



09 January 2025

Final report by the Complaints Commissioner

Complaint number 202400439

The complaint

1. On 26 September 2024, you submitted a complaint about the FCA. I issued a preliminary report on 12 December 2024, and you have provided your comments in response, which I have considered and addressed below.
2. Your complaint was regarding:
 - a. The FCA's alleged misunderstanding of your complaint, which as you clarified was: *"not about [Firm X] and the court case, but rather about [Firm X's] handling of our customer data, which I believe constitutes a serious breach of GDPR and customer confidentiality. Specifically, I am concerned that [Firm X] unlawfully transferred the data of over 160 customer...including personal and financial details, to another dealer without seeking the consent of the customers or [your company's]"* (Element One).
 - b. the FCA's alleged refusal *"to investigate the actions taken by [Firm X] in relation to the termination of" its Stocking facility with your company. You say that "[t]he FCA cannot be serious in agreeing that [Firm X] has acted in an honourable manner by refusing to engage and allow [your company] the opportunity to settle the vehicle loan balances."* (Element Two)
3. You want the FCA *"to hold [Firm X] accountable for their actions and make sure this practice is never allowed to happen again otherwise they can simply refuse to communicate with any dealer they terminate on 7 days' notice and then force them into default to allow [Firm X] to then illegally take possession of a dealer's part funded stock."*

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Decision

4. With regard to Element One, this is a new point, not previously considered by the FCA. It is standard practice for the FCA to have an opportunity to review all new points in the first instance. Therefore, this issue will need to be submitted to the FCA for consideration in the first instance.
5. Regarding Element Two, I am satisfied that the FCA took reasonable steps to investigate your complaint, therefore I do not uphold your complaint.

Background

6. By way of background information, Firm X is a financial institution which, amongst other things, provides car finance to (i) retail customers for the purposes of purchasing, leasing or hiring cars from an alliance of companies ('Alliance cars'), and (ii) car dealerships to enable them to stock Alliance cars and parts.
7. You were the owner of a longstanding family-run car dealership business (Company A).
8. In 2008, your company and Firm X entered into a Used Vehicle Stocking Agreement. Following this, it signed a number of additional contracts with Firm X in respect of various arrangements.
9. In November 2021, following a routine due diligence review, Firm X discovered a series of what it deemed as "unusual" loan transactions on Company A's bank accounts and, on the basis of suspecting money laundering, submitted suspicious activity reports (SARs) to the National Crime Agency. Shortly after that, Firm X served contract termination notices in respect of all the arrangements it had with your company, thus impeding its ability to trade.
10. During that time, you attempted to engage with Firm X to settle the outstanding balances on your loans, however you say that Firm X was reluctant to communicate with you. Upon the expiration of the termination notices, Firm X took action to recover the vehicles in which it held interest.
11. Soon after that, Company A commenced legal proceedings against Firm X. Its first claim was rejected on the basis that it had no real prospect of success; whereas Company A's second claim was struck out in its entirety because it

disclosed “no cause of action”. You have said that your current complaint was not a part of these proceedings.

12. In 2022, you sold your business. In December 2023, you began liaising with the FCA with a view to having Firm X investigated for terminating all agreements with your company at seven days’ notice and its conduct thereafter. The FCA investigated the issues you raised, however advised you that “[b]ased on [their] investigation, [they] have determined that there [was] no evidence the firm has acted outside of their regulatory obligation in relation to the complaint.” Therefore, the FCA decided to close their investigation.
13. On 19 June 2024, you submitted a complaint about the FCA’s decision not to investigate your matter further. You said that Firm X’s conduct had “a significant impact” on your family business and its customers: your family business “relied on [Firm X’s] commitment to provide finance to our customers. The abrupt termination in November 2021, followed by the cancellation of 240 customer orders, caused customers considerable distress and put many others, unable to have their vehicles repaired and serviced in potential danger.”
14. The FCA did not uphold your complaint on the basis that its “Supervision Team and many other areas of the FCA have conducted a thorough investigation into your concerns about [Firm X] and have taken various steps to explore the issues you raised and did not find that Firm X acted outside of their regulatory obligation to the FCA. Although [the FCA is] not able to discuss the actions that the Supervision Team have taken, [it] reassure[d] you that in reaching this conclusion, the information that you provided was properly considered in line with [the FCA’s] guidelines.”
15. The FCA further advised that as the issues you had raised related to a commercial dispute, it was not something that the FCA could intervene in.

Preliminary points (if any)

16. This Complaints Scheme is concerned with the actions or inactions of the FCA. It cannot deal with complaints against banks, individual firms, nor is it a redress service for individual consumer complaints.

17. Therefore, please note that I am unable to comment on the merits of your contractual dispute with Firm X and will only be considering the FCA's conduct in the context of your complaint to my office.

Analysis

Element Two

18. 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.
19. Whilst the FCA welcomes information from people who report concerns, it generally does not say what action has been taken in response to the information it receives, if any. From the information on the file, I can see that following receipt of your concerns, the FCA not only gave them proper consideration and took steps to investigate the issues you raised, but also notified you of its intention to do so. This included engaging with you by phone and email and discussing the issues with Firm X.
20. However, following its investigation, the FCA concluded that the concerns you raised were not in breach of FCA regulations, but rather of a contractual nature, which ought to be resolved through legal proceedings. I agree with that approach.
21. I note that you are dissatisfied with the outcome of your complaint, however you have not provided any new evidence that would warrant a re-evaluation of your complaint. Therefore, my decision still stands.

The Complaints Commissioner

Complaints Commissioner

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