

01 September 2021

Final report by the Complaints Commissioner**Complaint number FCA00969***The complaint*

1. On 14 June 2021 you complained to me about the FCA's investigation of your complaint. I sent my preliminary report to you and the FCA on 23 July 2021. I note that neither you or the FCA have provided any further comments.

What the complaint is about

2. In its decision letter to you dated 3 March 2021, the FCA described your complaint as follows:

Part One

My understanding of your complaint is that you are unhappy with a call you had with a Supervisor from the Supervision Hub (the Hub) under case reference 206972190. You have explained that you felt the Supervisor refused to record a complaint about [Firm X] either because she didn't want to be helpful to some members of the public or wishes to support the companies in question.

You have also said that she rudely kept interrupting you before you could finish your point or would provide lengthy information which wasn't relevant to your question or point, in order to confuse the issue or change the issue.

You explained that no manager called you previously regarding the complaint you made against the Supervisor. You also requested a copy of the specific call in question with the Supervisor from the Hub.

You would like us to review this call as you feel the Supervisor was deliberately providing the wrong advice.

Part Two

You were also unhappy that the supervisor terminated the call when you were reviewing her decision so that you could refer it accurately to her manager to assess, but she again began referring to irrelevant issues and speaking at length to confuse and change the issue.

Remedy

In order to resolve your complaint you would like the Complaints Team to log a complaint against Firm X who despite selling you an iPad in April 2019 over 2 years on credit recently claimed to you in writing that they destroyed the sales and telephone recording 5 months later from April 2019 – which you feel is a clear breach of FCA rules, and as a result they have no evidence of the terms of what was agreed, but are insisting you pay them an amount which was not agreed to and have caused you financial loss and other problems as a result.

What the regulator decided

3. The FCA decided that that you were provided with an appropriate response when you contacted the FCA in relation to this matter and did not uphold this part of your complaint.
4. However, it did agree that the call should not have been terminated in the manner it was and upheld that part of your complaint. The FCA apologised for this level of service, and as noted above that feedback will be provided to the relevant supervisor.
5. The FCA also apologised for the length of time it took to reach a decision on your complaint and for any inconvenience this may have caused and offered you an ex-gratia payment of £75.

Why you are unhappy with the regulator's decision

6. You feel the decision of the FCA is biased and not independent and that the FCA and its related structure is biased.

7. You also feel that the FCA failed to identify that concerns were raised over the FCA staff member concerning potential FCA breaches, which were not dealt with.
8. You consider that the FCA have not considered the actual complaint which you feel raises various concerns of Company X's business practices.

Preliminary points

9. The Complaints Scheme is concerned with the actions or inactions of the FCA. It cannot deal with complaints against individual companies.
10. The FCA does have a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the financial industry through the setting of standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate individuals' complaints against the firms it regulates, that is the role of the Financial Ombudsman Service (FOS).
11. That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates those in the context of considering whether or not regulatory action is justified, rather than whether or not the individual requires redress. Any action the FCA may or may not take could not lead to redress for you personally.
12. The regulator for the UK communications industries is Ofcom. It is responsible for handling individual complaints about telecommunication companies.
13. The Information Commissioners Office (ICO) considers a variety of complaints relating to information and data breaches, including individual complaints about how organisations have handled personal information, including if they have lost or disclosed it.

My analysis

Element One

14. The issues at the centre of your complaint that led you to contact the FCA relate to Company X, a telecommunications company and a dispute about the contract that you entered into with Company X. Whilst in dispute with Company X you say that you have been advised that it destroyed the sales telephone record after 5 months of the contract being entered into and you feel that this is a breach of FCA regulations.
15. You were unhappy with how the FCA staff member handled your call about your complaint and that the FCA did not record a complaint about Company X.
16. I have reviewed the FCA file and its decision letter, in which it provided you with detailed explanation about how your call with the staff member progressed and why the staff member had tried to provide details of different regulators and tried to obtain further information from you that would allow the staff member to conduct further enquiries to see if the FCA could help address your complaint in any way.
17. I do not think it is necessary for me to set this out in detail again. From my review of the FCA file I am satisfied and agree with what has been set out to you in the FCA's decision letter that, the responses and questions asked by the staff member were appropriate in relation to complaint you raised with the FCA.
18. As set out in the preliminary points above, the FCA does not consider individual complaints about FCA registered companies. Whilst Company X is regulated by the FCA the contract at the centre of your complaint is a telecommunications contract and I consider the most appropriate regulator to address your complaint would likely be Ofcom. However, if you are concerned about how your personal information has been handled the ICO would be the regulator to consider such a complaint.

Element Two

19. You contacted the FCA Complaints Team to say that the FCA staff member who spoke to you was rude, did not want to help you, tried to confuse you and ended up terminating the call.
20. I have reviewed the FCA file and its decision letter. The FCA has gone into detail about its review of your call with the staff member and it has upheld your complaint about the staff member terminating your call. It has apologised for the

level of service provided and advised you that feedback will be provided to the staff member.

21. It is disappointing to hear that you experienced this level of service from the FCA. I am pleased to see that the FCA has conducted a thorough review and has acknowledged that it failed to provide the appropriate level of service. I am also pleased to see that it has provided you with an apology and I consider that this was an appropriate resolution to this complaint.
22. I also note that my review of the FCA also confirmed that the FCA had followed up with its supervision hub to ensure that the feedback was given to the staff member about the call with you.

Ex Gratia payment for delay

23. The FCA has offered an ex-gratia payment of £75 for the delay in investigating your complaint and I consider that this is an appropriate amount for the delay which you experienced. I did note that in its decision letter that there was a typographical error stating that you had until 23 April 2020 to accept the offer, this date predated the decision letter by almost a year. I am sure that this was a typographical error in the letter only and will not have been replicated on the FCA system but have noted this as a precaution.

My decision

24. I am sorry to disappoint you, but for the reasons given above in relation to element one of your complaint I am unable to investigate this part of your complaint.
25. In relation to your complaint about the staff member terminating the call, I uphold this complaint and I am satisfied that the FCA has apologised and has taken appropriate action to address the issue with the staff member.

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Complaints Commissioner
01 September 2021