



20 March 2025

Final report by the Complaints Commissioner

Complaint number 202400579

The complaint

1. On 5 December 2024, you submitted a complaint about the FCA.
2. In your complaint you made a number of allegations, which can be broadly summarised as follows:
 - a. *The FCA took over 5 months to produce a final decision to your complaint.*
 - b. *You are unhappy the FCA called you withholding its telephone number.*
 - c. *You are unhappy the FCA did not complete any security or ID questions or process when it called you.*
 - d. *You allege when the FCA called you it was “extremely discourteous and unprofessional”. You also allege the FCA was “abrupt, blunt and disrespectful and came across as threatening and bullying”.*
 - e. *You state “The time taken to respond to repetitive questions about the same thing – I’ve repeated the complaint on many occasions but the operatives still didn’t understand”*
3. To resolve the issue you want a full apology from the FCA and would like it to respect your Firm. You would like to know who you are talking to and for full security to exist.

Decision

4. I have upheld Part 2 a of your complaint. The FCA’s service level is four months. In fact they took four months and two days. This is unfortunate but I don’t think it is material, therefore I do not recommend any remedy.

5. Part 2b is not upheld as the FCA is entitled to withhold its number on outbound calls.
6. Part 2c is not upheld as the FCA is entitled to make outbound calls using the contact details it has, without the need for implementing call verification.
7. I am unable to make a determination on Part 2d of your complaint as there is no available contemporaneous evidence.
8. With respect to Part 2e of your complaint, I do not find that you have been inconvenienced by the FCA apart from one occasion, described below, for which it has apologised to you.

Background

9. Your Firm submitted its regulatory return for the period ending 31 December 2023. This return showed a capital deficit. The FCA subsequently contacted you on 17 February 2024, asking questions in relation to the capital deficit. You responded to this email on 19 February 2024 and answered the FCA's questions concerning how the deficit would be resolved.
10. From the information that has been provided to me in the FCA case file, it appears nothing further happened until 24 May 2024. The FCA called you on the 24 May 2024 about the deficit and whilst they were able to reach you and talk to you, you did not respond to the questions and asked the FCA to email you instead. The FCA followed up by email on the same day. I can see the reason the FCA contacted you was because of your Firm's capital deficit at this time. The FCA acknowledged in the email that you had informed them on 19 February 2024 about the capital deficit, but the FCA also said that it still required Firms to adhere to their capital requirements as a regulated Firm. Also in the email of 24 May 2024, the FCA noted from your regulatory returns history that your deficit had decreased but was not yet rectified.
11. You were not happy with the email the FCA sent to you on 24 May 2024 and responded on the same day submitting your complaint in section 2 above.
12. The FCA contacted you again on 20 June 2024 confirming your complaint was logged and asked again whether you had decided on how the deficit could be rectified. It asked for a response by 26 June 2024. You responded to this email

on the same day informing the FCA that you would not respond on your firm's capital deficit whilst the complaint was being dealt with.

13. Despite your reluctance to engage on the firm's capital deficit whilst the complaint was being investigated, the FCA continued to be concerned about this and tried calling you again on 2 July 2024 to discuss the matter. From the call note provided this call did not progress as you were not willing to engage and I understand you terminated the call.
14. On 9 July 2024 you submitted your regulatory capital return which showed the Firm's capital deficit had improved as it had reduced.
15. The following day on 10 July 2024 the FCA contacted you by email stating that you had failed to respond to its requests between 24 May and 2 July. The FCA outlined what it felt were the failures to comply with regulatory obligations including that your firm had not rectified the deficit issues. The email provided a final opportunity to comply with the FCA's request. The FCA also informed you what may happen if you failed to comply with its request. On the same day you informed the FCA that you had submitted your Firm's regulatory return (which was submitted the previous day) and this showed an improved position for your Firm.
16. On 30 July 2024 the FCA responded to you informing you that it had noted the improvements you had made regarding the deficit and asked for evidence supporting the recent reduction for the deficit, as well as information about improvements for further reducing the deficit. You responded to the FCA on the 31 July 2024 referring it to your email of 19 February 2024 and the most recent six-month regulatory submission.
17. On 5 August 2024 the FCA emailed you noting your email of the 19 February 2024 regarding the reduction in the deficit and your latest submission. The FCA informed you if it has not been rectified by the next report date, we will contact you again to decide on potential alternative options.

My analysis

Part 2a

18. I take your point that there was a 2 day delay in getting a decision issued to you. The FCA's service level is four months. In fact they took four months and two days. This is unfortunate but I don't think it is material, therefore I do not recommend any remedy.

Part 2b

19. With regards to the FCA calling you from a withheld number, I have considered the FCA's reasoning as to why it does this. I am not persuaded from what I have seen that the FCA needs to change its policy with outbound calls. The FCA is entitled to withhold its number for outbound calls. It's a reasonably common business practice.

Part 2c

20. Whilst I understand your frustrations that you did not receive any call verification in the form of security or ID questions when the FCA called you, I do not agree it was unreasonable. If the FCA use the contact details that have been provided to them by the firm, and confirm they are speaking to the person listed, and reasonably believe they are speaking to the person they should be speaking with, it is not unreasonable.

Part 2d

21. You have made allegations about how the FCA spoke to you and treated you when it called you. The calls you are referring to took place on 24 May and 2 July 2024. These calls were not recorded and you have not provided any other evidence. In light of no evidence being provided I can not make a decision on your allegations. So I am unable to look at this complaint point any further and can not make any further findings.

Part 2e

22. I think it is important to note that the FCA do need to take elements such as deficit issues seriously. So the FCA are entitled to ask questions about this. It is a responsibility of Firms to keep their capital at appropriate levels and where this is not the case, it is entirely reasonable for the FCA to continue to ask questions about this situation.

23. Here you are referring to the fact that you informed the FCA on 10 July 2024 that you had already submitted your regulatory capital return which showed the improved position of the Firm. I agree with you that you had to repeat yourself regarding matters on this occasion. I am pleased the FCA Complaints Team recognised something went wrong and upheld this part of your complaint. It is also good to see that the FCA apologised for the error and any concerns this caused. In addition, the FCA took some steps to ensure that feedback was given to the relevant area. I consider the FCA response appropriate and do not recommend any further remedy.
24. I note that you are dissatisfied with my decision. However, my position remains unchanged for the reasons above.

The Complaints Commissioner

Complaints Commissioner

20 March 2025