

1 April 2021

Final report by the Complaints Commissioner**Complaint number FCA00878***The complaint*

1. On 3 January 2021 you complained to me about the FCA's investigation of your complaint. My preliminary report was issued on 8 March 2021 and both you and the FCA have had the opportunity to comment.

What the complaint is about

2. In its decision letter to you dated 27 November 2020 the FCA described your complaint as follows:

You claim there has been an unreasonable delay in the handling of both your firm and individual applications. Your new principal firm sent your firm application in April 2020 and it was not approved until August 2020. Your individual application has taken longer. This has disrupted your business as you have been unable to go and see new clients under the old network and could not continue with the new network until the authorisation is completed. You have received conflicting information on timescales and consider the FCA is not treating either you (as an adviser) fairly and in the same context not treating your customers fairly.

You believe that due to the delays in processing your application in a timely manner you have lost both new and long-standing clients due to which both your business and your professional reputation have been impacted as a direct result, thereby incurring financial losses.

What the regulator decided

3. The FCA did not uphold your complaint.

Why you are unhappy with the regulator's decision

4. In your complaint to me you informed me that you have worked as a financial advisor for various banks and an IFA before deciding to set up your own. You mention to me specifically:

Element One

I have been hugely disappointed and felt let down by the FCA in the handling of my firm and individual applications to move network. I do not feel that I have been treated fairly and that my application was unnecessarily delayed.

Element Two

You state, '...Trying to get a response was next to impossible with emails just bouncing back confirming that there were delays etc...'

Element Three

You have informed me of some of your personal circumstances particularly,

All of the above have contributed to my being stressed out and frustrated over the length of time it took the FCA to first acknowledge that it had failed and then to suggest that they would only be dealing with the part of the complaint where they felt that they had done their job in a timely manner. This is in my opinion both unfair, unjustified, and truly deplorable for a body that I have held in high esteem over my years as a financial advisor.

Element Four

You state,

I don't feel that the FCA work empathetically with advisors and regardless of the outcome of this appeal I merely ask that this be fed back as constructive feedback to help them repair what sadly appears to be becoming a broken system.

Element Five

You have informed me,

No effort has been taken to either acknowledge or sincerely apologise for the loss to both my business and reputation

My analysis

Element One

5. I can see that you made an application on 16 April 2020 for your firm to undertake the role of Appointed Representative, this was registered and approved by the FCA on 23 July 2020. You also subsequently submitted a Form A application on 23 July 2020 to undertake the role of CF1 (AR) and CF30 (AR). This was registered and approved by the FCA on 24 September 2020.
6. I understand you feel let down by the FCA concerning these applications, you feel your application was unnecessarily delayed and you have been treated unfairly.

Form A application

7. I have been provided with the FCA case file and am able to see that your application for the CF AR roles were approved within the statutory 90-day limit. You were approved for these roles on 24 September 2020. So, I do not have any concerns with this specific application as the FCA met the deadline for approving the application.

Appointed Representative application

8. In its letter to you dated 24 August 2020 a Manager at the FCA working within Authorisations investigated your concerns surrounding the Appointed Representative application. The Authorisations Manager accepted that this application took over 90 days to register and provided the following in its letter to you,

this is because this notification was non-routine which are taking longer to resolve at the moment. We would clarify that AR notifications are not subject to the same 90-day statutory service standard as application to hold a Controlled Function

9. I can understand it would have been preferable for you if this application was dealt with sooner given your circumstances. However, as highlighted by the Manager in the Authorisations department, this type of application was not subject to the same timescales as the Controlled Function applications. I can see that this application took 99 days to process and finalise and whilst it is

unfortunate that this took longer than the Form A application, I do not think the FCA have done anything wrong in this regarding this application.

Element Two

10. Element two of your complaint addresses your concerns trying to get a response from the FCA. Whilst I understand you were kept up to date by automated emails, I can also see that you specifically informed the FCA Complaints Team on 8 and 11 September 2020 via a telephone call, that you would withdraw your complaint if someone was able to communicate time frames to you concerning your individual application.
11. Whilst the Authorisations department could not update you personally as to your Appointed Representative application, I am surprised the Complaints Team did not try to simply find out and provide you with a rough time frame for the application, in order to avoid the complaint progressing. I do not see any difficulties in the Complaints Team being able to look into this simple time frame request. After all, you had communicated to the Complaints Team on two occasions that if someone was able to communicate time frames to you, you stated this would be a big help and you would withdraw your complaint.
12. There is a possibility that this complaint could have been easily resolved if somebody simply gave you the information you had asked for regarding time scales. I would have expected the Complaints Team member to act quickly in relation to this, with a view to resolving the issue. I think it would have been helpful if the Complaints Team went that step further to assist you on this occasion, however this did not happen. I recommend that the FCA Complaints Team take extra care and notice of complainants' correspondence and telephone calls, where straightforward requests are at the very least looked into. This is specifically where the complainant has expressed a desire to withdraw the complaint if basic information such as timescales can be provided. This may avoid complaints being progressed further such as this one, eventually making its way to my office.

