

30 April 2024

**Final report by the Complaints Commissioner****Complaint number 202300506***The complaint*

1. On 06 October 2023, you asked my office to review a complaint about the FCA.

*What the complaint is about*

2. The FCA summarised your complaint as you being *“unhappy with the FCA’s Whistleblowing Team. You feel the team have not acted on the information and evidence you provided to the FCA as a whistle-blower. You have been in contact with the FCA for 1.5 years since February 2022 until now, however during this time the FCA has failed to update you on any progress. You are still unsure as to what actions the FCA has taken from the intel provided.”*

*What the regulator decided*

3. The FCA upheld your complaint on the grounds of lack of sufficient updates from the Whistleblowing Team following you submitting information to it and it apologised for the inconvenience caused. The decision letter went on to say:

*“I can understand you may feel the FCA have not been clear in telling you what will happen with your whistleblowing disclosure, and how long it will take to reach a conclusion. However, after reviewing the correspondence between yourself and the FCA, I believe you have been given the appropriate information given the restrictions which are in place concerning the sharing of confidential information.”*

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

4. You are not satisfied with the FCA's decision because it did not address what you say is your actual complaint point, which was that you had provided the FCA with information about what you allege to be money laundering and criminal activities by the UK branch of an EU regulated firm, including certain named individuals, and you have seen *"no reaction from the regulator regarding what we discovered"*.
5. You also state that you are not interested in being kept up to date with the steps the FCA takes in the course of its investigation, but you find it unacceptable that there appear to be no consequences for regulated individuals who are (allegedly) committing criminal activities, posing a significant risk *"for the whole financial industry... It is mind-blowing that the UK FCA may still ignore our case... If there is no sanction when criminal offenses are conducted, then the fight against money laundering and to counter terrorism is lost in advance"*.
6. Finally, you also provided related articles and additional comments to my office on 18 March 2024 and commented on my Preliminary Report on 22 and 25 March 2024. All of these comments and articles had been taken into consideration.

### *My decision*

7. Having reviewed your initial complaint to me, as well as the FCA's files, its responses to my follow-up questions and your comments on my preliminary report, I do not uphold your complaint. This is because the information provided by the FCA was correct and it did tell you that the disclosures you made were shared and considered appropriately. However, I do make some comments about how your complaint was handled and I also invite the FCA to provide you with bespoke feedback, as per its whistleblowing procedures, when it is able to do so.

### *My analysis*

8. Having reviewed your initial complaint to the FCA, the FCA's decision letter and your complaint to me, I find that the FCA identified your complaint and the remedy you were seeking correctly, and it investigated your complaint points sufficiently. However, the decision letter did not go into enough detail or provide

you with all the relevant information it may have done, and it did not address the remedy you are seeking.

9. In its letter dated 6 September 2023 the FCA summarised your complaint, saying that *“you are unhappy with the FCA’s Whistleblowing Team. You feel the team have not acted on the information and evidence you provided to the FCA as a whistle-blower.”* The letter goes on to say, *“To resolve your complaint, you are seeking action to be taken by the FCA in relation to the information you have provided.”*

10. The FCA’s decision letter dated 5 October 2023 states:

*“The information you provided was reviewed and promptly forwarded to the Supervision Team to consider. Although I am not able to discuss the actions the Supervision Team may have taken, I can reassure you the information that you have provided has been properly considered.*

*I would like to thank you for providing the information to the FCA and I can appreciate you feel frustrated waiting for the FCA’s result due to the information you submitted, unfortunately, I am unable to provide any further information at this time. I have discussed this with the Whistleblowing Team, and at the conclusion of the case they will provide you with bespoke feedback.”*

11. The response confirms that the intelligence you provided to the FCA was appropriately handled and promptly shared with Supervision, and it expresses gratitude to you for providing the information. It also tells you that the FCA is unable to provide further detail about what happened to this information at this time due to the restrictions imposed on it by s348 of the Financial Services and Markets Act 2001 (FSMA) and its confidentiality policies.

