

02 August 2022

Final report by the Complaints Commissioner**Complaint number FCA001678***The complaint*

1. On 18 March 2022 you asked me to investigate a complaint against the FCA, following its decision letters issued to you on 22 December 2021 (**December DL**) and 10 March 2022 (**March DL**).
2. Upon receipt of your complaint, I noted that an aspect of your complaint had not been addressed by the FCA under stage one of the Complaint Scheme, and I placed my investigation into your complaint on hold whilst the FCA investigated the missing element of your complaint and I advised you I would consider your complaint as a whole if you were not satisfied upon receipt of the further decision letter from the FCA.
3. The FCA issued the further decision letter on 18 May 2022 (**May DL**). You have advised that the decision letter has not resolved your complaint and that you would like me to proceed with my investigation of your complaint.
4. My preliminary report was issued on 4 July 2022. Both you and the FCA have now provided your comments to my preliminary report.

What the complaint is about

5. The FCA set out your complaint in the three decision letters as follows:

December DL

Part One

You wish to complain about the service you received from the Supervision Hub (the Hub). You say that you sent an email but received no response. You followed up with a telephone call which lasted 40 minutes before the Associate ended the call without a call back. You say that an Associate lied to you and

told you that they did call you back, but you dispute this and say that, if there was a call back, they did not leave a voicemail.

You would like to be compensated for poor service you received and for your time and effort spent.

Part Two

You contacted the Hub on 2 July 2021, about an invoice you received for the period April 2020 to March 2021. You queried why you received this invoice when you registered with the FCA in February 2021. You say that had you known you would be invoiced for the full financial year, you would have registered at a later date. You say you do not accept the fact that this is mentioned within the terms and conditions and you had made it clear to the Associate you spoke with that you had not read these. Further, you wanted assistance with disputing the invoice, but you are unhappy with the guidance you received and that you were told that you would receive a second invoice.

You say that you want to dispute the two invoices and cancel your registration with the FCA.

March DL

Part One

You've told us that you're unhappy with two invoices that you've received totalling approximately £650 in outstanding FCA fees.

Part Two

You're unhappy with the contents of a telephone call with the FCA's Supervision Hub which took place on 5 January 2022. You've told us that the Advisor you spoke to, had a bad attitude and that they were was nasty to you. You've told us that this incident affected your existing mental health issues.

May DL

I have slightly amended your allegation below to ensure complete accuracy, when reflecting your email of 15 July 2021.

You have stated that you did not understand the terms and conditions, or language used at the time of registering with the FCA. You have stated that you were informed about the £100 set up fee but was not given sufficient information regarding the amount and timing of the regular annual fees. You have also claimed to have had fears about signing up with the FCA and was assured on the phone that you would be looked after and that the FCA would always look favourably on someone new, rather than putting unexpected bills in front of them.

What the regulator decided

December DL

I have partially upheld Parts One and Two of your complaint.

March DL

I have partially upheld your complaint.

In our letter of 20 January 2022, you were advised that Part One of your complaint had already been investigated, via our Decision Letter of 22 December 2021. A copy of this letter was provided to you as reference.

May DL

I have not upheld your complaint. I appreciate that this will not be the outcome you were seeking.

I have also placed a hold on any impending invoice reminders whilst this complaint and the OCC's review are being considered.

Why you are unhappy with the regulator's decision

6. On 23 March 2022 you wrote to my office and set out that you joined the FCA in January 2021. In your email you set out in detail the issues that you have experienced with your interactions with the FCA since you joined. I have

summarised the key complaint elements that you have raised and were investigated by the FCA in its three decision letters.

