

18 August 2022

Complaint number FCA2022-07-25*The complaints*

FCA00318

1. You contacted my office on 17 March 2022 to say that you had new evidence with respect to complaint FCA00318 which was decided by my predecessor and published on the OCC website here: <https://frccommissioner.org.uk/wp-content/uploads/FCA00318-Final-for-publication-05-09-18.pdf>
2. On 18 March 2022 we invited you to provide the new evidence so I could consider it to see if it justified reopening the investigation.
3. You responded on 21 March 2022 that rather than provide your evidence, you would like to meet with me and go through the entire file which this office holds with respect to case FCA00318. You also made several serious allegations, bringing into question the honesty and probity of the previous Commissioner.
4. I declined to meet you as I conduct desk based reviews, much of the file I have on this case is confidential and you are not entitled to see all of it, and it is also not my intention to review information which my predecessor has already considered as part of his investigation. I invited you again to provide the evidence you state is new.
5. I also said that if you feel my predecessor either did not weigh the evidence in the way you wanted or did not properly consider evidence in reaching his decision in FCA00318, you are effectively challenging the judgement my predecessor made in reaching a decision on your complaint. I will not reopen a concluded case on the basis that a complainant disagrees with how the evidence was assessed by my predecessor. Complainants who disagree with a decision made by the Commissioner can apply to the High Court to seek leave to apply for a judicial review. This was explained to you.

FCA2022-07-25

6. You responded but again rather than provide new evidence, asked 'Would you prefer that I submitted a DSAR to obtain copies of all of the evidence and information that the FCA presented to the Commissioner in respect to me and this matter'.
7. We responded on the same day to say that 'You are welcome to send us a DSAR request to this office but please note we are not able to send you all the documents the FCA sent to us (due to confidentiality reasons): we will only send you the information you are entitled to under the Data Protection Act (DPA) 2018. Please note we are not subject to the Freedom of Information Act (FOIA) 2000 and we do not process requests for information under the latter. If you feel you have new evidence which will change the outcome of your complaint, you are invited to send this evidence to the Commissioner for her consideration. This would be the best way forward to progress matters if you feel there is some new material which has a bearing on your case'.
8. The following day you responded but again rather than provide new evidence you asked for confirmation if a specific email dated 15 November 2016 had been received as part of the file in relation to case FCA00318. You then submitted a subject access request and we informed you that we would answer whether we hold the email as part of the bundle of documents we send to you in response to your subject access request.
9. You were unhappy that we did not provide this confirmation sooner. However, the file on the case is large, and it is far too resource intensive for my small and very busy office to review the entire file as quickly as you would like us to. I have many other complainants who have been waiting before you, to review their complaints and I must be fair to everyone.
10. I wrote to your MP at her behest on 11 April 2022 to explain all of the above and I reiterated that if you believe you have new evidence the best course of action is for you to send me the evidence, with an explanation on how you believe it has a bearing on your complaint in case FCA00318. I said I would review this evidence to establish whether in my view it is genuinely new, and if it is, whether it changes the outcome of the complaint.

11. You responded on 11 April 2022 with various representations about how matters had been handled with respect to complaint FCA00318 as well as your general dissatisfaction with my position as per paragraphs 4 and 5 above, but you still did not provide any new evidence with respect to complaint FCA00318.
12. On 17 May 2022 you wrote to me again upon receipt from my office of some (but not all) of the documents to which you were entitled under DPA 2018 (as the remainder had not been processed by my office at that time). As you are aware, the file from which the Commissioner conducts their investigation is the same as the one the FCA works to. You had obtained the FCA file under a subject access request and you then obtained it again from my office. You queried why there were discrepancies in the information which was provided to you from the FCA and the OCC. My office responded to you to say:

'The Commissioner is independent of the FCA and does not have anything to do with how the FCA processes any data subject access requests it may receive and the FCA similarly do not have any role to play in any requests received by her office. The fact that you have submitted a subject access request to the FCA and received the same documents with different redactions does not mean that either one organisation or the other is acting dishonestly, as you allege. Differences can occur due to the complex nature of the material: sometimes difficult decisions have to be made about what constitutes personal data and what does not, which coupled with the fact that the FCA is subject to the Freedom of Information Act 2000 and this office is not, inevitably means that at times the way the FCA and our office redact documents may differ slightly.

