

Final report by the Complaints Commissioner, 27th November 2017
Complaint number FCA00394*The complaint*

1. On 13th September 2017 you asked me to investigate a complaint about the FCA. I have carefully reviewed the papers sent to me by you and by the regulator, and have considered the responses which the FCA has made to some further inquiries which I made. On 2nd November I issued a preliminary report, on which I invited your comments and those of the FCA. You did not comment, and the FCA suggested only one minor factual correction.

What the complaint is about

2. In its decision letter, the FCA described your complaint as follows:

“You are unhappy that the FCA has failed to act on information you have provided to it about [firm X]. You invested with [firm X] but you lost your money. You approached the Financial Ombudsman Service for a resolution and the Ombudsman found in your favour, however you are yet to receive your funds.

You (and other individuals) have notified the FCA of the conduct of firm X but believe the FCA has not taken any action against the firm. You explained that you have provided the FCA with a “*precise account of the scheme run by [firm X] as well as quick and easy ways to verify that this is a fraud*”. To resolve the complaint, you would like the FCA to take action against [firm X].”

What the regulator decided

3. In its decision letter, the FCA explained that it had not upheld your complaint for the following reason:

I have reviewed the information you have provided to the FCA explaining your concerns about [firm X] and I can confirm that the FCA has considered this and it is [sic] has acted appropriately. I am afraid, as has already been explained to you, due to confidentiality and policy restrictions, I am unable to disclose whether the FCA is taking any action against [firm X].

Why you are unhappy with the regulator’s decision

4. You are dissatisfied with the FCA’s response. In essence, your complaint is that:
 - a. The FCA has had clear evidence of fraud for some time;
 - b. It appears to have taken no action or, if it has taken action, it has done so too slowly and too late.

Preliminary points

5. There are two preliminary points I should make. The first is that it is not my role to substitute my judgement for that of the FCA. My role in this kind of complaint is to consider whether there have been mistakes or lack of care.
6. The second is that, as has been explained to you by the FCA, although I can review the FCA's confidential papers, I am restricted in what I am allowed to disclose.

My analysis

7. The key elements in this matter are these. Since 2014 you have been raising significant and focussed concerns about the activities of firm X. These concerns include allegations of misuse of client funds, misleading clients, and the fact that a Financial Ombudsman Service (FOS) award in your favour was not paid by the firm. The FCA has acknowledged these concerns, but told you that it cannot give you information about the actions which it may have taken. You are sceptical that the FCA has properly gripped the matter.
8. I have looked at a large quantity of documents, and my consideration of them leads me to the following conclusions:
 - a. It is clear that the FCA did consider, in some detail, the matters which you first raised in 2014. I am satisfied that the concerns were not ignored;
 - b. I am also satisfied that the concerns you raised in 2016 were taken into account in the work which the FCA was doing in respect of the firm's application to deauthorise;
 - c. Finally, it is clear that the FCA did respond to the further information which you supplied in 2017.
9. I recognise that these conclusions are likely to be of limited comfort to you. This is partly because I am not permitted to disclose the detail of the information which I have reviewed, but also because the regulator has to make decisions based upon a wide range of information, an assessment of possible consequences for clients, and its resource priorities, and it is not my role to substitute my judgement for the FCA's. What I can say is that it is clear that the FCA has been addressing the issues which you have raised.

My decision

10. I have considerable sympathy for the situation in which you find yourself, but I do not uphold your complaint. The information which I have reviewed demonstrates that the FCA did react to the concerns which you raised on several occasions.

Antony Townsend

27th November 2017