Complaints Commissioner

Office of the Complaints Commissioner
Alliance House
12 Caxton Street
London
SW1H 0QS

Tel: 020 4599 8333
E-mail: info@frccommissioner.org.uk
www.frccommissioner.org.uk

25 June 2026

Final report by the Complaints Commissioner

Complaint number 202500483

The complaint

1. On 20 September 2025, you submitted a complaint to my office against the FCA. The complaint was made on behalf of your newly established association ("PA1") at a European institution based in London (the "Institution"). You wish to carry out activities that you believe are the same as those of another association ("PA2"), but you are uncertain whether these activities fall under FSMA. Neither PA1 nor PA2 is authorised by the FCA. Ultimately, you seek a determination from the FCA on whether the specific activities you intend to undertake, which you say are similar to those carried out by PA2, are regulated. You do not propose to undertake these activities until you have received a determination from the FCA.

2. You contend that, if those activities are regulated, PA2 is carrying them on without authorisation, to the detriment of members. Conversely, if those activities are not regulated, you are concerned that PA2 has continued operating while you have remained constrained by regulatory uncertainty, which you consider has placed PA2 at a competitive advantage. You further contend that, given the FCA's secondary objective is to facilitate the competitiveness and growth of the UK economy, the FCA should provide you with a determination so as not to create a scenario in which PA2 enjoys a competitive advantage over you.

3. The FCA has declined to give an informal view on whether your proposed activities would require authorisation outside the formal authorisation application process (a procedure by which the FCA in the UK grants permission for a firm or individual to carry out regulated financial activities).

4. You are dissatisfied with the FCA's response and have therefore brought your complaint to me. You say that you do not have the financial means to pursue a formal application for authorisation and were therefore seeking guidance on an informal basis.

5. Outcome: I have not upheld your complaint for the reasons I give below.

Background

6. In June 2025, along with two other Trustees, you set up PA1 which is a registered charity competing for membership with another longstanding similar association at the same institution, PA2.

7. You allege that PA2 is an unincorporated association which offers members the option to purchase an Insurance Policy which is provided and administered by a European insurance company, (the **"Insurance Firm"**).

8. It is my understanding from you, that you wish PA1 to offer the same option as you believe PA2 offers and you described to the FCA the nature of activities you wish to undertake which you believe mirror PA2's. You asked if FCA authorisation was required when undertaking these activities.

9. You were told by the FCA that it had passed the information you had provided to the relevant area for review, but that it would not be able to tell you what consideration it had given it due to confidentiality restrictions, and that PA1 would need to seek independent compliance or pro bono legal advice (if you were concerned about legal fees) in respect of whether PA1 would need to be authorised in order to undertake the proposed activities. This is because the FCA does not provide the kind of advice you were seeking from it.

10. Subsequently, PA1 obtained supervisory guidance from three different compliance consultant firms, which, you told the FCA, had been contradictory. You also explained that PA1 did not have the funds to apply for authorisation, however, the FCA's position remained the same, namely, it declined to provide a determination outside of a formal authorisation application process.

11. You raised a complaint with the FCA on 1 August 2025 regarding the matters above.

12. The FCA issued a decision letter on your complaint in September 2025 and concluded that it had not passed your concerns to the correct team within the FCA under its usual processes, although it had previously told you it had done so, and therefore upheld this point. However, it stated the information had since been passed to the relevant areas and considered appropriately and that the guidance you received about your association's activities was appropriate. It continued to maintain that it would not provide a determination on your proposed activities outside of a formal authorisation application process.

13. Subsequently, on 20 September 2025, you brought your complaint to my office.

Analysis

14. You provided a substantial volume of information to the FCA about PA1 and PA2. It is not my intention to repeat everything you have said to the FCA. Instead, I summarise the substance of your complaint: you sought clarity from the FCA on whether the specific activities you intend to undertake, which you say are similar to those carried out by PA2, amount to regulated activities, as well as the points referred to in paragraphs 1-3 above.

15. Following on from the above, I should make clear at the outset that it is neither my intention, nor within my remit, to review or determine the accuracy of the information you have provided about PA2, and I have not sought to verify that information. Nor is it my role to determine whether the activities you propose to undertake would amount to regulated activities. My remit is confined to considering how the FCA handled the information you provided and whether its response to you was reasonable in the circumstances.

16. During the course of this investigation, I have reviewed the full FCA file and all the submissions made by you in relation to the complaint. I am satisfied that the FCA dealt with the information you provided about PA2 appropriately. However, like the FCA, I am unable to disclose more to you due to the same confidentiality restrictions which the FCA has explained to you in its decision letter dated 19 September 2025. As a result, the treatment of the information you have provided about PA2, is confidential under Section 348 FSMA and / or its general policies on confidentiality.

17. The FCA also told you that determining whether authorisation is required is a matter for the relevant organisation to assess, with the benefit of legal advice if necessary. The FCA does not provide advice or clarification to businesses wanting to understand whether they need authorisation or not.

18. I find the FCA's position reasonable. Whilst I appreciate you say that you received contradictory compliance advice from third party external providers, this does not place an obligation on the FCA to assess whether authorisation is required for firms outside of a formal authorisation application process.

19. You have expressed that, in order to remain competitive, you feel compelled to undertake the same activities as PA2, and you suggest that by not providing guidance on your proposed actions, the FCA is affecting your competitiveness.

20. I acknowledge those concerns. However, I do not consider the FCA acted unreasonably in maintaining its position.

21. The FCA explained that it does not generally provide bespoke advice or definitive determinations to firms outside its formal authorisation process, and that firms are expected to assess for themselves whether authorisation is required, taking legal advice where necessary. In my view, that is a rational and consistently applied approach. I do not consider it unreasonable for the FCA to decline to give informal assurance outside a formal application for authorisation.

22. Whilst I appreciate that you received differing views from external advisers, and that this has created uncertainty for you commercially, that does not itself make the FCA's response unreasonable. Nor does the fact that another organisation may be operating in the market alter the FCA's entitlement to apply its usual approach to requests of this nature.

23. In the circumstances, I am satisfied that the FCA considered your correspondence and responded in a manner that fell within the range of reasonable responses open to it.

24. Furthermore, it is my understanding that the FCA has written to you on 20 May 2026 to provide comments for signposting. In this letter it reiterated that "It remains the responsibility of each business or organisation to consider the relevant legislation, rules and guidance, and to determine whether its activities fall within the regulatory perimeter, taking independent legal advice where

appropriate, however, subject to the above limitation, and based on the limited information you have provided." It drew your attention the comments in one of the pieces of advice you received which the FCA says "may assist you in reaching your own view".

25. Whilst I appreciate this did not provide the certainty you were seeking, I do not consider it unreasonable that the FCA confined its letter to signposting helpful information rather than providing a definitive regulatory view. In the circumstances, I consider that this was an appropriate extent of engagement by the FCA.

26. For the reasons above I do not uphold your complaint.

The Complaints Commissioner

Complaints Commissioner
25 June 2026