

14 May 2024

**Final report by the Complaints Commissioner****Complaint number 202300617***The complaint*

1. On 19 November 2023, you submitted a complaint to my office about the FCA.

*Your complaint to the FCA*

2. You submitted a report to the FCA in September 2021 in which you outlined information and concerns about the alleged unethical behaviour of regulated firm X. You also wanted to submit audio recordings, however, the FCA did not accept these due to GDPR concerns, as you could not demonstrate you had permission from the parties which you had recorded.
3. You wanted the FCA to take action against Firm X.
4. The FCA told you that the information you had provided had been passed to the relevant area within the FCA and appropriately considered, however, it could not tell you what action, if any, had been undertaken due to confidentiality reasons.

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

5. You do not feel the FCA has investigated your concerns about firm X properly because it did not seek further information from you; it did not facilitate a solution to receiving the audio recording, and you have not seen any evidence of action taken by the FCA against firm X. You also sent me copies of the information about firm X which you had submitted to the FCA.

### *Preliminary points*

6. Under the complaints scheme, I can only investigate complaints about the FCA. Complaints about other organisations are excluded. My investigation is about the actions or inactions of the FCA.

### *My analysis*

7. The regulator welcomes information from people who report concerns. However, as the FCA explained, it is not generally able to say what action has been taken in response to the information that it receives. This is because section 348 (s.348) of the Financial Services & Markets Act 2000 (FSMA) classes some information the FCA holds about firms as confidential and restricts how that information is dealt with. In addition to this, any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals, who also have legal protections. Under this policy, the FCA will not normally disclose the fact of continuing action without the agreement of the firm concerned. This means that, as you were told, there is no general right for members of the public to know the outcome of reports that they make.
8. 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, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material.
9. I have reviewed the FCA's records I can say that I am satisfied that the FCA has not ignored the information which you have provided and I can see that you were sent a letter on 7 September 2022 from the FCA Executive Casework Unit on 20 September 2022 in which the FCA said: "I would like to reassure you that the information you have provided about the firm has been shared with the

relevant supervision team, and they have been following up with the firm and the Financial Ombudsman Service to understand your position. Although legal and policy confidentiality restrictions limit what feedback we can provide, I can note that there are a number of interventions we can make which are not made public, that can effectively change behaviour and protect consumers”.

10. The FCA exercised reasonable discretion not to request further information from you because it felt it did not need further information to assess the concerns you raised. This does not mean that the FCA did not assess your concerns properly. Unfortunately, I cannot provide you with any more information. I realise that this leaves you with concerns and unanswered questions but I hope you will be reassured that I have reached this conclusion after independently reviewing the confidential material.

*My decision*

11. In my view, the FCA did review the information you provided appropriately, although due to confidentiality restrictions you have not been provided with information about what actions, if any, it took as a result of its review. For this reason, I do not uphold your complaint.

Rachel Kent

Complaints Commissioner

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