7. You have set out that there has been an 'insane amount of contradiction that took place' in the phone calls you have had with the FCA and in your email communications with the FCA. In particular, when you were going through the initial registration process you told the FCA that you did not understand its Terms and Conditions and you say that you were assured that you would be looked after as you were new and would not be issued an unexpected bill.
(Element One)
8. You were charged an extra invoice, which you do not feel should have happened and was out of order and it has taken months to sort out. **(Element Two)**
9. The complaints team issued its original decision letter without listening to the calls you were raising complaints about. **(Element Three)**
10. You received multiple emails stating that you owed £700 with the contact details of a specific person to call and discuss the outstanding amount with if you had any issues. You tried to contact the named person 20 times and to date you still have not spoken to the named contact. **(Element Four)**
11. You have expressed dissatisfaction with your interactions on the telephone with the FCA in particular a call with the supervision hub on 5 January 2022.
(Element Five)
12. You asked that I Investigate your complaint that you feel that you have been terribly treated by the FCA both during your interactions with the supervision hub and later the complaints team. You feel that you are owed compensation for the huge amount of time that you feel has been wasted on this and the unnecessary stress that this has caused you.
13. You feel that you have received a 'contradictory service' and that you have been provided with the purposefully difficult call handlers, the repeatedly incorrect emails pointing me to a contact point that does not exist, the horrific amount of time this has taken for information to be provided, the judgement being made without even reviewing the phone calls you have discussed, the attempt to lock

you into a financial contract which you clearly did not understand (the precise opposite reason the FCA was created for).

My analysis

Elements One and Three

14. When we originally received your complaint in March 2022 and reviewed the December and March decision letters, it was noted that it appeared that the main crux of your complaint was that you explained on the phone to multiple FCA representatives that you did not understand the terms and conditions at the time of registering with the FCA, and that you did not understand the language used and had fears about signing up with the FCA. You set out that you were assured on the phone that you would be looked after and that the FCA would always look favourably on someone new rather than putting unexpected bills in front of them.
15. When we reviewed the two decision letters that were issued by the FCA to you and the investigation file that we were provided with, it did not appear this the key aspect of your complaint had been fully investigated and addressed. It appeared that the investigation has focussed on the calls since May 2021 and not the initial calls you outlined that you relied on when registering with the FCA and had expressed that you were misled by.
16. As such my office wrote to the FCA at this time and asked it to consider this missed aspect of your complaint under stage one of the Complaint Scheme. I placed my investigation into your complaint on hold whilst this took place so that if your complaint remained unresolved, I could then look at your complaint as a whole.
17. The FCA agreed to review this aspect of your complaint and provided its response to you in the May DL.
18. In view of the above I **uphold** Element Three of your complaint. The original decision letters issued by the complaints team clearly missed a crucial aspect of your complaint and as a result it did not go back and consider the calls at the start of your interactions with the FCA and the reliance you placed on these calls.

19. The May DL did consider Element One of your complaint and in the letter the Complaints Investigator set out that it had undertaken a review of all the case notes and emails on the matters pertained and that they had unfortunately not been able to find any call prior to your authorisation of 26 January 2021, which would substantiate such a claim and as such this aspect of your complaint was not upheld in the May DL.
20. The May DL set out that during the authorisations process you had positively attested to the 'Fees and Levies' and 'Declaration of ongoing FCA fees liability' on your application form for authorisations with the FCA and the Complaint Investigator concluded that:

Therefore, whilst I am sorry to hear of your concerns with the terms and conditions and language used at the time of registering with the FCA, it is my view that the applicant applying for authorisation has the responsibility to ensure they are ready, when preparing to submit their application. This can include seeking legal and/or compliance advice if you are unsure of any aspect relating to the application.