If you are not satisfied with the response we have provided, you may raise a complaint with us or refer the matter to the Information Commissioner's Office (ICO). You may find the most suitable form of contact for you to use to contact the ICO on the following link: <https://ico.org.uk/global/contact-us/>.

13. You also made various allegations about how the information in the file had been (mis)assessed by the FCA and the previous Commissioner. However, this

does not constitute new evidence and I refer you to my view in paragraph 5 above.

14. On 18 May 2022 you wrote back to say that you did not accept my explanation as to why the redactions on the data you were sent from my office occurred and you considered that both my predecessor I and/or my office had sought to defraud you. You said specifically

‘The CC (my predecessor) did dishonestly deny my complaint in 2018 and did so with intent to further and compound the fraud already committed against me by my former employer [Bank X] and the FCA.

The CC (me) has over the course of recent months acted dishonestly and sought to avoid disclosure of and conceal the evidence that proves the fraud by the CC and those other parties’.

15. My office responded the same day to say this:

‘The Commissioner does not agree that she has sought to defraud you. On 10 May 2022 we wrote to you that the Commissioner’s standard of behaviour is subject to the scrutiny of the regulators in consultation with Treasury. Please refer your allegations to them. The Commissioner has also explained that if you feel her predecessor either did not weigh the evidence in the way you wanted or did not properly consider evidence in reaching his decision in FCA00318, you are effectively challenging the judgement her predecessor made in reaching a decision on your complaint. She will not reopen a concluded case on the basis that a complainant disagrees with how the evidence was assessed by her predecessor. Complainants who disagree with a decision made by the Commissioner can apply to the High Court to seek leave to apply for a judicial review. We also explained to you that any further emails from you which do not include new evidence will be filed but not responded to’.

16. You responded to me on 18 May 2022 to say that my ‘dishonesty knows no bounds’, that I had made false representations to you and your MP, and you said ‘You the Complaints Commissioner have clear and unequivocal evidence to prove that the response by your predecessor was incorrect and/or dishonest’.

17. You did not provide any new evidence. Instead, you sought to have the complaint reopened by me on the basis that you disagreed with how my predecessor had handled your complaint. You also wrote that if I did not reply to you by the end of the week, you would be ‘reporting [me] and the prior CC to law enforcement for breaches of the Fraud Act 2006 as outlined above, in addition to involving my lawyers. Your choice is simple; Be the one that finally provides honest oversight or join the list of those already implicated’. We did not respond to your email for the reasons given to you in our email of 18 May 2022.
18. On 15 June 2022 you wrote to me again and you said you were doing so to submit new evidence and you asked me to reopen the complaint based on this new evidence. You then referred to a screenshot of two documents: one had been sent to you by the FCA as part of your DSAR to them, and the same one had been sent to you by my office in response to the DSAR you submitted to my office. You claim that the FCA’s version included multiple attachments whereas the one from the OCC did not. You claimed this was proof that the FCA had concealed evidence from the previous Commissioner.
19. On 20 June 2022 we responded to you as follows:

‘You say that the previous Commissioner did not have access to the attachments you sent the FCA in an email dated 21 July 2015 at 11.26 am. This is incorrect. In response to your subject access request, on 16 May 2022 I sent you some information which we hold on our file. This included the email described above, and which I now enclose once more for ease of reference: as you can see, this email contains all the attachments. The previous Commissioner has had access to this email. This email was forwarded internally within the FCA with the attachments. You will have seen that our method of processing your subject access request has been to enter emails (which can sometimes be chains of emails) which require redaction into word documents and redact from the word document. We have adopted this method in order to process the data more quickly and efficiently. In the screenshot you have shown us below, the positioning on our page of the forwarded email is such that the recipient address and some attachments did not make it onto the same

page: what is visible is the body of the email which as you are aware is the same as the one the FCA sent you. This means the recipient address and attachments list is on another page of word document. This sometimes happens when emails chains are processed in word documents for the purposes of a DSAR.'

