



08 November 2024

Final report by the Complaints Commissioner

Complaint number 202400133

The complaint

1. On 16 May 2024 you submitted a complaint about the FCA to my office. I issued a Final Report on your decision on 4 September 2024. Subsequent to this, you obtained information from the FCA which you felt provided new evidence on your case. I have considered your representations and I now re-open the case in order to consider this new evidence. I will not be reopening the case review in its entirety: only the element on which you have provided new evidence, which is described under the heading “redacted FCA form” below.

FCA Review of information you provided in 2010

2. You say that you were a customer of bank X and you allege that between 1998 and 2008 the bank engaged in either malpractice or fraud with respect to your accounts. (The bank eventually rectified matters in 2011 with respect to your accounts). You are concerned that your allegations about the wrongdoing of bank X in the period 1998-2009 have not been investigated. The FCA told you on 3 May 2024 that your allegations had been sent to the Supervision team which considered it.
3. I can see that you wrote about this matter to the FSA -the FCA’s predecessor - on 8 February 2010, and again on this and related matters on 23 February 2010 and 27 July 2010. The information was passed to Supervision and assessed, although given the passage of time – some 14 years since you wrote to the FSA- I am unable to determine what action, if any, the FCA took based on the information you provided at the time. I invited the FCA to explain to me the outcome of the FSA assessment so I can determine whether the FSA gave proper consideration to the information you provided..

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4. The FCA has responded that “due to the passage of time, we cannot confirm what process was followed by the Supervision Team in 2010....[and] just because information has been provided to us, it does not mean that it would necessarily be followed up on specifically. How the information is used by the FCA will depend on a number of factors”.
5. I have considered what I think is reasonable and proportionate under the circumstances. Under the Complaint Scheme (current and transitional) there is a 12 month limitation for submitting complaints from the time the complainant first becomes aware of an issue. In your case, you provided information to the FCA in 2010. I have tried to be helpful in asking the FCA for information as a result of your current complaint, however, given the passage of time (14 years), the FCA no longer has the complete record and therefore it can not say how the information you provided was assessed. Whilst I regret not being able to help you under the Scheme, I do not think it is proportionate for me to take further action or make any recommendations to the FCA on this matter. This is because there is evidence that the FCA assessed the matter, and although I can't tell what action it took, given the passage of time, I do not think it is proportionate for the FCA to assess matters now relating to events which took place 14 years ago again when it already did so at the time, or for me to investigate further.
6. I note you do not agree with me however, for the reasons above, my view remains the same. You have now said that you have additional, more recent and concerning information about the bank. I suggest you send this to the FCA so that it can review it.

Redacted FCA form

7. You sent me a copy of an FCA internal form of your complaint which you obtained from a DSAR/FOIA request recently from the FCA. You pointed out that the bank was listed as ‘non regulated’ under the organisation type. You also say that the name of the bank was written in acronym rather than in full. You say this is false and misleading and may have been an intentional act to prejudice your query.

8. This is not a point you raised with the FCA, and whilst under the Complaint Scheme to which both the regulators and I operate to, it is usually desirable for the regulator to review complaints before I do, in this case I exercised my discretion not to send this back to the FCA for an initial review. You have said to me that the FCA informed you on 10 September 2024 that contacts from the public were previously logged in this way and this was a default/legacy setting with respect to the forms.
9. I do not agree with you that the FCA's internal record (which is incomplete due to redactions) was meant to mislead any internal FCA review, especially as, it now transpires, that the FCA recorded all contacts from the public in this way, not just yours. The Bank was clearly identifiable on the form you have provided me. I appreciate your point that it was not spelled out in full, however, given the prominence of the bank and the fact that it styles its public image with the acronym in question, I do not consider it plausible that there was any doubt which bank was being referred to.
10. The internal record contains the following fields and entries which you refer to:

Organisation name: Public Contacts

Organisation type: Non regulated
11. The description of the firm as non-regulated appeared to be an error, and I invited comments from the FCA on this matter in my preliminary report. It has confirmed that "when data was migrated across from[the old system], the 'Organisation Name' was completed with 'Public Contacts' and the 'Organisation Type' was completed with 'Non Regulated' as this is how the data was recorded on the previous systemthese fields relate to the information of the caller and not the firm which the caller is getting in touch about".
12. I recommended the FCA assess whether there has been any impact on its internal operations as a result of the migration to a new system. The FCA has told me that it does "not consider that this case suggests that the FSA/FCA did not evaluate information it received from consumers appropriately at the time. We are of the view that this is a misunderstanding of how we recorded information on our previous system and how this data was migrated to our new system".

13. I find the FCA's explanation reasonable for the reasons it gives above, and in my view that concludes the matter.

FCA briefing to Treasury Select Committee in December 2023

14. You complained to the FCA about aspects of its briefing to the Treasury Select Committee (TSC). The FCA construed your complaint to be that it ought to have made the briefing public rather than private, and did not uphold the complaint on the basis that it is the TSC which decides if briefings are private or public.
15. You referred this complaint to me and said that in September 2020 your allegations of malpractice by bank X about the period 1998-2008, including falsifying accounting data, "*were submitted to the NCA by the bank signature forgery campaign group. (The campaign). In May 2021 the NCA sent my allegations to the FCA for review. For reasons only known to the FCA, my allegations were not selected for a follow up to be investigated*".
16. You did not refer the matter you raise above to the FCA, therefore, understandably, the FCA has not reviewed it. In my view, it is up to the discretion of the regulator how to respond to the NCA, however, if you have any questions about the FCA's decisions in 2021-2023 please refer them to the FCA in the first instance.

Other matters

17. The FCA decision letter to you dated 23 May 2024 informs you that it is not the FCA Complaints Team role to forward information concerning bank X to different parts of the FCA and asks you to submit information in future to the Supervision hub. I do not agree with the FCA on this point. The information you submitted to the Complaints Team was in support of your complaint, and it was rightfully sent to there. In such cases, the FCA Complaints Team can and ought to forward information to other areas within the FCA as appropriate.
18. You asked the FCA for a meeting to explain your evidence, and you say the FCA did not respond to this point. Whilst it's not my role to say how the FCA obtains information from members of the public, it should however, at least acknowledge requests for a meeting and explain if a meeting is necessary. I invited it to do so and its response is below.

19. The FCA has explained that “We generally do not arrange a face-to-face meetings between the FCA and consumers. We welcome consumers sharing information with us via email on consumer.queries@fca.org.uk, via our webform on our <https://www.fca.org.uk/contact> webpage, or to call in on our helpline on 0800 111 6768 to speak with someone. We believe that this practice is in place so we could be more cost-effective and time-efficient especially when consumers are in different areas. It allows our service to handle more competently without the logistical challenges of in-person meetings. We also have our accessibility services where we can provide information in different formats, such as audio recordings, large print, or spoken communication. You will find more details on our accessibility statement here. So for clarity, we do not consider a face to face meeting in this case is necessary or proportionate. The complainant has provided information to us. The NCA and NECC has investigated the broad issues he is raising and found no evidence of serious or organised crime”.
20. The FCA has now addressed this point. It is up to the FCA to determine how to receive information from members of the public, and I find the FCA response reasonable, however, it should have told you this in its decision letter as I have mentioned above.

The Complaints Commissioner

Complaints Commissioner

08 November 2024