21. When I was sent a copy of the May DL, I was not sent any further files and was not provided with any details of the attempts the Complaint Investigator had made to locate and listen to the calls from the time of your authorisation in January 2021. As such I requested these before I continued my report. It was at this time that I was advised that there had been an 'oversight in the investigation' and that the calls had not been obtained or listened to prior to issuing the May DL.
22. I am very disappointed that this has occurred on your case and that you were issued with a further decision letter on your complaint which due to the oversight in the investigation process again failed to investigate and address your complaint fully. I appreciate that your complaint has already taken some time and that this will have upset and frustrated you yet again.
23. I have written to the Executive Director of Risk and Compliance Oversight about failings in the investigations process into your complaint and my wider concerns around how complaints where there are call recordings are investigated. I have received a response in which sincere apologies were given in relation to the

mistakes that have been made on your case, including the additional time and inconvenience that the errors have caused my office. In addition to this I have been advised of improvements that the Complaints Department are implementing to prevent a repeat of the issues that have arisen in your complaint. I will be closely monitoring the future complaints I receive, especially with call recordings to ensure that the measures I have been advised of are being implemented and are being followed and are making the necessary improvements to avoid the experience you have had for other complainants in the future.

24. The response to my letter also provided my office with assurances that following my investigation, findings and recommendations the appropriate actions will be taken in relation to the poor handling of your complaint. As I set out above, I am very disappointed about the FCA's handling of this aspect of your complaint and the resulting further additional time and frustration that this has caused you. It is my belief that the handling of your complaint has been extremely poor and I **recommend** that the Head of the Complaints Department should apologise in writing to you. In addition to this you have been extremely upset and frustrated by the handling of your complaint and I **recommend** that the FCA should make an ex gratia payment of £200 for the distress and inconvenience that the poor complaint handling has resulted in.
25. I note that in your response to my preliminary report you advised that you are not interested in receiving an apology from the FCA to meet my 'quotas'. I can assure you that I do not have any quotas for apologies that I have to meet or for any of the recommendations I make. I recommended the apology because it is appropriate in the circumstances detailed above and I am pleased that the FCA have agreed to this and have advised that the Head of Department will write to apologise to you and that they have agreed to provide the recommended ex gratia payment. It is your decision whether or not you chose to accept the apology upon receipt of it. In your further responses to my office received on 11 July 2022 and 28 July 2022, you informed me that the findings of my report have not resolved your complaint and that you are looking to raise the matter in the courts. You have expressed that you are disappointed with my recommendation for the £200 ex gratia payment and set out that you felt that

you should be compensated 'somewhere nearer £20,000'. You have asked me to provide a breakdown of what the £200 ex gratia payment I recommended was for. The recommendation for the ex gratia amount of £200 was to reflect the poor service that you received by the FCA in its investigation of your complaint on more than one occasion that has resulted in the investigation being prolonged and upsetting for you as an individual. It does not relate to time and losses to your business.

January 2021 calls

26. Following my letter to the Executive Director of Risk and Compliance Oversight, the Complaints Department has now also written to me to advise that they have now located the calls from the time of your authorisation and have provided me with copies of the calls which have now been reviewed by the Complaint Department and subsequently by my office.
27. From the calls it is clear that you expressed on several occasions that you found the FCA's terminology and systems confusing. It can be heard in the call recordings, that the various FCA call handlers who you spoke with, did try to assist you and help you through the questions you raised going through the authorisations set up, and tried to address your questions about the future requirements that you would need to meet 'to keep the FCA happy'. I do note that some agents were clearly more knowledgeable and experienced at handling the types of concerns you were raising as a new FCA user and that difference in knowledge might have come across as slightly contradictory in the calls.
28. One such instance I can identify is when you called the FCA on 26 January 2021 because you were having issues completing your registration on the Connect system. You then tried to log into the Gabrielle system and it appeared that you had not received the registration key by email which was then sent through to you and the call ended with you waiting for the email. When you spoke with a different agent the following day, he noted that the key should have been sent through to you and when it appeared it hadn't, he then proceeded to try and then set you up on the spot. You questioned why the agent you spoke to the day before had not done this. The agent was unable to

answer why the previous agent had not taken the steps he was taking. I can understand that this would have been a frustrating experience and would have seemed a little contradictory. To me it demonstrates that there are obviously differences between the experience level and knowledge of the agents and in my preliminary report I suggested that the supervision hub team may want to use this opportunity to review the difference in the approach of these two agents in handling your query with a view to how to improve the response to callers in future. I am pleased that the FCA has taken up this suggestion and has informed me that it has provided feedback to the relevant supervisors about the service and guidance they provided to you.