20. On 20 June 2022 you responded to thank us for the clarification above and to say you had other new evidence, based on which you wished for me to reopen the complaint. You said to me that an unnamed informant had told you that an FCA staff member X who had been a recipient of intelligence you had forwarded to the FCA about your former employer Bank X on 21 July 2015 and attended the meeting the FCA had with you on 30th April 2015 had worked in a bank Z with the individuals in bank X (your former employer) whom you accused of wrongdoing. You feel there is a conflict of interest in this individual being involved in your case and you query why this was not disclosed to you.
21. You allege that your email of 21 July 2015 to the FCA was never referred onwards to Supervision by staff member X (but you have not provided any proof or evidence to substantiate this allegation).
22. You also allege that the FCA was dishonest in saying to you that it 'could not disclose the name of the individual to you. This is because the individual to whom the email of 21 July 2015 was sent to, is below manager level. Our approach to the disclosure of staff names has been developed in line with the Information Commissioner' guidance. The guidance specifically provides that details of junior staff would not normally be disclosed:
https://ico.org.uk/media/1187/section_40_requests_for_personal_data_about_employees.pdf' You say that you have recently checked the linked in profile of the staff member X and it says he is a manager at the FCA.
23. On 22 June 2022 you wrote to me again to allege that you had identified another conflict: you said: 'In November 2014 the FCA FX investigation lead by Staff member X issued final notices against only five banks...Disturbingly, and despite substantial evidence proving the same wrongdoing by multiple other banks including Bank X (your former employer) , the FCA failed to issue a notice or sanction those banks, and instead invited them to participate in The

FCA FX Remediation programme. This was essentially a 'get out of jail free' card for those other banks'

24. You allege Staff member X let your former employer bank X 'off the hook' presumably due to the fact he had worked there before.
25. On or around this time you also referred two other complaints to me. These were assigned reference numbers FCA001756 (which is connected to the matters you raise here) and FCA 001757 which relates to unconnected matters. My office wrote to you to ask that you submit all your representations on all complaints by 15 July 2022.
26. On 5 July 2022 you sent your final representation regarding complaint FCA00318 in which you claimed you were submitting new evidence and asking for the complaint to be reopened.
27. You list all the new evidence you have, to also include the allegations above, as follows:
 - a. You say 'Concealment from me of the report produced by the expert in FCA Supervision dated 24th October 2016'; and your view this report corroborates your allegations that staff members at your former employer bank X had falsified the outcome of their investigation of your disclosures around 2014/2015.
 - b. You say 'The FCA dishonestly withheld hundreds of documents from me in February 2017 when providing my personal information in response to my DSAR'.
 - c. You have discovered as part of your DSAR requests that an FCA staff member Y was involved in both the investigation of your complaint as well as the processing of the DSAR.
 - d. You allege the transcripts attached to the email dated 21 July 2015 you sent to the FCA were not referred to Supervision. You say you believe this because they were not mentioned again in the data you received as part of your DSAR.
 - e. You then opine about the actions of an individual AH who was head of FX in bank X, your former employer.

- f. You say FCA Staff member X 'exonerated' his former employer bank X because the FCA did not fine the bank.
 - g. FCA staff member X had a conflict of interest in being the recipient of your information in 2015 as he had worked with the individuals you were complaining about previously in Bank Z.
 - h. You say 'This complaint (FCA001756) is specific to the FCA complaint response produced by Staff Member Z on 18th February 2021 and the false and misleading representations within it. This new complaint and the new issues within it, and new evidence upon which it was based, does relate to the [T] matter, but are new and specific allegations. It is also a new complaint that I presented on 17th February 2022 and the FCA accepted as eligible in March 2022, BUT then chose to reverse that decision as to eligibility on 10th June 2022'.
28. The gravamen of your allegation appears to be that the FCA did not properly investigate the information you provided, as you say 'buried it', did not take formal action against Bank X and consequently prejudiced your employment tribunal.
- My analysis*
29. The substance of your allegations in paragraph 28 is the same as in your original complaint FCA00318.
30. You have provided evidence as set out in paragraph 27 a-h which you allege supports your allegations above. You have asked me to reopen the complaint based on this evidence.
31. Before I address your points above, I reiterate that I will not reopen a concluded case on the basis that a complainant disagrees with how the evidence was assessed by my predecessor. Complainants who disagree with a decision made by the Commissioner can apply to the High Court to seek leave to apply for a judicial review. All this has been explained to you.
32. I now address your points in paragraph 27 in turn:
33. Points 27 a and b: the fact that the FCA may not have disclosed certain documents to you as part of your subject access request does not constitute

new evidence or indeed reasonable grounds for reopening the complaint. You are entitled to certain information from the FCA under the FOIA 2000 and the DPA 2018. If you feel that the FCA has not complied with its duties under these Acts, you may refer your concerns to the Information Commissioner's Office for a review.

