



25 March 2025

Final report by the Complaints Commissioner

Complaint number 202400599

The complaint

1. On 20 December 2024, you submitted a complaint to my office about the FCA.
2. You have referred the FCA's decision for review and have said that: *"FCA discretionary compensatory payments for non-financial loss the FCA are negligent of not considering a complaint under the Scheme, and it is for the CC to provide its conclusion over this complaint justly under the FCA acting in 'Bad Faith' failing to comply with its own regulated 'Scheme' that changes the balance over statutory immunity of the regulators provided by Parliament against the need to make compensatory payments when at fault."*
3. To resolve your complaint, you seek compensation for the FCA's delayed response to your letter of claim, which has caused you distress, inconvenience, and additional legal costs.

FCA complaint

4. By way of background information, on 20 November 2024, you submitted a complaint to the FCA under the Complaints Scheme. In summary, your complaint was about the failure of the FCA's Regulatory and Corporate Legal Team to acknowledge your letter of claim dated 23 October 2024 within the 21-day period. You said that an acknowledgment ought to have been issued by 13 November 2024, however the FCA provided its acknowledgement – accompanied by a full response (which was not late) and an apology for the late acknowledgement - on 19 November 2024 (i.e. 4 business days after the due date for the acknowledgement).

5. You said that the FCA acted *“unfairly and unreasonably”* and that their failure to provide an acknowledgment *“...caused [you] severe distress, inconvenience, and costs ... having to engage a.. legal firm to review [your] claim and its merits.”* Therefore, you requested *“a remedy and compensation befitting [your] costs and distress and inconvenience [the FCA had] caused you.”*
6. After careful consideration, the FCA concluded that your complaint was not in scope and could not be investigated under the Complaints Scheme because (i) it related *“to actions by the FCA’s in-house legal function”*, and (ii) *“Under paragraph 2.11 of the Scheme, the FCA will not investigate a complaint under the Scheme if they reasonably consider it would be better dealt with in another way (for example, by referring the matter to the Upper Tribunal or through other legal proceedings). You claim non-compliance with a Pre-Action Protocol, and so it would be better dealt with through legal proceedings.”*

My analysis

7. I note that the FCA was 4 days late in sending an acknowledgement to you (although it was not late sending a substantive response to you), however it has accepted this and apologised to you for the late acknowledgement. I agree it is reasonable for the FCA to apologise for the late acknowledgement, and consider this is a sufficient remedy for any distress and inconvenience caused.
8. With respect to direct costs you have incurred in consulting a solicitor, given that this is connected to your pre-action protocol and pending court case, this is a matter which will be and is best dealt with by the court. This is because under paragraph 2.11 of the Scheme, neither the FCA nor I will investigate a complaint under the Scheme if it would be better dealt with in another way (for example, by referring the matter to the Upper Tribunal (‘UT’) or through other legal proceedings). The UT maybe be persuaded by your arguments and you may well get your costs awarded but as you have already referred it to the UT, I have to respect their process and decision as it is clearly set out in the rules.
9. For the reasons above, although I agree that the FCA’s acknowledgement to you was late, but in view of the fact that you will be raising this and other matters with court, and the fact the FCA response was not late, I consider the

FCA's apology sufficient remedy and I do not uphold your complaint that you should receive compensation under the Complaints Scheme.

10. I note you do not agree with my decision, however, for the reasons above I am unable to uphold your complaint
11. On a separate matter, I do not agree that the inhouse legal function is generally out of scope of the Scheme as a default position, however, in this case it is irrelevant because the involvement of the legal team doesn't change my findings above.

The Complaints Commissioner

Complaints Commissioner

25 March 2025