29. Further into the chain of calls that you had during your authorisation process, it was apparent that you were finding the whole set up process difficult to understand, frustrating and that having to make the calls to work through the set up was time consuming. Having listened to the calls I did feel that the general approach taken in the calls was professional and helpful. There were clearly some call handlers that you felt on the calls were not as interested in helping you as perhaps they should be. I do want to note that I did find that some of the call handlers were incredibly helpful and provided really clear help to you, and I consider that in comparison to these calls it appears that you understandably then found others less helpful and that this upset and frustrated you. However, I felt that the calls did all come across as acceptable from a customer service level in these early authorisation set up calls.
30. With respect to the assurances, you believed you had been given that you would be looked after and that the FCA would always look favourably on someone new, rather than putting unexpected bills in front of them, I have identified calls in which your 'newness' to the FCA processes was noted. In particular, you had a call with an agent on 27 January 2021 at 16:19 in which you discussed that this was your first time dealing with the FCA and that you were horrified with the service in view of the fact that were forced to pay to get authorised. In this call you expressed that you were not happy with the terminology you had to navigate through. The agent you spoke with did set out that he could appreciate that being new to the process that you would need some support with the process and that is what the FCA is there for. The agent

directed you to materials that he felt would assist to make it easier to navigate and work through things in the future and set out that he understood that there would be things that you would need to do in the future for the first time and that if you ever needed help with those things that is what they were there for.

31. Having reviewed this call I do consider that you were given a general assurance that as a new user to the FCA that there were agents available to assist with the queries as and when they came up and help you to navigate through. This came across as the kind of assurances that should be provided to people who are new to the FCA and its processes and who are concerned, and it was in fact pleasing to hear that this assurance is given by some agents to newcomers to the FCA process.
32. In the call you and the agent did discuss the fact that you were unhappy that you could potentially be charged a late return fee if your return was late, but it did not appear that you were told that you would not receive unexpected bills.
33. So, whilst I understand why you may have felt that you were given assurances by the authorisations team, I am satisfied that these were general assurances that you could contact its team to gain guidance as you learnt your way around the FCA processes and that the information in relation to understanding the terminology and the fee requirements could all be found on the FCA's website. For this reason, I have **not upheld** Element One of your complaint.

Element Two and Four

34. Element Two relates to the fact that you consider that you were charged an additional invoice, which you do not consider should have been issued. Leading on from this is Element Four that you received multiple emails stating that you owed £700 with the contact details of a specific person to call and discuss the outstanding amount with if you had any issues. You tried to contact the named person 20 times and to date you still have not spoken to the named contact.
35. Element Two of your complaint was addressed by the FCA in both the December DL and the March DL. Element Two also ties in with Element One which we have discussed above, because you have set out that from the time of authorisation that you have explained to the FCA agents that you did not

understand the Terms and Conditions and in turn that you did not understand the fees and levies that would be charged to you. The FCA's position is that you agreed to the relevant 'Fees and Levies' and the 'Declaration of ongoing FCA fees liability' when you submitted your application form. You have set out that if you had understood you would have been invoiced for a full financial year you would have registered at a later date.

36. When you first raised the query about the additional invoice you contact the Hub on 2 July 2021 and questioned why it had been issued. The December DL considered this complaint aspect and decided the following:

in accordance with the evidence and policy guidance which I have reviewed, that the Hub should have been clearer in their guidance to you. I am sorry on behalf of the FCA for this oversight and for any inconvenience caused.

However, the invoices in questions are correct, in accordance with the specifics of your application and in line with policy guidance. Whilst I can understand that you may not have read the terms and conditions, the onus on ensuring compliance and gaining the relevant independent advice on regulator requirements lies with the authorised concerned firm. On this basis, I am partially upholding your complaint.