34. However, the fact that you feel certain documents were not disclosed to you has no bearing on the investigation of the FCA and the previous Complaints Commissioner of your complaint, as they would have had access to these documents, and even more sets of information in reaching a conclusion on your complaint. There are no plausible grounds for reopening the complaint based on your allegations in 27 a and b, you have not provided any new evidence here.
35. Point 27 c: you say you have discovered as part of your DSAR requests that an FCA staff member Y was involved in both the investigation of your complaint as well as the processing of the DSAR. You say that she should have had no part in this process, and it is clear that the intent of the FCA by way of giving her this 'censorship' role was to ensure that any and all documents were removed from the DSAR response to me that would challenge or contradict her conclusions in her complaint response letter that she was preparing and would send in December 2016, and that would challenge or expose the FCA in anyway'. You have also pointed out to me that the ICO has said to you that 'an organisation the size of the FCA and that has a dedicated data department and team, should ensure that this department and team should be wholly and independently responsible for the processing of a DSAR'. It is not within my remit to comment on how data is processed within the FCA.
36. You have not provided any evidence to support your allegation that this staff member was involved with the intent you claim. The fact that the same staff member may be both contributing to a complaint's investigation and a subject access request review of documents does not in itself signify that the purpose is to obfuscate the information being sent to the DSAR recipient. Your allegation is unsubstantiated and in the absence of specific evidence or details from you there are no grounds to pursue this point further. There are no grounds for further investigation on my part and in any event, what you receive as part of your DSAR has no bearing on the investigation of the FCA and the previous

Complaints Commissioner of your complaint, as they would have had access to these documents, and even more sets of information in reaching a conclusion on your complaint. There are no plausible grounds for reopening the complaint based on your allegations in 27 c and you have not provided any new evidence here.

37. Point 27 d: you allege that the transcripts attached to the email dated 21 July 2015 to the FCA were not referred to Supervision. You say you believe this because they were not mentioned again in the data you received as part of your DSAR.

38. I will address this point by reminding you again that we are not able to send you all the documents the FCA sent to us (due to confidentiality reasons): we will only send you the information you are entitled to under the DPA 2018. Please note we are not subject to the FOIA 2000 and we do not process requests for information under the latter. What this means in practice is that there is a substantial amount of information on the file we received from the FCA which my office has not sent to you and you have not seen. For example, as part of processing your DSAR, I have seen numerous documents on file where the matters you raise with respect to Bank X are discussed within Supervision which you have not been sent. There is also correspondence between the FCA and Bank X. These are just a few examples of different strands and types of information which were on the file my predecessor reviewed, and which formed the basis of his decision in FCA00318 that:

‘I am satisfied that the FCA took considerable and appropriate steps within its regulatory remit to respond to the information that you had provided’

39. These documents have not been disclosed to you because they are not your personal data, they are confidential and you are not entitled to them.

40. Therefore, the fact that you have not seen certain pieces of information in the data you received in response to your DSAR from my office (or indeed the FCA) does not mean that information has not been considered by the FCA Supervision Team, the FCA Complaints Team and the previous Complaints Commissioner.

