

23 May 2019

Final report by the Complaints Commissioner**Complaint number FCA00430***The complaint*

1. On 15 March 2019 you asked me to investigate a complaint against the FCA for not taking action after you provided it with intelligence about firm X and concerns about how the new LIBOR regime is functioning. In addition, you complained about the FCA's delays in handling your complaint.

What the complaint is about

2. The FCA summarised your complaint as follows:

Part One

You are unhappy with the FCA's decision to not open an investigation following the intelligence you provided to its Whistleblowing department (Whistleblowing).

Part Two

You also found the FCA's handling of your disclosure to be poor

3. The FCA listed seven issues you were particularly dissatisfied with under Part Two of your complaint.

What the regulator decided

4. The FCA did not uphold your complaint. In summary, the FCA concluded that the intelligence which you had supplied had been properly recorded and considered.

Why you are unhappy with the regulator's decision

5. You do not understand why the FCA will not take further action based on the intelligence you provided to the FCA whistleblowing team, and you have a

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concern that a member of the FCA's staff who attended the meeting with you was conflicted because of their previous involvement in the implementation of proposals related to your complaint. (element one).

6. You are unhappy that the FCA Complaints Team took over a year to investigate your complaint (element two).

My analysis

Element one

7. In 2017 you attended a meeting, accompanied by your lawyer, with members of the FCA whistleblowing team to provide intelligence about firm X and express your concerns about the new LIBOR arrangements. You also provided a file (file A) with your representations and referred to nine other files which contained supporting evidence for the information in file A.
8. The FCA did not request to see the additional nine files, and wrote to you some time after the meeting that *After careful consideration and supervisory enquiries we have decided we will not take any further action now on the information you have sent us.*
9. You are disappointed with this decision and do not understand how it was reached. The FCA Complaints Team did not provide you with further information about how the decision was reached, citing confidentiality reasons. (It did however, address the issue of why it had not requested the additional nine files.)
10. Like the FCA, I am required to respect confidentiality This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material.

11. I have carefully studied the FCA's records (which include both written records and a recording of your meeting with the FCA Whistleblowing Team). From those records I can say that:
- a. I am satisfied that the FCA carefully recorded your concerns;
 - b. I am satisfied that the intelligence was shared with the relevant people in the FCA;
 - c. I am satisfied that careful consideration was given to the intelligence which you provided (it is not my role to second-guess the FCA's regulatory judgements, but I consider that its actions were reasonable);
 - d. The FCA Complaints Team looked at your complaint very thoroughly, and I consider that the explanations in its decision letter of 17 January 2019 were appropriate.
12. Having spoken to the FCA, I can provide some additional information. Although you were told that the FCA would not be taking further action in response to your intelligence, the information (some of which was already known to the FCA both from your earlier meetings and from other sources) has been retained, and may be used to inform future supervisory work with Firm X.

Element Two

13. The FCA Complaints Team took over a year to deal with your complaint. I consider that the delay was unnecessarily prolonged and I welcome the fact the FCA has apologised to you for this and offered you £100. The issue of delays in handling complaints is one which I have raised with the FCA as a matter of concern several times, and will do so in my published annual report later this year. The FCA has assured me that it is taking steps to address this.

My decision

14. For the reasons above, I do not uphold your complaint.

Antony Townsend

Complaints Commissioner

23 May 2019