

05 November 2021

**Final report by the Complaints Commissioner****Complaint number FCA001390***The complaint*

1. On 17 August 2021 you asked me to investigate a complaint about the FCA.

*What the complaint is about*

2. The FCA summarised your complaint as follows:

Your complaint is about the lack of action by the FCA to close down the website of an unauthorised firm.

*What the regulator decided*

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

To investigate your complaint, I have reviewed your contact with the Hub, the steps that UBD took when they received your information and the related procedural information. Some of the information that I have reviewed is covered by confidentiality restrictions. However, I have had unrestricted access to all the relevant information to fully investigate your complaint. Having received your email on 8 October 2020, the Hub assessed the information and considered that it warranted dissemination to the relevant team in the FCA, which was UBD. As noted above, on 12 October 2020, the Hub notified you of the steps it had taken. Further, the Hub has informed you on a number of occasions by email that it would not be able to provide you with any feedback about what the FCA do with the information, and you have stated that you understand this. Again, the relevant FCA policy on how it deals with information it receives is set out here <https://www.fca.org.uk/freedom-information/information-we-canshare>. I

do appreciate the concerns you have raised about the continued operation of the firm's website. However, as the Hub stated in its email to you on 13 April 2021, UBD collects intelligence on firms that appear to be providing regulated financial products and services without FCA authorisation, which can then be used to post warnings on the FCA website and on the FS Register to assist consumers in making an informed decision as to whether to deal with firms or not. Further, it should be noted that the intelligence can also be used to assist the FCA in its consideration of other action it considers appropriate. From the documents I have reviewed, I am aware that UBD has assessed the information, alongside other available intelligence, in accordance with its procedures. However, in view of the information set out above and that I have reviewed, I consider that the relevant areas in the FCA have taken reasonable and appropriate action in relation to the information that you provided. Therefore, I have not been able to uphold your complaint. Separately, I have reviewed the position regarding the first complaint that you submitted on 26 November 2020. I note that as a result of our actions the complaint was submitted to the Complaints Team's old email address (complaints@fca.org.uk). This meant that the complaint was not picked up by the Complaints Team, and that resulted in you submitting a second complaint on 19 April 2021, (complaints.scheme@fca.org.uk), almost five months later.

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

4. You have told me that:

I first became aware of a website advertising motor insurance facilities in October 2020 and having carried out some research it appeared that the firm in question had no form of FCA Authorisation.

On 8th October 2020 I e-mailed FCA to bring this website to their attention and after many e-mail exchanges it became apparent that the firm's website was still operating so I made a formal complaint to FCA's Complaints Team.

I received numerous e-mails saying there would be a delay in responding to me due to the large backlog of complaints which had been received and eventually I received the attached letter dated 2nd July saying my complaint had not been upheld and offering me £50 compensation for the initial delay in responding to me.

I replied to the author of the e-mail from FCA Complaints Team, on 4th July and a copy of my e-mail is attached. You will see I rejected the offer of £50 compensation and also his statement that my initial referral of my complaint to the Complaints Team dated 26th November 2020 had not been picked up as it had been sent to an old e-mail address. This statement was totally incorrect and I sent a copy of the acknowledgement I had received to this e-mail.

*My analysis*

5. You contacted the FCA in October 2020, to inform them of (firm x) who appeared to be operating without FCA authority. You fully understand that under the Financial Services and Markets Act 2000, the FCA are not permitted to disclose what action, if any they are taking against an unauthorised firm, however the fact that this particular firm is still advertising its activities some 10 months after being being drawn to the FCA's attention you find totally unacceptable.

You have told me you the payment of £50 offered to you by the FCA was not in relation to your email of 26 November 2020 not being picked up by the complaints team despite it being acknowledged, but for the delay in the complaints team responding to you. Ultimately, the delay was a result of the email not being picked up by the FCA and I feel the ex-gratia payment offered is sufficient in the circumstances.

The FCA confirmed to you:

Offer of ex-gratia payment for delay

I recognise that the Complaints Team did not pick up your first complaint on 26 November 2020.

We apologise for the ultimate delay in your complaint being considered by the Complaints Team, and for any inconvenience this may have

caused. In view of this delay, we would like to offer you an ex-gratia payment of £50.

Like the FCA, I am required to respect confidentiality. This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material. On occasions, I have persuaded the FCA to release further confidential information to help complainants understand what has happened, but this is not always possible. I shall continue to pursue this matter with the FCA.

You have advised the website is no longer operational since you had contact from a company who are associates of (firm x) who were unaware (firm x) were not authorised by the FCA.

*My decision*

6. 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

05 November 2021

