

19th June 2017

Dear Complainant

Complaint against the Financial Conduct Authority (FCA)

Our reference: FCA00296

Thank you for your email of 3rd April, complaining about the FCA. I have completed further enquiries of the FCA, I have considered the comments which you and the FCA made in response to my preliminary decision of 12th June, and I can now write to you with my final decision.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA 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.

Your complaints

Your original complaint was summarised by the FCA as follows:

Element One

You are unhappy with the voicemail recording for the Whistleblowing team as it does not indicate the opening hours of the team and suggests leaving a contact number and not a message. You believe the voicemail service inhibits whistleblowers as they would not want to leave their work number.

Element Two

You allege that the call associate you spoke to in the Customer Contact Centre (CCC) on 2 February 2017 was rude and could not provide you with the correct details for the complaints team.

The FCA partially upheld both elements of your complaint, and offered you an apology. They explained that, partly as a result of your complaint, the answerphone message for the Whistleblowing line had been changed; and they accepted that the CCC should have referred you to the Complaints Team.

You referred the matter to me, because you were not satisfied with the way in which your information about a possible security breach had been handled. You say that the FCA decision maker “designates security as data protection issues. She does not refer to the FCA handbook for her designation, nor with making contact with ICO to confirm her opinion is correct. She does not quote her qualification in DPA to make her assertion. She just decided without supporting evidence... At no point did [the FCA Complaints Team] suggest that FCA was not the correct avenue for reporting financial security breach. [A Complaints Team

member] asserts this is so 8 weeks late. Yet cannot comment why his colleagues failed to supply this pertinent information 8 weeks ago. The risk to all users of [the] bank continues because of FCA indifference.”

In effect, your complaint is now about the FCA’s response to your complaint, rather than the original matter.

My findings

I have carefully considered all the documents which you and the FCA have sent me. The FCA’s decision letter includes the following statements:

The CCC associate explained that the FCA does not have specific rules regarding what security questions firms should ask consumers and that it is a business decision for the firms. He also explained that you can complain to the bank if you haven’t already done so.

He [the CCC associate] explained the FCA’s remit to you and you explained that you felt the FCA should regulate data handling. The associate explained that the FCA’s remit is dictated through legislation and this maybe something you would like to speak to your MP about. You continued to state you felt it was a conduct issue and that the FCA should regulate this matter. The associate suggested you complain to (x) Bank directly.

The letter also referred to the fact that the CCC associate had advised you that you could contact the Prudential Regulation Authority and the Information Commissioner’s Office.

It seems to me clear that you were advised by the FCA during your telephone call with the CCC, and reminded in the decision letter, that the matter you had raised with the FCA was principally one for the bank itself rather than the FCA. It seems to me that this was a reasonable position for the FCA to take.

I think that it might have been helpful if at the time they issued you with the decision on your complaint, the FCA had confirmed that they would pass the information which you had supplied to the FCA supervisors of the bank, to consider whether any follow-up was required (though for confidentiality reasons it is unlikely that the FCA would be able to give you any feedback). However, after the FCA had issued its decision to you, and you had referred the matter to me, I understand that you had a further conversation with the FCA, following which your concerns were sent to the supervisors of the bank, and that this was confirmed to you in an email of 7th April.

Conclusion

You raised a significant issue with the FCA, and there were some shortcomings in the FCA's initial handling of the matter. I consider that the FCA's decision to partially uphold the two elements of your original complaint was reasonable. The FCA has confirmed that, following a further conversation with you, the information which you supplied has been passed on to the FCA supervisors of the bank. You may, of course, also wish to raise the matter with the bank yourself.

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