

01 August 2017

Dear Complainant

Complaint against the Financial Conduct Authority

Reference Number: FCA00316

Thank you for your email of 19 May 2017. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint. Before finalising my decision, I invited comments from both you and the FCA, and refer to them below.

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.

Your complaint

You contacted the FCA's Whistleblowing team to raise concerns about the conduct of bank S and the fitness and propriety of its CEO. The Whistleblowing team reviewed this and referred your concerns to the relevant team within the FCA.

You are unhappy that the Whistleblowing team then told you that no further action would be taken on the information you provided.

You then raised a complaint with the FCA Complaints Team who did not uphold your complaint.

You were not satisfied with this response and referred your complaint to me.

My position

I can appreciate how frustrating it must be not to know in detail what has happened about the information you have provided to the FCA. However, as you have been advised by the FCA, there are confidentiality restrictions in place which limit what complainants can be told.

I should start by explaining that it is not my role to decide whether or not I agree with the FCA's regulatory judgements. The simple fact that I might have acted differently if faced with the same information would not be a reason for me to uphold a complaint. However, what I can consider is whether the FCA has acted reasonably and treated complainants properly.

When you complained about the response to your whistleblowing report, the FCA Complaints Team reviewed how the information you provided had been handled, consulting another team within Supervision at the FCA. I have seen this review.

From the evidence available to me, it is clear that, when you made your original whistleblowing report, the Supervision Team considered part of your allegations but not their entirety – a fact

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acknowledged in the Complaints Team's response to you. The Complaints Team wrote: "I recognise that the initial review by supervision may have been more wide-ranging but this has been addressed and the same conclusion was reached following further review."

However, in response to inquiries by my office, the FCA has acknowledged that, due to an internal misunderstanding, the Supervision Team has not yet reviewed the entirety of your allegations, and that they will do so now. (If it did decide to take any further action because of the information you have supplied, most of the actions it takes are confidential, so it is unlikely that you would receive any further information from the FCA about what specific action it took).

The FCA has informed me that this is an oversight, and apologised for this.

The FCA has already apologised for the delays in responding to your complaint, and offered you £50. In the light of what I have written above, it is clear that the response to your complaint was not only delayed but also inaccurate. I therefore recommend that the FCA offer you an additional *ex gratia* payment of £100 for distress and inconvenience (i.e. making a total of £150). The FCA has accepted my recommendation.

The FCA submitted its comments on my preliminary decision, (issued 5 July 2017) on 26 July 2017, in which it explains that the Supervision has, in the intervening period, completed its analysis of the entirety of your allegations. I appreciate your concern that the FCA has not been in touch with you since my preliminary decision was issued, but this appears to be due to the fact that the FCA complaints team was waiting for Supervision to complete its review.

I have reviewed the comments of the FCA and am satisfied that Supervision has given your allegations and concerns the appropriate consideration. Whilst I appreciate your frustration with not knowing the outcome of this review, the confidentiality restrictions which the FCA highlighted to you do apply and I am also bound by them.

You may also be pleased to know that, in the light of the problems which your complaint revealed, the FCA are reviewing their procedures for recording information of the kind which you supplied, to try to prevent a recurrence.

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