41. In this particular instance, I can confirm that I have seen the FCA staff member to whom the email was addressed forward your email of 27 July 2015 to FCA Supervision to an individual who is NOT staff member X as you allege (which you do so without any evidence apart from referring to an unnamed source who you say told you so).
42. Based on the above, I do not consider you have submitted new evidence. The emails and transcripts you refer to were on the FCA file and available to FCA Supervision, the FCA Complaints Team and the Previous Commissioner.
43. Point 27 e: You opine about the actions of an individual AH who was head of FX in Bank X, your former employer. You have not provided any new evidence here. Furthermore, it is not my role as the Complaints Commissioner to review complaints about the actions of your former employer bank X, nor its employees. There are no grounds to reopen the complaint.
44. Point 27 f: You say 'In November 2014 the FCA FX investigation lead by Staff member X issued final notices against only five banks...Disturbingly, and despite substantial evidence proving the same wrongdoing by multiple other banks including Bank X (your former employer) , the FCA failed to issue a notice or sanction those banks, and instead invited them to participate in The FCA FX Remediation programme. This was essentially a 'get out of jail free' card for those other banks'.
45. How the FCA conducted the FX remediation programme was not part of your original complaint to the FCA or my predecessor and has not been the subject of an investigation by either organisation. You are bringing up new matters here which do not have a direct bearing on your complaint. There are no grounds to reopen case FCA00318 because of your allegations about the FCA FX remediation programme, which did not feature as an element of complaint review by the FCA or my predecessor and has no direct connection to your complaint.
46. Point 28 g: FCA staff member X had a conflict of interest in being the recipient of your information in 2015 as he had worked with the individuals you were complaining about previously in another Bank Z. You have said to me

- a. 'Staff member X worked for [The FCA employee you alleged had a conflict of interest in element eleven of report FCA00318, which was not upheld) and as a manager in the FCA Intelligence department. Staff member X ran the FCA's 'Investigation' into FX Wrongdoing and attended the meeting the FCA had with me on 30th April 2015.
 - b. My very reliable source also confirms that this had become a standard protocol. Any and all 'intelligence' received by the FCA that was specific to financial markets, as mine was, was sent to Staff member X for 'first pass' review. He was one of a tiny number of people within The FCA that had any trading floor or financial markets experience.'
47. I will address the first point you make. In paragraph 20 I said you had complained that 'an unnamed informant had told you that an FCA staff member X who had been a recipient of intelligence you had forwarded to the FCA about your former employer Bank X on 21 July 2015 and attended the meeting the FCA had with me on 30th April 2015 had worked in a bank Z with the individuals in bank X (your former employer) whom you accused of wrongdoing. You feel there is a conflict of interest in this individual being involved in your case and you query why this was not disclosed to you.'
48. As part of the processing of the subject access request which you submitted to me in March 2022, my staff and I have been involved in processing the FCA file which has meant reading it to ascertain which information constitutes personal data to which you are entitled, redacting the rest, and sending this data to you. As part of this review, we have identified an email on the file dated 11 April 2017 addressed to Mark Steward and copied to seven other senior executives at the FCA, in which you say among other:
- 'The fraud against me being committed by senior managers within Bank [x], 3 of whom worked for many years with [staff member x]of the FCA, and subsequently by] In this email, you were complaining about a conflict of interest regarding an employee at the FCA subject to element eleven of your complaint. You were also evidently aware in 2017 that FCA staff member X had worked with your former colleagues at Bank X.

49. Therefore, you are not bringing new evidence about this matter. This information was available to the FCA complaints Team, to the previous Commissioner and to you. You did not make a complaint in 2017 about this. You are now out of time to do so.
50. You have not provided any specific, concrete evidence to corroborate your allegations in 46 a-b above. You have alleged this is information you received from an unnamed source, but you provide no evidence.
51. What I can tell you is that staff member X was not a manager as you allege in the period we are discussing: 2015. The email you sent of 27 July 2015 with attached transcripts and which is the subject of your allegations above was sent to an employee in Supervision who is not staff member X.
52. Based on the above, I do not consider you have provided new evidence, and there are no grounds to reopen the case. Nevertheless, I have liaised with the FCA on this matter. You are aware that staff member X has been the recipient of some of the information you have forwarded the FCA (this is evident from your correspondence with the FCA in 2017). The FCA confirms that staff member X has never been solely responsible for any decisions made on the whistleblowing case. And I refer you to paragraph 38 above in which I say that as part of processing your DSAR, I have seen numerous documents on file where the matters you raise with respect to Bank X are discussed within Supervision by multiple individuals which you have not been sent. There is also correspondence between the FCA and Bank X.
53. In summary, you have not provided any new evidence which either necessitates reopening the investigation into compliant FCA00318 nor substantiates your allegations that the FCA never investigated your disclosures, conspired with bank X with intent to cause you significant damage and actively prejudice your employment tribunal and that my predecessor dishonestly conspired with the FCA to reject your complaint.
54. I will remind you briefly that the FCA's decision ref 204418965 in 2016 was that

‘The intelligence provided by you has been prioritised and considered in some depth, by staff in the Whistleblowing Team, Supervision and

Enforcement. I am satisfied that this information has been taken into account in respect of the FCA's approach to the regulation of the firm.'

