

9 May 2016

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00148**

Thank you for your two emails of 2 March 2016. I have completed further inquiries of the Financial Conduct Authority (FCA), and have reviewed all the papers you and the regulator have sent to me. My decision on your complaint is explained below.

Before finalising this decision, I invited comments from you and the FCA on my preliminary decision. I have considered carefully the points that you made but they have not changed my decision. The FCA has confirmed that it will now make the necessary arrangements to carry out the recommendations in my report.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

As you can find full details of how I deal with complaints at www.fsc.gov.uk I do not intend to set them out fully below. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

Your complaint

From your email correspondence and the papers submitted to me by the FCA I understand that you made a complaint to the FCA about a series of phone calls between you and staff of its Customer Contact Centre (CCC) on 16 June 2015. The phone calls were made after you received an email telling you that the FCA was no longer prepared to communicate with you about an issue you had raised. The underlying complaint issue dates back to 2011/12 and your concerns about the approach of the then Financial Services Authority (FSA) to the mis-selling of Interest Rate Hedging Products (IRHPs).

You submitted three emails to the FCA Complaints Team on 16 June 2015, and on 13 July 2015 the FCA summarised your complaints in two parts as follows:

“Element One

You are dissatisfied with the level of customer service you have received from the Financial Conduct Authority’s (FCA’s) Customer Contact Centre (CCC). You have specifically complained about:

- *A conversation you had with a CCC Agent who you have alleged was ‘rude and conflict orientated’.*
- *A conversation with a CCC Agent who you have alleged ‘was very rude and terminated the call without a valid reason or justification’.*
- *Being cut off when the Switchboard operator attempted to put you through to the Complaints Team.*
- *Being sent a letter advising that the CCC were closing contact with you by a CCC Agent that you say you have previously complained about.*

We believe that this element of your complaint is an allegation of ‘unprofessional behaviour’ and a ‘lack of care’ on the part of the FCA.

Element Two

You are dissatisfied with the ‘events from 2011’ and the way in which the FCA has handled the mis-sale of interest rate hedging products.

We believe that this element of your complaint is an allegation of ‘lack of care’ on the part of the FCA.”

The FCA advised that the second element of your complaint had already been considered by the Complaints Team in August 2012 and a decision made not to investigate. You were reminded that the possibility of bringing your complaint to my Office had been pointed out to you at the time and that it might now be too late to do so. The FCA told you that it would investigate Element One of your complaint and an update would be provided by 10 August 2015. Further updates were sent to you on 8 September, 9 November and 4 December. You eventually received a Stage One complaint response dated 23 December 2015. The FCA upheld your complaint in part, on the basis that the CCC’s process when closing correspondence with an individual was not followed in your case. The correspondence should have been reviewed and signed off by a Team Leader. The person who wrote to you was not a Team Leader; in addition she was someone you had previously made a complaint about. The FCA apologised for sending you a closure response from someone you had complained about. Your other complaints, about the various phone calls on 16 June 2015, were not upheld, although the FCA also apologised because at one point you were incorrectly told that calls could not be transferred to the Complaints Team.

You are unhappy with this response and have complained to my Office as follows:

- You wish to make a formal complaint as to why the FCA ‘shut you down’ and seek compensation and action if your complaint is successful.
- You consider that the time taken to investigate was appalling and you have wasted a lot of telephone time and money in writing emails and letters.
- You consider that lies were told by FCA staff and that this is admitted in their letter.

- You want to know what the FCA is doing about your case with the FOS.
- You ask if the FCA is going to take seriously the mis-selling of IHRPs and what you consider to be the failure of its review into this matter.

My position

I have reviewed all of the papers and submissions received from you and the FCA, including recordings of the telephone calls. I consider that the FCA's letter of 13 July 2015 correctly summarised your complaint. I am unable to consider the matters set out in Element Two of your complaint because these were investigated and a decision reached in August 2012. Under Rule 6.9 of the Complaints Scheme you are now out of time to bring that matter to my Office. You have not advanced any reason why I should consider that element so long after the expiry of the time limit.

I consider that the FCA's investigation into your complaints about the phone calls made on 16 June 2015 was generally thorough, and the response set out in its decision letter of 23 December 2015 was reasonable. Although there were aspects of the calls which could have been better handled, it is clear to me that the FCA staff did their best to address your complaint. Although you have stated that "Lies were told by FCA staff as admitted in the letter", I can see no evidence for this.

However, in my view the Stage One response fell short in addressing your complaint about the email informing you that CCC were closing contact with you in respect of IRHP and your Bank. You complained that that email was sent by someone you had previously complained about and said this showed bias. Although the FCA has offered you an apology for this, I consider that a more appropriate response would have been for the FCA to offer that a Team Leader would review the decision to close contact with you. This would have offered you reassurance that the correct procedure had been followed and demonstrated greater transparency and fairness. I therefore uphold this aspect of your complaint and **recommend** that the FCA now offers to arrange for a Team Leader not previously involved in your complaint to review the decision to close contact with you and write to you with the outcome and brief reasons so that you can understand the basis for the decision.

You have also complained about delay in the FCA's handling of your complaint. Having reviewed the complaint file, I am unclear why it was not possible for the FCA to conclude its investigation of your complaint sooner. It seems that a casehandler left and that it took some time to gather all the information and listen to the phone calls. As mentioned above, I consider the investigation to have been detailed and thorough and you were kept informed of progress, or lack of it. However, it does appear from the FCA's files that the Stage One report was substantially written by 30 September 2015 and that it took nearly three more months for internal approvals and sign-off to be completed. In the meantime you had submitted further complaints about the Financial Ombudsman Service (FOS) and the FCA's interactions with it.

The time taken clearly exceeded the FCA's targets and I consider that this should have been acknowledged in the Stage One response letter and an apology offered. I therefore **uphold** your complaint of delay and **recommend** that the FCA offers you an apology for the time taken to deal with your complaint, and a payment of £50 to reflect this failing and your inconvenience.

I am unable to comment on your concerns about the FOS as the Complaints Scheme and my Office does not have any jurisdiction over the Ombudsman service. If you wish to complain about the FOS, they have their own complaints scheme - <http://www.financial-ombudsman.org.uk/about/our-service-standards.htm>.

Conclusion

Although I believe the FCA was right to uphold your complaint in part I do not consider that its offer of an apology was sufficient.

I **recommend** that the FCA now offers to arrange for a Team Leader not previously involved in your complaint to review the decision to close contact with you and write to you with the outcome and brief reasons so that you can understand the basis for the decision.

I also consider that the FCA took too long to reach its decision on this matter. I **recommend** that the FCA offers you an apology for the time taken to deal with your complaint, and makes a payment of £50 to reflect this.

I appreciate that you may be disappointed with aspects of my decision, but I hope that you will understand why I have reached it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner