

2 September 2019

Final report by the Complaints Commissioner**Complaint number FCA00621***The complaint*

1. You complained to me on 3 July 2019 about the FCA's decision on your complaint.

What the complaint is about

2. In its decision letter, dated 27 June 2019, the FCA described your complaint like this:

Part One

You are unhappy that the representative within the FCA's Customer Contact Centre gave you inconsistent information regarding whether [firm A – a firm which provides safe custody services] is regulated by the FCA. You also said that you had been on the phone for a considerable length of time and made three calls.

Part Two

You are unhappy with the conduct of the investigator in the Complaints team.

Part Three

You are unhappy that the FCA is not concerned that [firm A] is misleading customers as a result of the information in its terms and conditions and falsely advertising that it is regulated by the FCA. You state that this is a criminal matter and a breach of the trading standard regulations.

Part Four

You are unhappy that the Complaints Team are unable to provide a timeframe in which your complaint will be resolved.

What the regulator decided

3. The FCA did not uphold any of the parts of your complaint. It said that a recording of your phone call with the FCA showed that you had only made one phone call, that it had taken an hour and half because you had twice asked to be transferred to another person, and that the information which you had been given was consistent and accurate.
4. The FCA concluded that the member of staff in the Complaints Team had behaved appropriately during his part of the phone call, and had been attempting to address your questions. It had reviewed the information on Firm A's website, and considered it to be accurate. Finally, the FCA said that the Complaints Team had been right to explain that, because it had received an unexpected volume of complaints, it had been unable to give you a timeframe for completing its investigations.

Why you are unhappy with the regulator's decision

5. In your email to me, you say:

I'm wondering if your investigator has actually analysed my complaint without bias because it is clear she does not know even the basics of investigation and lacks common sense.

It is clear that in the terms and conditions [firm A] falsely advertise that in section 22.1 that if the consumer is unhappy with their services then one should contact the Financial Ombudman Services I.e. you. However your investigation team does not see it as false advertising. The trading standards council of [name] city very clearly states that such advertising is FALSE.

My analysis

6. I have listened to the recordings of the three telephone conversations which you had with members of the FCA staff.
7. You telephoned the FCA because you had significant concerns about the way in which you were treated by a safe custody services firm. Your concerns included the behaviour of one employee of the firm, the terms which the firm required for closing an account, and the way in which the firm advertised its relationship with the FCA, which you considered implied that the FCA regulated the firm.

8. The position is complicated for a number of reasons. First, there is a distinction between a regulated firm and a registered firm. A regulated firm is authorised and subject to more intensive supervision than a registered firm. Second, the firm in question was registered with the FCA only for anti-money laundering purposes.
9. You considered that the fact that the firm was registered with the FCA meant the FCA could look into your complaint about the service which you had received. You also considered that supervision for anti-money laundering purposes included staff behaviours.
10. The FCA Customer Contact Centre (CCC) explained to you that the FCA did not deal with individual complaints against firms. It suggested you approach the Financial Ombudsman Service (FOS), which deals with individual consumer complaints. This was the correct advice.
11. The FCA also said that firm A was only registered as a safe custody services firm for the purposes of anti-money laundering regulation, and explained that it had logged the information which you had supplied against the name of firm A; but that, for confidentiality reasons, it would not be able to tell you whether, and if so, what action might be taken as a result.
12. You were dissatisfied with this advice, and asked to be referred to the Complaints Team. The Complaints Team investigator explained again that the FCA does not resolve individual complaints against financial services firms, and the distinction between registration and regulation, but you were dissatisfied with those answers, and asked to speak to someone more senior.
13. In your conversation with the senior investigator, you repeated your complaint about the firm, and about the handling of your conversations with the CCC and the Complaints Team investigator. The senior investigator explained again that the FCA did not resolve individual consumer complaints, but you were dissatisfied with this answer. The senior investigator agreed to treat your information as a complaint, and respond.
14. The FCA then considered your complaint, with the outcome set out in paragraph 2 above.
15. Having studied all these points, I have reached the following conclusions:

- a. The root of the problem which arose during the interactions between you and the FCA was the complexity of the system, coupled with the fact that your expectations of the FCA were not ones which could be met, given the limitations on the FCA's statutory powers;
 - b. The three members of staff to whom you spoke on the telephone tried conscientiously to explain the distinctions between registration and regulation, the limitations of the anti-money laundering supervision regime, and the distinctions between the roles of the FCA and the FOS. Their explanations were consistent and correct, but you were unwilling to accept them;
 - c. The FCA Complaints Team's investigation into your complaint was thorough;
 - d. You continue to believe that the FCA could and should intervene in your individual complaint, but the FCA was right to tell you that it could not;
 - e. You continue to believe that the firm was guilty of misleading advertising, but although you have referred the matter to Trading Standards it does not appear that any action is being taken against the firm;
 - f. The FCA have recorded the information which you supplied against the firm, but cannot tell you what, if anything, will be done with it. This is because of the statutory and policy restrictions on the use of confidential information by the FCA.
16. I do, however, consider that the FCA should have given you an estimated timescale for the consideration of your complaint. This is a requirement of the Complaints Scheme. The fact that the FCA has been dealing with a backlog of complaints does not remove this requirement. I note, however, that you did receive an update and an apology for the delay; and that the FCA wrote to you, following my preliminary report, to apologise for the failure to give you a timescale.

My decision

17. I do not uphold your complaint about the information which you were given during your three telephone conversations with the FCA.

18. I do uphold your complaint about the FCA's failure to give you a timescale within which your complaint would be dealt with. The FCA has already apologised for this.

Antony Townsend

Complaints Commissioner

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