

03 April 2024

Final report by the Complaints Commissioner**Complaint number 202300475***The complaint*

1. On 24 September 2023, you asked my office to review a complaint about the FCA.

What the complaint is about

2. The FCA noted that you were unhappy with the information provided by the FCA Whistleblowing team following an allegation of fraud made by you against Firm X on 8 April 2023. You allege that, although you have asked for a timescale about when the FCA will assess the case, you have not been provided with clear information.

What the FCA decided

3. The FCA did not uphold your complaint. The FCA summarised in its decision letter that this was because it had provided you with sufficient updates since you originally submitted your disclosure. In addition, to this it explained that the FCA is unable to provide definitive timescales for reviews and the consideration of information.
4. It set out that, having reviewed the correspondence between yourself and the FCA, it believed you have been given the appropriate information in light of the restrictions which are in place concerning the sharing of confidential information.

Why you are unhappy with the FCA's decision

5. You have asked me to review the FCA's investigation into the fraud allegations you raised with the Whistleblowing team about Firm X. You have complained

that the FCA has failed provide you with clear information on the timescale for the investigation.

My analysis

6. In reviewing your complaint, I have had access to the relevant FCA's files. You contacted the Whistleblowing team on 8 April 2023, about Firm X and you were in contact with the FCA on a number of occasions between then and 28 July 2023, when you made your complaint with the FCA Complaint Team about not being provided with clear information about a timescale for completing the FCA's investigation about your disclosure about Firm X.
7. It is clear from your correspondence with the FCA that this has been a very stressful and upsetting experience for you, and I can understand why you wanted to know how long the investigation would take. I can also appreciate that following the initial flow of emails between you and the FCA in April and May 2023 that the correspondence seemed to then drop off which may have led you to question what was happening with the investigation.
8. In regard to the information provided to you about timings on updates, I note that on 13 April 2023, the FCA sent an acknowledgement to you setting out that it was in receipt of your disclosure about Firm X. In this acknowledgement it provided you with details about updates and feedback the FCA would be able to provide to you. It explained that it could provide limited updates about the progress of a disclosure such as if the case was currently being reviewed and then once the review was completed it would write to inform you of its decision noting that the information it may be able to provide, may be limited.
9. As noted in the decision letter you again contacted the FCA in June and July for updates. In your request to the FCA on 14 June 2023, you did note that your research had suggested that the investigation timeline should not exceed three months, although you did not set out where you had ascertained this time scale from.
10. The FCA's June response informed you that the information you had provided had been passed on to its Supervision Team and explained the next steps. I note that the FCA response did not address your statement about the three month timeframe, but did advise that it would update you in a further three

months, unless the matter had already concluded. The FCA's response in July set out that it could not add anything further to its June update.

11. In my preliminary report I made a minor criticism of the FCA that it had not addressed your statement about how long the investigation timeline would be in your 14 June 2023 correspondence. In response to this criticism in my preliminary report, the FCA set out that it had responded back to you on the same day (14 June 2023) and in its response it explained that it was unable to provide you with any more information about the timings of the ongoing investigation and provided you with an update on what it had done and what would happen next, insofar as it could. It also set out that it would write to you again in three months' time with a further update unless the review of your decision had concluded. In addition to this, the FCA have acknowledged that it did not explicitly correct your mistaken view in its response and has said that it will feed that point back for absolute clarity. I am pleased that the FCA took this minor criticism on board.
12. On 27 July 2023, you requested the FCA provide you with a link to the FCA's policy on timescales for how long investigations would take and it sent you the link to its <http://www.fca.org.uk/firms/whistleblowing/how-make-report> page. You then raised your complaint on 28 July 2023 and included the extract below:

Timescales for cases

Each whistleblowing case is different and so the time it takes to assess each case will vary. Assessing and acting on whistleblowing information can take time - it may also become part of our ongoing supervisory work with a specific firm.

For these reasons, we can't be specific about how long the process will take, but typically a case will last for a few months or more.

13. I note that the above extract does not specify that a case will take three months. The issue with knowing how long a whistleblower investigation will take is that there are many factors that can influence the length of time an investigation including the complexity of the issues, the size of the firm, the scale of the issues, the volume of evidence, as well as many other factors. These factors can vary widely from case to case.

14. In view of the points I have discussed above, I do agree with the FCA's decision **not to uphold** your complaint. This is because I consider that it did provide you with sufficient updates and it has provided you with relevant information about the timescales it anticipates cases will take. As set out above the only minor criticism I have about the correspondence the FCA had with you is that in your 14 June 2023 correspondence you set out that you had found information setting out that the timescales would be 'three months' and the FCA could have addressed this point at that time to manage your expectations around the timings of its ongoing investigation at that time.
15. In my role as a Commissioner, I have considered a number of complaints in relation to whistleblowing investigations and in my experience these cases can take significantly longer than a few months, as noted above this is because they are often large and complex. I do however consider that it is appropriate that the Whistle Blowing team should keep informants updated on their case, even just to tell them that the investigation is ongoing, every few months to provide informants with the assurance that the information they have provided has not been forgotten.
16. At the time I wrote my preliminary report I had not received information to advise that the FCA had concluded its review of your disclosure, and I **asked** the FCA provide yourself and my office with updates to confirm that its review of your disclosure has been completed. The FCA has informed me in response to my preliminary report that its assessment of your disclosure was concluded on 29 September 2023, and the case has now been closed. The FCA informed me that it had called and emailed you to confirm that the review of the disclosure had concluded and that their supervision colleagues had advised that they had decided not to take further action at that time. I thank the FCA for this update.
17. Finally, I would like to note that like the FCA, I am required to respect confidentiality. This means that sometimes I cannot report fully on the confidential material to which I have access. However, under the Complaints Scheme, I have access to all the FCA's records which are relevant to the complaint, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably in the particular circumstances. Having studied the FCA's records I can say that I

am satisfied that the FCA has not ignored the information which you have provided. Unfortunately, I cannot provide details or say any more than that, and I recognise that this will be frustrating for you.

My decision

18. This is my final report into your complaint, and I have not upheld your complaint.

Rachel Kent

Complaints Commissioner

03 April 2024