

19 June 2024

Final report by the Complaints Commissioner**Complaint number 202300664 and 202300515***The complaint*

1. You first complained to my office on behalf of firm X in 2021 and on 3 February 2022 a report was issued on your complaint <https://frccommissioner.org.uk/wp-content/uploads/FCA001385-Issued-03-February-2022.-Published-01-March-20221.pdf>
2. The recommendation in the report was that the FCA review two matters:
 - a. If firm X is liable for submitting any regulatory returns;
 - b. What steps the FCA is taking to deauthorise the firm, given you had requested this.
3. You then entered into correspondence with the FCA on the two issues above, and subsequently submitted other complaint points to the FCA.
4. The FCA deferred the investigation of some of these matters (including the ones described in 2 a-b above) until May 2023, and issued a decision letter on 23 July 2023 (FCA reference 208000404). You referred this decision to my office for review, where it was assigned complaint number 202300515. However, you asked that the review of the complaint be deferred until you had received a further decision from the FCA on a connected complaint. This was received by you on 4 December 2023 under reference 210417516 (although the FCA letter is erroneously dated 4 November 2023). You referred the decision to my office where it was assigned reference number 202300664.

What the regulator decided

5. In its decision letter 208000404 the FCA upheld your complaint that it had not confirmed to you which returns firm X had to continue submitting, and that there were oversights in its handling of your request to deauthorise firm X. It provided you with a cancellation link and offered £100 for this oversight. The FCA also offered you £100 on behalf of the FCA Complaints Team, however, it did not specify what this was for.
6. The FCA also partially upheld a complaint you had made about the firm being sent a generalised letter on 19 August 2021 in error.
7. It did not uphold a complaint you had made that the FCA ought to have deauthorised your firm on 9 June 2020 and explained why.
8. The FCA decision letter 210417516 dealt with 15 complaint points which were grouped around how the FCA treated correspondence from the firm; how it kept the firm informed regarding progress of the deferral of the complaint review; the information it requested from the firm as part of its supervisory work and an allegation of bias against the firm.
9. The FCA partially upheld a complaint that it had not kept you informed of its six-monthly reviews of the deferral into your complaint. It did not uphold and/or time barred the rest of your complaint points and provided detailed explanations to substantiate its decision.
10. Nevertheless, it acknowledged that it had not informed you in good time that its supervisory work into firm X had concluded in May 2023, for which it had already apologised on 12 October 2023, and that it had sent you a request for information on 26 June 2023 which required the information to be sent on 21 June 2023: an error for which it had apologised on 19 July 2023.

Why you are unhappy with the regulator's decision

11. You have written on a number of occasions to explain why you have referred the FCA decision letters to me. In summary, your complaint is that:
 - a. The FCA did not act expeditiously to resolve your complaint as recommended in FCA001385: there was a deferral of over one year;
 - b. Communication from the FCA was poor and riddled with mistakes;

- c. A member of staff has been subjected to continuous contact from the FCA with no resultant action against him.
12. You have said “we would ask that your office find in our favour in relation to the various matters we have raised. Secondly, we would suggest that compensation offered by the FCA in their letter dated 10 July 2023 is wholly inadequate and should be substantially increased. Thirdly, we request copies of the FCA response(s) to the matters raised by your office in connection with our 2 complaints”.

My analysis

13. The background to your complaints is a complicated history of FCA investigations into the firm both pre-and post CVA, the latter which resulted in the deferral of your complaint until May 2023. The subject matter of the investigations is confidential, and I am unable to disclose to you the FCA file on your two complaints.
14. You have asked that I find in your favour in relation to the various matters you raised. Given that there were a large number of complaint points which you raised with the FCA, which were subject to a detailed answer by the FCA, my office queried with you the exact reason of your dissatisfaction with the FCA responses. You replied to reiterate your dissatisfaction with the FCA mistakes in its correspondence to you and its various delays, as well as your view that a member of staff has been approached excessively for information. You also requested the remedy above.
15. I am basing my analysis on an independent general review of the two FCA complaint decisions.
16. My conclusion is that I see no reason to disagree with the FCA findings: both in terms of upheld complaint points (as outlined above) and in terms of non-upheld and time barred complaint points.
17. For clarity, this means that I do not agree that any of the complaint points you made to the FCA should be upheld.
18. You have said to me that you consider the FCA’s deferral of your complaint unreasonably long. I am afraid I do not agree with you. The FCA has explained

to you that it deferred your complaint due to supervisory work with respect of the firm. Connected to this, the member of staff you refer to was asked for information as part of the supervisory work.

19. From the evidence I have seen, the amount of time the FCA took with respect to this work is not unreasonable, nor is the information the FCA requested of the member of staff.
20. It is clear however, that the FCA did make mistakes in its communication with you, and it has admitted where it has done so and apologised for this. It has also offered you £200 compensation for this. This is in line with FCA's standard approach to such payments.
21. You have said that this amount is insufficient given the mistakes on the part of the FCA. I agree that the FCA made mistakes and there were delays in its communications to you (not to be confused with the deferral of your complaint which I have addressed separately above). The FCA has offered you an 'ex gratia compensatory payment' for the inconvenience you have experienced. I do not consider that any further compensatory payment for inconvenience is necessary. I **recommended** that the FCA review its procedures to ensure a better administrative function in future.
22. The FCA has accepted the recommendation. It says its "Complaints Team have run a feedback session and issued a handout as a reminder of our responsibilities to ensure the team is actioning any communications received from complainants. The management team within the Supervision Hub has confirmed that they are coaching their supervisors to avoid mistakes and delays in communication. Their work is also subject to ongoing quality assurance measures."

Rachel Kent
Complaints Commissioner
19 June 2024