55. My predecessor's decision in complaint FCA00318 with respect to how the FCA handled the information you provided was that

'the information you provided was distributed for a thorough assessment to be made by the areas whose work covers the issues raised; that the FCA took considerable and appropriate steps within its regulatory remit to respond to the information that you had provided, but that due to confidentiality restrictions it could not tell you what action, if any, it took with respect to the information you provided'.

56. Both the FCA and the Commissioner explained to you that the information you had provided had been given appropriate consideration but that due to confidentiality reasons you would not be told what action, if any, would be taken.

57. In your correspondence with me since 17 March 2022 you have alleged that both the FCA and the Commissioner were dishonest in making the above statements and/or sought to bury the information you provided and/or never reviewed the investigation you provided.

58. In my view, you have sought to bring to my attention as new evidence information you have received as part of your subject access requests, but by default that is already information which was available to the FCA and the previous Commissioner.

59. You have provided your analysis of what you believe this information signifies, but you have not provided any evidence for your opinions. You remained dissatisfied with my predecessor's decision and over the years, based on various pieces of information you have received as part of subject access requests, have tried to challenge these conclusions.

60. I have tried to be as helpful as I can be in this instance, and I hope that my explanations above will inform you that the data you have received under your DSAR is redacted and fragmented and it represents only a small portion of the FCA file, therefore, it would be fallacious to place any firm reliance on any one specific document as representative of the entire picture of how the FCA assessed the information you provided.

61. I have also tried to be helpful and provide reassurance to you that the information you mention (the email of 27 July 2015) was referred to Supervision and not to staff member X as you assumed.

FCA001756

62. I now turn to point 28 h: complaint FCA reference 208117527 issued 10 June 2022 and our ref FCA001756. You have pointed out to me that it is connected to matters arising in FCA00318, and indeed I have found this to be the case.

63. This complaint was submitted to the FCA on 18 February 2022 and it in turn objected to findings made by the FCA on a previous complaint you made and a decision letter the FCA issued on 17 February 2021. You said you had new evidence which you wished to present. This consisted of documents and information which were in fact not new evidence but material which was available to the FCA Supervision and Complaints Team previously. You sought to rely on various pieces of this material you had been sent to challenge the FCA's findings in its original complaint decision letter (FCA ref 4524 & 204418965 which became complaint FCA00318). The FCA went into considerable lengths to address your concerns but ultimately concluded that the issues you were raising had been subject to review in FCA complaint ref 4524 & 204418965 and OCC reference FCA00318, and therefore the FCA would not investigate these allegations further. The reason for this is that you were not presenting any new evidence, but were offering your opinion on information which had already been reviewed as part of investigations 4524 & 204418965 and OCC reference FCA00318.

64. I concur with the FCA on this point and remind you again that data you have received under your DSAR is redacted and fragmented and it represents only a small portion of the FCA file, therefore, it would be fallacious to place any firm reliance on any one specific document that it shows the entire picture of how the FCA assessed information you provided. It is not practically possible to come to any reasonable conclusion on the FCA's investigation of the information you provided based only on the personal data you were given, which is all you are entitled to. That data needs to be reviewed in the context of the entirety of the

FCA's review, which, due to confidentiality reasons, is unfortunately not available to you.

65. My predecessor spoke to this point when he said in FCA00318:

As part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material.

My decision

66. I appreciate you would have wanted a different outcome on your complaints, however, you have not provided any new evidence which provides reasonable grounds for reopening your complaints. It follows that I will not reopen complaint FCA00318 and I will not investigate complaint FCA001756 which raises matters that have been considered before.

67. I appreciate you remain aggrieved and do not agree with the FCA and my predecessor's decisions on your complaint, however, it is now four years since my predecessor issued his decision on FCA00318, six years since the FCA issued their decision on that complaint, and eight years since the events of which you complain. During this time you have approached both the FCA and my office to claim that you have new evidence with a view to re-opening the complaint, but your claims have been unsubstantiated and you have not provided any new evidence to substantiate your allegations that the FCA never investigated your disclosures, conspired with bank X with intent to cause you significant damage and actively prejudice your employment tribunal and now that my predecessor dishonestly conspired with the FCA to reject your complaint.

