

21 November 2019

**Final report by the Complaints Commissioner****Complaint number FCA00664***The complaint*

1. You asked me to investigate a complaint against the FCA on behalf of your client.

*What the complaint is about*

2. The background is that your client made a complaint to the Financial Ombudsman Service (FOS) about a financial services firm. The FOS upheld your client's complaint, and awarded a financial settlement, which was subsequently pursued in the courts, which made an order against the firm.
3. The firm has not paid, and your client has asked the FCA for details of the firm's professional indemnity insurer, so that a claim may be made to the insurer. However, the FCA has said that the information about the insurer is confidential, and only the firm can release it.

*What the regulator decided*

4. The FCA investigated your complaint thoroughly. (It also looked at a complaint about a failure to respond to your client, and a complaint that the FCA had not take sufficient action against the firm, but you have not brought those matters to me.)
5. The FCA did not uphold the complaint. It said that the FCA had been right not to disclose confidential information to you.

*Why you are unhappy with the regulator's decision*

6. As I understand it, your client's view is that, given the firm has failed to abide by the FOS findings and court's judgment, it is unreasonable for the FCA to withhold the information.

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### *My analysis*

7. I sympathise with your client's position. However, I think that the FCA was right to say that it does not disclose this information, because it is considered confidential.
8. This Complaints Scheme does not deal with changes to the FCA's policies and rules. I can see that there might be an argument for changing the rules to require firms to publish details of their PII insurance, but that is not something which I can deal with.
9. Although you have not asked me to review your client's other complaint – that the FCA has not properly considered the information about the firm which your client supplied – you might find it helpful to know that in the course of my investigation I was able to look at the confidential papers. I can confirm that the information supplied by your client was thoroughly considered, although for reasons of confidentiality I cannot tell you the outcome. I realise that that will be frustrating for your client, but I hope that my assurance is better than nothing.

### *My decision*

10. For the reasons given, I am afraid that I do not uphold your client's complaint.
11. In the light of your further representations I have, however, asked the FCA for further details of the support available to clients of firms where there are unpaid awards. I am told that there are circumstances in which firms may have their permissions removed and then be placed into an insolvency process. If there are significant FOS awards and complaints, then communications are usually released explaining FSCS coverage and how to transfer FOS complaints to the FSCS. However, details of PII would not be included.
12. These communications are coordinated with the FSCS and the FOS. If the firm is placed into an insolvency process the FSCS can declare the firm in default and pay out, pursuing the PII insurer themselves, and there is someone else in control of the firm who will communicate with clients. If the firm doesn't go into an insolvency procedure communications may be released, for example, if the FSCS have declared the firm in default.

13. I am afraid that I am unable to assist further. I do, however, **invite** the FCA to consider whether there is a case for allowing the publication or disclosure of information about regulated firms' PII in the future.

Antony Townsend  
Complaints Commissioner  
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