

18 September 2020

Final report by the Complaints Commissioner**Complaint number FCA00743***The complaint*

1. You contacted us in May 2020 to ask us to investigate your complaint about the FCA. We agreed to accept your complaint out of time for the reasons you gave us. I have carefully reviewed the records sent to me by you and by the regulator. My preliminary report was issued on 27 August 2020 and both you and the FCA have commented.

What the complaint is about

2. You complained to the FCA about a phone call you made to its Supervision Hub on 9 August 2019 in which you said you had been treated with disrespect. In this and a subsequent call the FCA told you that the type of 'buy back' agreement you are concerned about is not regulated by the FCA and that the FCA is not able to intervene in individual disputes with firms.

What the regulator decided

3. The FCA's decision letter of 16 December 2019 said that your complaint had not been upheld because the Complaints Team's view was that the phone call had been handled professionally and the follow-up letter you had had from the Supervision Hub accurately set out what had happened on the call.

Why you are unhappy with the regulator's decision

4. You have told me that your complaint is about *rude behaviour & bad manners* from the FCA associate you spoke to on 9 August and an *unfair investigation* into your subsequent complaint about the service you received.
5. You would also like me to look at your original complaint about a firm.

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My analysis

Complaint about a phone call

6. The FCA has made available to me both the transcript and the recording of the 9 August 2019 phone call. I agree with you that you introduced yourself by your first name and surname and that the FCA staff member started calling you by your first name. While I have no reason to believe that he meant to be disrespectful in any way, I think it would have been better if he had asked how you preferred to be addressed, since people's wishes on this matter vary. It seems from later in the call that he genuinely believed that you had introduced yourself by just your first name, although this was incorrect.
7. I consider that, in the interests of good customer service, these points could have been acknowledged in the two complaint responses that you received from the FCA and an apology offered. The local area response you received from the FCA dated 22 August 2019 in particular glossed over this part of your concerns and the Decision Letter of 16 December 2019 failed to acknowledge this.
8. At the same time, I note that you did not ask the staff member to address you as Mr _____ until much later in the phone call, at nearly 13 minutes, and that he immediately did so. Both the call recording and the transcript you were sent confirm that the staff member did say "Certainly, Mr _____". Shortly after this, he decided to terminate the call. This does not appear to be related to the mode of address but due to the fact that the call was going nowhere. The FCA's position and your other options had been explained to you, and your frustration about the lack of regulation of the firm had been acknowledged.

Complaint about a firm

9. Your specific concern on the phone call to the FCA on 9 August 2019 was that the firm required you to use a premium phone line to make a complaint. You thought this was wrong. You had previously been told by both the FCA and the Financial Ombudsman Service (FOS) that they do not regulate the 'buy back' activity of the firm as it is not regulated business.
10. Unfortunately, like the FCA, I am unable to look at your complaint about a firm. The firm you are concerned about makes it clear on its website that there is a difference between the complaints process for regulated and non-regulated

agreements. Its 'buy back' agreements are not regulated and are therefore not covered by either the FCA or the FOS. The FCA was therefore correct to suggest that you approach other organisations or your MP about this.

11. However, the FCA did refer your concerns to the relevant supervision department for the firm, which supervises its regulated business. I consider this was an appropriate response because, although the FCA welcomes information from people who report concerns, it does not investigate individual complaints. As what is known in the jargon as a "risk-based regulator", it has to sift through the large quantities of information it receives each day, analyse its significance, and then decide whether or not any follow-up is required. Even where no further action is taken immediately, information may be kept on record and reconsidered if further information is received which suggests that the problem may not be an isolated incident but symptomatic of a more widespread problem.
12. The FCA does not generally say what action has been taken in response to the information that it receives. I appreciate that this is extremely frustrating for you and does not resolve your particular concerns. I have every sympathy about what you see as a gap in the regulatory system but cannot assist you further.

My decision

13. I have partly upheld your complaint because I think the complaint responses should have acknowledged the fact that you were distressed by being addressed by your first name. My preliminary report **recommended** that the FCA considers training its staff to check with callers how they wish to be addressed. The FCA has accepted this and has told me that earlier this year the Supervision Hub introduced training that requires staff to introduce themselves and then ask how the caller would like to be addressed. The FCA has acknowledged that this was not the process when you called.
14. Although you clearly remain very upset about the phone call, I hope that the fact that the FCA has implemented training and changed its practice will be of some reassurance to you.

Antony Townsend
Complaints Commissioner
18 September 2020