68. I am also mindful that in any investigation, finality must be reached. I do not believe there is anything more that can be done for you under the Complaints Scheme on these matters and I do not intend to review any further

representations from you on this complaint. My predecessor wrote to you in report FCA00318 that 'I have been provided with an extensive file from the FCA which provides the details of the background to your complaint, your communications with the FCA and the FCA's internal review of the information you supplied. The information is more than sufficient for me to see that the FCA has recorded and reviewed the substance of your complaints'. And that 'I have seen no evidence that the FCA has sought to hide information from you, or from me'

69. I do not think it is reasonable for you to continue to allege that this review of the information you provided did not happen. You have not substantiated your allegations, and further, it is a challenge to the previous Commissioner's judgement in reaching a decision on your complaint, who clearly thought a review did happen based on the evidence he (but not you, due to confidentiality reasons) had seen. I will not reopen a concluded case on the basis that a complainant disagrees with how the evidence was assessed by my predecessor. Complainants who disagree with a decision made by the Commissioner can apply to the High Court to seek leave to apply for a judicial review. This was all explained to you.

70. Similarly, on the matter of the FCA providing an opinion at your ET, my predecessor was very clear in saying

'The FCA, for various legal and policy reasons, including s348 of FSMA, does not offer opinions in legal disputes between individuals and regulated firms. 33. It is clear you disagree with this policy. 34. I have reviewed the FCA's internal correspondence and information on the "whistleblowing pages" of the FCA's website in relation to this particular point and it is my view that their rationale for this policy decision appears reasonable. 35. I appreciate your wider point that your request for an FCA opinion was not to settle a 'private dispute' but rather to comment on whether the alleged actions of Bank X were in the public interest. However, this would still have necessitated the FCA providing an opinion at an ET, which is not its policy.'

71. The previous Commissioner's view is that the FCA were not unreasonable in having a policy not to offer opinions in legal disputes between individuals and regulated firms. Whilst I appreciate you disagree with this, there is no further evidence that can be provided to challenge this decision under the Complaints Scheme. This is because I will not reopen a concluded case on the basis that a complainant disagrees with how the evidence was assessed by my predecessor. Complainants who disagree with a decision made by the Commissioner can apply to the High Court to seek leave to apply for a judicial review. This has all this been explained to you.
72. I consider the complaints process now exhausted on the matters covered in FCA00318 and FCA001756. Finality must be reached, and I do not believe there is anything else that can be achieved under the Complaint Scheme in continuing to revisit them. As we must ensure that the resources of the Commissioner's office are used as effectively as possible, I hope you will understand that this means that neither I nor my office will enter further correspondence about complaints which have already been carefully considered and decided.
73. It was my hope that the additional information I provided you above, to be helpful to you. I understand however that you remain unhappy with my decision, and that you believe I have dishonestly misrepresented the facts, and that it is
- 'a staggering abuse of position, not to mention misconduct or malfeasance in public officer, and it is my formal allegation that:
- the CC has been motivated to such misconduct by my exposure of her dishonesty whilst in the role of 'Independent Assessor', where she chose to turn a blind eye to the multiple counts of dishonesty I obtained evidence to prove against multiple senior FOS managers
- the CC has been further motivated by an intent to conceal the dishonesty and/or incompetence of her office by her predecessor'.

74. I am sorry you feel this way, however, I do not agree with you, and unfortunately there is nothing more that can be achieved for you under the Complaints Scheme. If you wish to challenge my decision, you can apply to the High Court (at your own expense) to seek leave to apply for a judicial review of the Commissioner's decision. The Court itself has to give leave before it considers whether or not there should be a judicial review of the decision. An application for leave to apply for judicial review must be made to the Administrative Court Office at the Royal Courts of Justice within three months of the date of the Commissioner's decision letter. A complainant who wishes to consider doing this may wish to seek their own legal advice (which will be at their own cost) before approaching the High Court, since complex legal issues may arise.

Amerdeep Somal
Complaints Commissioner
18 August 2022