

13 May 2024

Final report by the Complaints Commissioner**Complaint number 202300738***The complaint*

1. On 25 January 2024 you submitted a complaint about the Prudential Regulation Authority (PRA) to my office.
2. I have concluded that some elements of your complaint are out of time, some are excluded and others need to be referred to the PRA for a response.

The Complaint to the PRA

3. The PRA said your complaint is that:

“Our understanding of your complaint is that you allege that the actions of the PRA over 6 years ago led to the loss of your job at [Firm X] and that this was not justified. You also cite ‘poor contemporaneous communication’ by the PRA regarding its concerns. In your emails from the last quarter of 2023, you explained that you did not complain about these events until now because you continued to work in a regulated function/industry.

You have also said it was only within the last year that you came to realise that the PRA’s actions and its closure of Firm X may have affected your ability to obtain employment”.

4. You also requested an ex-gratia payment from the PRA for the damage to your reputation.

What the regulator decided

5. The PRA declined to investigate the complaint on the basis of paragraph 3.3 of the complaint Scheme (the Scheme) which says that ‘Complaints should be

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made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. Complaints made later than this will be investigated under the Scheme only if the complainant can show reasonable grounds for the delay'. The PRA concluded that it does not consider that you have shown reasonable grounds for the delay in making the complaint to the PRA about its actions in over 6 years ago.

Why you are unhappy with the regulator's decision

6. Element One: You reiterated your complaint about the actions of the PRA in 2017-2018. Your concerns are about the behaviour and allegations made by PRA staff at a particular Firm X Board meeting and subsequent correspondence you had with the PRA about your role with Firm X until its closure.
7. Element Two: You then expand on your submission about recent events connected to your ability to obtain employment which include:
 - a. You were not informed that information about the events that took place in 2017-2018 would be stored by the PRA and used in assessing your suitability to hold controlled functions in future, nor were you told what information the PRA would record.
 - b. When you made an application to be approved for a controlled function some years later, you discovered that the PRA was relying on information recorded 6 years ago in its assessment. You are concerned about two main issues:
 - i. You do not believe that information is accurate;
 - ii. You are concerned that if this information is still held against you, it will have an impact on future applications you make.
8. You are "seeking an ex-gratia payment in consideration of the effect on my reputation and the position the PRA's actions have left me in regarding my career and future work." You also want an apology from the Regulator and the record to be set straight.

My analysis

Element One

Events connected to the Board Meeting

9. Your complaint to me states that you wish to complain about the behaviour of PRA staff 6+ years ago: you explain this is because, among other, you feel that a member of PRA staff “singled me out for the alleged failures of Firm X and informed the Board that the PRA had lost confidence in me. There were several biased and unreasonable considerations in his stance at this time...”
10. I understand that you feel that the behaviour of that member of staff at the Board meeting amounted to a “tirade”.
11. Your complaint about the behaviour of PRA staff members towards you at that Board meeting in terms of the ‘tirade’ which you describe is eligible to be considered under the Scheme. However, you are out of time to bring this complaint.
12. Because the PRA have time barred this element of your complaint and not investigated it, we do not have access to all the facts about the events.
13. You have said you “understand that there is usually a time limit for the Complaints Against the Regulator Scheme but I do not think the delay is unreasonable while I was continuing to work in a regulated function/industry.” You have also said you were not informed at any time that you could complain formally about the behaviour of the PRA staff member towards you at the Board meeting.
14. Whilst I appreciate that you felt concerned about complaining to the regulator at the time, unfortunately this means that circa 7 years have now passed since the alleged incidents took place. Whilst I do have the power to review complaints which are out of time, in the circumstances I do not think there is any benefit to be gained in doing so, given the passage of time and the fact that it is unlikely to have a bearing on the outcome on the substantive issue of your complaint to which I turn below. I would in any event refer you to the analysis of Element Two below.

Element Two

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Recording and future use of information

15. You have also raised with me but not the PRA the four issues set out below. Under the Scheme to which both the regulators and I operate to, it is better for the regulator to review the complaint in the first instance as that is usually the best way to resolve matters. I suggest you invite the PRA to explain to you:
- a. What information the PRA can provide about what is recorded about you;
 - b. How you are able to challenge the PRA's recorded assessment of your fitness and propriety if you disagree with this assessment;
 - c. The options available to you in future applications you make if the same circumstances arise (e.g. the PRA seeks to rely on previously recorded information).
 - d. Why the PRA did not inform you when firm X closed that there is adverse information recorded about you which may impact future applications you make. Does the PRA have a process which sets out in what circumstances it will disclose to approved persons what adverse information it records against them?
16. If you are not satisfied with the PRA response, you may refer this element of complaint back to me for an independent review.
17. You have asked that I recommend the PRA offer you an apology and compensation because you feel the PRA has 'damaged your reputation in the industry' – this refers to the PRA in connection to applications made for you to be an approved person: however, that is not a matter which has been subject to review by me or the PRA in this complaint investigation. If you wish to raise this as a separate complaint with the PRA, you may do so, although I suggest you first establish the circumstances outlined in 15 a -d above.

Rachel Kent

Complaints Commissioner

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