

22 September 2021

**Final report by the Complaints Commissioner****Complaint number FCA001177***The complaint*

1. On 13 July 2021 you asked me to investigate a complaint about the FCA on behalf of your client.
2. The FCA summarised your complaint as follows:

**Part One**

You are unhappy about the FCA's refusal to assist a vulnerable individual with their issue with a regulated firm.

**Part Two**

You are unhappy with the FCA's ongoing failure to properly supervise a regulated firm.

*What the regulator decided*

3. The FCA did not uphold your complaint, they advised you:

Part One of the complaint is not upheld. We are satisfied with the response CMCD provided to your complaint, and I reiterate that it is not the FCA's role to intervene in individual disputes between a customer and a firm. In this case, the appropriate channel is for the matter to be followed up with the firm, and then escalated to the Ombudsman.

Part Two of the complaint is not upheld. We are satisfied with the information CMCD has provided in relation to the regulatory status of [firm x], and in explaining that the information you provided has been shared with the relevant areas of the FCA and will be taken into

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account as part of CMCD's assessment of the firm's application for authorisation.

*Why you are unhappy with the regulator's decision*

4. You are not happy with the FCA decision and have asked me for an independent review.

*My analysis*

5. You have asked the FCA to assist a vulnerable client with issues they are having with [firm x] and you are unhappy the FCA have refused to do so. You do not believe the FCA are properly supervising [firm x]. The FCA assisted two other consumers previously because the staff were acting from good intentions and went over and beyond the role. Whilst it would be helpful if the FCA could do so again for your client, the FCA is right to say that this is not its role. The FCA has however, taken account of the information you have provided. Given the circumstances I cannot uphold the complaint.

6. Part One

The FCA informed you of the appropriate alternative route to pursue regarding the issues facing Ms K, and you have stated that you have already been in contact with the Ombudsman to see how Ms K's case could be expedited.

Also, in its letter to you of 4 May 2021, CMCD stated that it was aware of the particular challenges faced by vulnerable consumers. It drew your attention to the fact that on 23 February 2021, the FCA published its 'Guidance for firms on the fair treatment of vulnerable customers'. The Guidance sets out the action's firms should take to treat vulnerable customers fairly, and all areas of the FCA (including CMCD) are expected to be aware of these, and to take action where appropriate if firms are not acting in line with the Guidance. Your attention has also been drawn to the various organisations offering emotional support and practical assistance for vulnerable customers

<https://www.fca.org.uk/publication/documents/organisations-offering-emotionalsupport-practical-help.pdf>

The FCA has a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the financial industry through the setting of

standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate individuals' complaints against the firms it regulates: that is the role of the FOS. Whilst I sympathise with your client's situation it is not a matter for the FCA or my office.

## 7. Part Two

I have found no evidence to suggest the FCA are not properly supervising [firm x]. The FCA have confirmed they will take into account the information you have provided when they review the authorisation application [firm x] have made. You have told me you are unhappy about the length of time the FCA is taking to review the application for authorisation, but I have satisfied myself that there are legitimate reasons for this. The regulator welcomes information from people who report concerns. However, as you were told, the FCA does not generally say what action has been taken in response to the information that it receives. This is because section 348 (s.348) of the Financial Services & Markets Act 2000 (FSMA) classes some information the FCA holds about firms as confidential and restricts how that information is dealt with. In addition to this, any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals, who also have legal protections. Under this policy, the FCA will not normally disclose the fact of continuing action without the agreement of the firm concerned.

### *My decision*

8. I realise you may be disappointed with my decision report, but for the reasons outlined above, I cannot uphold your complaint.

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Complaints Commissioner

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