The invoices are therefore due, and I would encourage you to make payment as soon as you can to avoid further charges arising.

37. In view of the information I have reviewed I do consider that the FCA position in the December DL was fair. I appreciate that you have set out that, despite positively attesting to the fees and levies when you submitted your application, you did not actually understand the terms and conditions, but this in itself does not render the invoices to be incorrect. Having said that it is disappointing that it is clear that when you contacted the Hub you again received below expected assistance from the FCA to understand why the invoices had been issued. Accordingly, I agree with the FCA's position that it did not uphold the complaint that you should not have been issued with the invoice, but I agree that it

partially upheld on the basis that the Hub should have been clearer to you in its advice.

38. Following this, you received multiple emails stating that you owed £700 with the contact details of a specific person to call and discuss the outstanding amount with if you had any issues. You tried to contact the named person 20 times and to date you still have not spoken to the named contact. I do note that this aspect of your complaint has not actually been covered off in the decision letters. I had not noted this in my initial review when I asked the FCA to cover the other missed element to your complaint. I listened to the call you had with the agent on 5 January 2022, in this call you did ask her about the named person and she told you that she would contact them to get them to call you back and later in the call repeated that she thought the named person was the best person for you to speak with and would get him to give you a call back.
39. Firstly, in relation to the fact that you were provided with the contact details of someone who you were unable to reach on the contact details provided. Whilst I appreciate that this is upsetting, I do feel that there may be explanations around this which because it has not been fully investigated would explain the reason the named person failed to contact you, such as sickness or leave. Even so, I would expect the FCA to have measures in place that if a named individual was not available to contact you that someone else would contact you on the named individual's behalf and not leave your contacts unreturned.
40. The second point I wish to make on this element of your complaint, and this will also lead into the final element of your complaint, is that the FCA agent you spoke with on 5 January 2022, chose to point you back to someone you had specifically identified as failing to contact you back. This to me indicates that the agent was not actually listening to the issues you were detailing and was certainly not facilitating any kind of solution to this issue, which again I consider is somewhat disappointing from a customer service perspective. I am surprised consideration was not given to getting a manager to contact you, given the failure by the named contact to contact you.
41. In response to my preliminary thoughts and position in relation to Element Four, the FCA responded to my invitation to provide more information around the

failure of the named person to contact you or someone contacting you on their behalf when you were trying to contact them.

42. The FCA set out in its response that it accepts that an oversight did occur between the Supervision Hub and the Finance team, and apologised. The FCA acknowledged that it appears that the message taken by the Supervision Hub for the Account Handler to call you was not sent, as indicated on the call, and associated call notes. The FCA also set out in its response that with respect to the calls made to the Account Handler, the Finance team have been unable to locate any voicemail messages from you or any details of the missed calls. It has said that if you can provide details of the dates and times of these calls then it may be able to investigate this aspect further however. The FCA agreed with my position that that this part should be **upheld** on the basis that the account handler didn't call you back due to the Hub failing to pass on your message..
43. It should be noted that at the time you raised your complaint with my office the outstanding amount was still being demanded by the FCA in the 'Dunnings' letter to you. You wanted the FCA to waive this fee as you do not believe that you owe the amount.
44. I requested that the FCA place a hold on the invoice to avoid any further frustration and upset until such a time that your complaint was finalised. The FCA agreed to this and the FCA advised both you and my office that it had placed a hold on the chasing up of the invoice until the completion of my investigations.
45. Despite the hold being in place, the FCA's systems did not record the hold correctly and this led to someone contacting you in June 2022 about the outstanding amount, causing great upset and stress to you.
46. In acknowledgement of the error and the stress that the follow up contact caused the FCA has now agreed to waive the outstanding amount and as such you should not be contacted by the FCA again in relation to any outstanding invoices.
47. Considering this I do consider that the waiver of this invoice was appropriate in the circumstances in turn was an appropriate resolution to Element Two of this complaint.

