

9 August 2021

**Final report by the Complaints Commissioner****Complaint number FCA00938***The complaint*

1. On 1 June 2021 you asked me to review the outcome of your complaint to the Financial Conduct Authority (FCA). I have carefully reviewed the documents that you and the FCA have sent to me. My preliminary report was issued on 19 July 2021 and both you and the FCA have commented.

*What the complaint is about*

2. In August 2020 you submitted an application to the FCA for claims management authorisation to support your employment law business. You withdrew your application in March 2021 and submitted a complaint in April 2021 about the lack of support you had received from the FCA with your application and what you see as its lack of awareness of the needs and pressures of a small business like yours. You wanted reimbursement of your fee and expenses. You also wanted the FCA to reflect upon its authorisations process as a whole, and to offer a more supportive and less complex approach, with a sliding scale of fees.

*What the regulator decided*

3. The FCA divided your complaint into two parts described as follows:
  - a. *Part One* - You allege that you have been let down by the FCA application process. You claim that due to the following issues you were forced to withdraw your application:
    - little or no support in progressing your application
    - a lack of encouragement
    - a lack of understanding of the challenges of dealing with the work and running a business

- delay
  - incorrect information provided about the procedure
  - provision of material requested on a piece meal basis throughout (including the possible alternative arrangements available for prudential requirements)
  - unreasonable pressure being placed on you by those dealing with the application
- b. *Part Two* - You claim the FCA regulatory system is not fit for purpose in a case such as yours (a micro business). This is because the form completion arrangements and rules take a substantial amount of work and you believe a more personal approach would have been helpful and more practical advice is needed to achieve a positive outcome.
4. The FCA did not uphold your complaint on the basis that it had followed and made clear its processes and that it is not the FCA's role to help or support firms to achieve authorisation.

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

5. You have told me that, although the FCA correctly identified your complaint points, it does not accept that you were dealt with in an inappropriate manner. You have therefore referred your concerns to me under the Complaints Scheme.

*My analysis*

6. I can appreciate that this was a very stressful time for you as you sought to establish a business that would support people in the extraordinary conditions of the pandemic and while facing personally difficult circumstances. I have carefully considered the points you have made alongside the FCA's complaint file and its Decision Letter dated 19 May 2021. I am satisfied that the FCA investigated your complaint thoroughly and provided you with a detailed response to the specific points you had made. The FCA's complaint response addresses both your personal experience of its authorisations process and the wider concerns you raised about the impact of this process on small firms.
7. On the specifics of your application, I am satisfied that:

- a. the statutory timescales were provided to you from the outset of your application and that you could or should have been aware that the process could take from six to twelve months;
  - b. the FCA's normal process for authorisation was followed and that, as a regulator, the FCA is entitled to ask questions until it is satisfied about an application;
  - c. there were some delays due to sickness on both sides but there was continuous oversight of your application by the Authorisations Team;
  - d. the conditions that you had to meet were explained to you and that you withdrew your application rather than accept the prudential requirements set by the FCA.
8. On the wider points that you have made, I note that the FCA's Decision Letter says: 'it is important to note that although the FCA only started to regulate CMC firms in April 2019, the FCA has experience of authorising firms of all sizes. This includes firms of similar size to [your firm] in the financial advice sector... The FCA applies the same requirements to all firms applying for authorisation.'
9. While it is correct to say that the FCA's role is not to assist firms in their application process, when the FCA took over regulation of consumer credit firms in 2014, they took in some very small firms whose core business is not finance. As a result of this the Small Business Enterprise and Employment Act 2015 charged my office with an oversight role in how the FCA is dealing with these firms. With this in mind, although I have not upheld your complaint, in my preliminary report I made a **suggestion** that it would be good practice for the FCA to provide small firms with a factsheet of Frequently Asked Questions (FAQs) specifically designed for their authorisation applications, bearing in mind the circumstances such firms face and that they may lack access to knowledge or resources. The FCA has told me that it does not consider this to be necessary because most Claims Management Companies (CMCs) applying for authorisation are small and its whole approach is geared towards their needs. The FCA also says that its website already provides a great deal of information for new CMCs applying for authorisation, including guidance notes. It does not consider that a separate specific 'small firm' approach is needed as well. On the

other hand, you have told me that there was a clear difference between your application and what you describe as a 'standard CMC'. You say that 'Bearing in mind the nature and scale of my business, a default position of 6 – 12 months is unreasonable and actually encourages complexity and delay'. You are concerned that the FCA does not see it as part of the process to assist businesses in securing authorisation, even to any extent.

10. I have reviewed the FCA's website <https://www.fca.org.uk/firms/claims-management-regulation/apply-fca-authorisation> and I note that as well as details of the requirements it provides a contact number for help with an application. I have also been informed that the FCA is currently reviewing its approach to the different application types received from CMCs. I understand that this may lead to updated webpages to explain requirements for specific application types although this has yet to be decided. In view of this, I have concluded that my suggestion for a further factsheet is not required at this stage. I do, however, ask the FCA to let me know the outcome of its review in due course.

*My decision*

11. I am satisfied that the complaint response you received from the FCA was reasonable for the reasons stated and I have not upheld your complaint. I realise that this decision will be a considerable disappointment to you but I hope that you understand how I have reached it.. I have asked the FCA to keep me informed about the outcome of its review into CMC authorisation applications.

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Complaints Commissioner

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