

14 January 2025

Final report by the Complaints Commissioner**Complaint number 202400466***The complaint*

1. On 4 October 2024, you submitted a complaint about the FCA
2. Your complaint letter centres upon the question of whether the FCA made an application to activate the default sentence mentioned in the confiscation order against you on 11 December 2019. The FCA complaints team wrote to you on 04 March 2021 to say that it had not made an application.
3. Upon further correspondence with HM Courts and Tribunal Service (HMCTS) you received a letter dated 25 Jul 2024 which says “the application to activate the default term was made by the prosecution (FCA)”. In response to this, you allege that FCA deliberately withheld this vital information, the FCA Complaints Investigation has covered up the fallacy of the FCA and made a false statement in its decision letter.

My analysis

4. I have reviewed all the information and evidence that has been provided to me for the purposes of investigating this complaint.
5. The letter you have received from HMCTS dated 25 July 2024 gives the impression that the FCA made an application to the Court. I have spoken with the FCA about this and they have explained the following:

“In any event, on the facts of our case, we did not make an application, as our note (and all our previous documents served on Mr X) make perfectly clear. We simply assisted the court in making its decision.

I accept it may be somewhat of a nuanced point, but hopefully that clarifies the position. It appears what Mr X is really suggesting is that we deliberately withheld a secret “application” but this isplainly untrue. Irrespective of whether one defines the document as a “note” or an “application”, he was provided with all the material which was presented to the court.”

6. As the FCA have explained above, it was a note that the FCA produced to assist the Court, even though the Court called it an application. It was not an application and a further application does not exist. I am aware and as confirmed by the FCA in its decision letter, the note was provided to you on 15 December 2020 outside court and again on 5 February 2024 by email and post. As well as this, you have also been provided with all the information that was presented to Court.
7. As such, I am unable to conclude that that FCA made any false statements in its decision letter or that it has withheld information from you. Further to my correspondence with the FCA and its explanation, their response sets out the relevant facts and I have no reason to question the note the FCA produced to assist the Court.

My decision

8. For the reasons explained above, I do not uphold your complaint.

The Complaints Commissioner

Complaints Commissioner

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