48. I do however see that this was yet another failure of the FCA to manage this matter. I find this particularly concerning given you have advised the FCA that you suffer from mental health issues. In my preliminary report I recommended that the FCA apologise for the failure of its systems to place an effective hold of the invoice. The FCA in its response has informed me that it has already provided you with a verbal apology when it agreed to write off the outstanding debt. I am also pleased to note that the FCA has also informed me that it has implemented a new process to ensure that moving forward no chasers are sent to complainants for invoices which are placed on hold. .

Element Five

49. In your email to my office on 23 March 2022 you set out that the last phone call which was made to the FCA was when you were trying to get help to cancel your account on 5 January 2022. You explained you had tried to do many times before, but once again because you did not know what you were doing you did not do it correctly. You set out that the FCA representative you spoke to could not have been ruder and less interested in helping you and you were disgusted with the way they dealt with your call and that it really just summed up your experience with the FCA.
50. In relation to this element, I am pleased to note that the Complaint Investigator acknowledged that the Hub agent having been advised by you towards the start of the call that you had mental health issues, should have made enquiries with you about any assistance or adjustments that you required. I am pleased that the FCA identified this deficiency in the way the call was handled and apologised to you for this in the March DL.
51. I have listened to the call and it was clear that both you and the Hub agent were frustrated during the call. I can understand that you were left feeling upset by the call as the two of you did fail to effectively communicate with one another. The Complaint Investigator noted in the decision letter that the call was 'heated'. I would agree with this assessment. There appeared to be some sort of lag on the line which clearly left you both frustrated as you both kept trying to talk at the same time as each other. This made the call very difficult for you both with you feeling that the Hub agent was deliberately talking over you at times. I do

not think this was the case and I do largely agree with the Complaint Investigators assessment of the Hub agent providing accurate and relevant guidance in response to the matters being raised on the call. However, I do think some of the Hub agent's frustration (likely because of the lag in the call) did filter into her tone on the call, which you may have interpreted as her being rude but I do not consider that it was intentional. I therefore do agree that the Complaint Investigator was correct to **partially uphold** this aspect of your complaint.

52. Finally, I would like to note that in your response to my preliminary report you asked what your next steps were for seeking justice following my investigation. You set out that you hoped my decision could be reviewed and that you were concerned that I was recommending ex gratia payments rather than telling the FCA that it had done the wrong thing and owed you compensation. In the response to your email my office incorrectly noted that my previous report was my final report. I apologise for this error, however I can confirm that in writing this final report I have considered the points you raised in your response emails and reviewed my report accordingly and that the information provided to you about what the next steps available to you are following the issuance of this my final report, were correct.

My decision

53. In my analysis above I have identified several areas where the FCA has failed in various customer interactions with you. I fully appreciate why you have been left frustrated and upset with your dealings with the FCA. I have outlined a number of **recommendations** that I feel the FCA should action to resolve this matter. These recommendations are:

- that the Head of the Complaints Department should **apologise** in writing to you. The FCA have agreed to do this recommendation.
- that the FCA should make an **ex gratia** payment of £200 for the distress and inconvenience the poor complaint handling has resulted in. The FCA has also accepted this recommendation.
- that if you have not yet accepted the **ex gratia** payment of **£75** for the delay in the FCA's investigation of your complaint that was offered in the

December and March Decision Letters, that this offer should still be available for you to accept. The FCA has confirmed that this offer and will make this clear to you in the letter it issues to you.

54. Finally, in addition to the above recommendations I consider that on a number of occasions that the general conduct and handling of you as an individual during your interactions with the FCA has been far below the standard that the FCA should expect to provide to any individual, especially one who has identified that they experience mental health issues. Your case has left me feeling very disappointed with the level of service that you have received from a number of different departments within the FCA (I note that you have also been keeping me up to date with the issues that you had with a subject access request which fall outside my remit under the Complaints Scheme), so I can understand the upset that you must feel.

This is my final report about your complaint.

Amerdeep Somal

Complaints Commissioner

02 August 2022