Element Three

13. You have informed me that the FCA only addressed part of your complaint in its decision letter which you have found to be unfair.

14. Part Five of the [Complaints Scheme](#) provides as follows:

The regulators' initial analysis of complaints

5.2 On receiving a complaint, the relevant regulator(s) will determine whether it can be dealt with under the Scheme and whether it can be dealt with by the area that is subject to the complaint.

15. I understand you feel it is unfair that the decision letter has only addressed part of your complaint. However, under the Complaints Scheme this part of your complaint concerning the Appointed Representative application, was passed to the Authorisations department as appropriate. The Authorisations department investigated this aspect and provided you with an outcome. I am therefore satisfied, that this was a reasonable course of action and cannot say that the FCA Complaints Investigator was wrong to not include this element of your complaint in the decision letter.

Element Four

16. You mention that you don't feel that the FCA work empathetically with advisors and ask that this be fed back as constructive feedback to help them repair what sadly appears to be becoming a broken system.

17. I appreciate you informed the FCA Complaints Team of your personal circumstances at the time and I feel that in its response, the FCA could have been more sensitive to this. I have addressed this in more detail below in Element Five of my report.

Element Five

18. You also mention that no effort was made to either acknowledge or sincerely apologise for the loss to both your business and reputation. I can see in the Authorisations letter of 24 August 2020 the Manager stated as follows:

We are partially upholding your complaint as we have not met our Firm Commitments regarding regular communication with the applicant firm and

because of the difficulties you faced when trying to complain about our service. We apologise for any inconvenience this has caused you.

19. I am pleased that the Authorisations department noticed this and took time to apologise to you. I am not able to say the same for the FCA Complaints Team and the FCA decision letter when it came to acknowledging your personal circumstances.
20. The decision letter glossed over your personal circumstances which included your financial loss, impact to your business, professional reputation and loss of new and old clients. I can see that you made the FCA aware of your personal circumstances when you first submitted a complaint on 5 August 2020, during a telephone call on 8 September 2020 and in an email to the FCA on 9 October 2020.
21. I consider that, in the interests of good customer service, the decision letter should have acknowledged your personal circumstances and offered an apology for this. It is disappointing that the Complaints Team failed to acknowledge this. Whilst it is positive that the Authorisations department acknowledged and apologised, I would have also expected the Complaints Team to also acknowledge your position and offered some empathy towards your vulnerability. I would recommend that the Complaints Team take note of an individual's personal circumstances and in the interests of good customer service at least acknowledge, empathise and offer an apology in their decision letters. Complainants who are vulnerable will at least feel they have been heard and time has been taken to understand their position.

My decision

22. I have upheld elements two and five of your complaint.
23. I recommend that the FCA Complaints Team take extra care and notice of complainants' communications where straightforward requests are looked into, specifically where it could resolve the complaint.
24. I recommend that the FCA acknowledge and empathise particularly with complainants who are vulnerable and offer an apology where necessary.

25. In response to element two of my preliminary report the FCA have accepted my recommendation and acknowledge that the Complaints Team should have acted upon the information provided during the telephone calls of 8 and 11 September 2020 and that, had it done so, this complaint may have been resolved much more easily. The FCA have informed me that the Complaints Team has also undergone external training in complaint handling. Nonetheless the FCA accepts that this should not have happened in your case and they continue to focus on the timeliness of their actions.
26. In response to element five of my preliminary report the FCA have accepted my recommendation that the Complaints Team should ensure when handling complaints that they take note of an individual's personal circumstances and at least acknowledge, empathise and offer an apology in their decision letters. The FCA has agreed that this is important, to ensure vulnerable complainants feel they have been heard, that they have taken the time to understand their position and, hence they include more personalisation and empathy in their communications with complainants. The FCA has also told me that the use of empathy was also a feature of their recent external training.
27. I welcome the FCA's response to my report.
28. I hope that my decision gives you some personal reassurance and thank you for bringing this matter to my attention.

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Complaints Commissioner

1 April 2021