23. I know that you do not agree with me on this element as you have told me in your response to my preliminary report that you disagree and that you feel that the member of staff had an abrupt attitude. Whilst I did not feel the supervisor was intentionally rude to you, it was evident that she felt that she had addressed the issues you were raising and that there was not really any more assistance she could provide to you over the phone. You felt that you had not been able to put forward to the supervisor that you had sent further information by email to the FCA the previous day on the two matters for consideration and that you wanted acknowledgement to these emails as well. Given the FCA's previous failure to acknowledge the information you sent in this was perhaps a valid concern. This being said I am still satisfied that the supervisor was not intentionally rude on the call and I have not upheld this element of your complaint.

*My decision*

24. This is my final report about your complaint. For the reasons set out above my position is that I have **upheld** element one of your complaint but I have **not upheld** elements two and three of your complaint.

Rachel Kent  
Complaints Commissioner  
04 April 2024