12. When I received the FCA’s complaint file it had a record of your correspondence with the Whistleblowing Team, but it did not contain the supervisory file which the Complaints Team reviewed and on the basis of which it concluded that *“the information that you have provided has been properly considered”*. In order to be able to carry out a thorough review, I requested for this file to be provided by the FCA. The FCA provided this.

13. Having reviewed both the Whistleblowing and Supervisory files, I agree with the FCA – the information you provided to the Whistleblowing Team, both in relation to the firm and the named individuals, was logged and disseminated within the FCA promptly and it was duly considered by the Supervisory Team. It would not have been appropriate for the Whistleblowing Team or the Complaints Team to provide you with information about the steps taken by the department(s) that received your information as this would have been in breach of s348 of FSMA and the confidentiality policies.
14. Additionally, it could also have been brought to your attention, without going into the specifics of the case, which neither the FCA nor I can do due to the restrictions imposed on us, that not all regulatory action is made public. The FCA has different tools at its disposal, from supervisory action to enforcement action, and much of what the FCA does by way of regulatory work is done in the background.
15. Your comments about the severe impact of this situation on your personal life have been noted, and I am sorry that you are going through such a difficult time. In your response to my preliminary report, you said *“My intention was never to demand information on the actions of the UK FCA; I understand I am not entitled to such updates. Rather, my aim is to see concrete actions taken, which unfortunately have been absent for over two years.”* It is appreciated that the confidentiality restrictions that apply to regulatory work short of enforcement action can be frustrating for whistleblowers and may sometimes leave the impression that no work is being undertaken, but this is often not the case. We have seen the files and supporting information and we can confirm, as previously stated, that the Whistleblowing Team had forwarded your disclosures to the correct teams internally, and that the information was considered and treated reasonably by these teams. Unfortunately, we cannot share the details of the decision making process or the outcome of any of the work undertaken as both the FCA’s teams and my office must act within the boundaries set for us by the legislation and confidentiality policies referred to above.
16. Whilst this is not be the main point of your complaint, the FCA also recognised the fact that you initially asked for quarterly updates, but were not provided with these by the Whistleblowing Team. It is noted that you were not really interested

in regular updates, more in the outcome of the reports, the FCA apologised for this omission, and I find this was an appropriate response.

17. In addition to the information contained within the FCA's decision letter, I believe it would have been open to the FCA to provide you with more detail and some generic information about the responsibilities and actions of the Whistleblowing Team, as well as how this team interacts with Supervision and other parts of the FCA, especially in light of the remedy you were seeking.
18. It should have been made clear that it is not the Whistleblowing Team's role to take action about the information it receives from whistleblowers. The team is responsible for logging and escalating information promptly and appropriately within the FCA, which it did in your case. Carrying out an assessment and taking regulatory steps, if any, is the responsibility of the relevant department(s) to whom the information is disseminated.
19. It is my understanding, and the FCA has confirmed this in its response to my preliminary report, that there is a process in place through which whistleblowers are provided with bespoke feedback, but only once regulatory action related to their disclosures concludes. This is a mechanism whereby the FCA, having concluded its work, provides as much feedback about what has happened as is possible within the constraints of s348. **I invited** the FCA to confirm by way of a response to this preliminary report whether this has been done in the time between the date of its decision letter and this preliminary report being issued, or, if not, whether it is now able to provide this to you.

*The FCA, in its response to my preliminary report, has stated that it is not yet in a position to be "providing final feedback which will be bespoke to" you, but it will do so as soon as possible, copying my office into their correspondence to you.*

20. I agree with the FCA's decision to uphold your complaint and to apologise for its failure to provide you with updates as requested by you, even if this is not the main point of your complaint.
21. I do not uphold your main complaint to me, as whilst the FCA could have provided you with some additional information about the role of the Whistleblowing Team and range of regulatory tools available to it, some of which fall short of enforcement action and is unlikely to ever be publicised, the

information provided was correct and it did tell you that the disclosures you made were shared and considered appropriately. It is also correct that due to statutory restrictions the FCA is restricted in what information it can share with you, as am I.

22. However, as there is a process in place to provide a bespoke update to whistleblowers, I **invite** the FCA to provide you with the bespoke update, with as much detail as possible, as soon as it is able to do so.

Rachel Kent

Complaints Commissioner

30 April 2024