Complaints Commissioner

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29th January 2010

Dear Complainant

Complaint against the Financial Services Authority (FSA)
Reference Number: GE-L1009

I am writing to advise you that I have now completed my investigation into your complaint.

At this stage, I think it would be worth explaining my role and powers. I am charged, under Paragraph 7 of Schedule 1 of the Financial Services and Markets Act 2000 (the Act), with the task of investigating those complaints made about the way the FSA has itself carried out its own investigation of a complaint. The investigations I undertake are conducted under the rules of the Complaints Scheme (Complaints against the FSA - known as COAF). I have no power to enforce any decision or action upon the FSA. My power is limited to setting out my position on a complaint based on its merits and then, if I deem it necessary, I can make recommendations to the FSA. Such recommendations are not binding on the FSA and the FSA is at liberty not to accept them. Full details of Complaint Scheme can be found on the internet at the following website; http://fsahandbook.info/FSA/html/handbook/COAF.

I should also at this point make reference to the fact that my powers derived as they are, from statute contain certain limitations in the important area of financial compensation. My powers derived as they are, from statute contain certain limitations in the important area of financial compensation. The Act stipulates in Schedule One that FSA is exempt from "liability in damages". It states:

"(1) Neither the Authority nor any person who is, or is acting as, a member , officer or member of staff of the Authority is to be liable in damages for anything dine or omitted in the discharge, or purported discharge, of the Authority's functions.

(2) (Irrelevant to this issue under investigation)

(3) Neither subparagraph (1) nor subparagraph (2) applies

(a) if the act of omission is shown to have been in bad faith; or

(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act of omission was unlawful as a result of section 6(1) of the [1998 c.42] Human Rights Act 1998."

COAF nevertheless then goes on to provide that in paragraph 1.5.5 that:

"Remedying a well founded complaint may include offering the complainant an apology, taking steps to rectify an error or, if appropriate, the offer of a compensatory payment on an ex-gratia basis." If the FSA decides not to uphold a complaint, it will give its reasons for doing so to the complainant, and will inform the complainant of his right to ask the Complaints Commissioner to review the FSA's decision."

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If I find your complaint justified, it is to that paragraph that I must refer in order to decide any question of a "compensatory payment on an ex-gratia basis".

If you were to take the view that Schedule One referred to above was relevant in the context of the Human Rights Act 1998 I should explain that Section 6(1) of that Act that is referred to, provides as follows:

> *"It is unlawful for a public authority to act in a way which is incompatible with a Convention right".*

The only Convention right that I consider may be relevant is contained in Article 1 of the First Protocol set out in the Human Rights Act of 1998. That provides:

> *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
>
> *The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties".*

It is my view, given my views in this matter, that Article 1 of the First Protocol has no application in your case.

Your Complaint

From your email of 5th May 2009, I understand your complaint relates to the following:

> In mid-2008 you were offered a position with Partnership A. As the position was a controlled function (CF30) you needed approval from the FSA before you could start work with the firm. In your email to my office you say that during your early discussions with Partnership A you informed it that you had been dismissed by your previous employer, Firm B.
>
> You claim that Partnership A was fully aware of the events which led to your dismissal from Firm B and in late June 2008 it spoke to the FSA about your re-approval. You add that you understand that it was led to believe that there would not be a problem with this despite your dismissal from Firm B. Subsequently, on 7th July 2008, Partnership A offered you a contract of employment which you immediately accepted.
>
> Following your discussion with Partnership A over a position, you had started looking for a new property in London. On 7th July 2008 (the same day as you accepted and signed your contract with Partnership A), you say you entered into a rental agreement on a property which required you to pay rent for a minimum of six months.

On 14th August 2008 Partnership A wrote to you and confirmed that, following further discussions with the FSA regarding your 're-approval' it had become clear that it may not grant you approved person status, and it was withdrawing the offer of employment it had made to you. As you feel that Partnership A's offer of employment was made to you as a result of the FSA providing it with incorrect information, you are looking to FSA to reimburse you with the rent you say you have had to pay (particularly as you rejected a position with a Swiss firm which would not have required you to obtain 'approval' from the FSA).

Background

28th March 2008	Your FSA registration as a CF30 with Firm B is cancelled following your dismissal. This is confirmed to you by letter dated 1st April 2008.
21st April 2008	You appeal against your dismissal. Firm B informs you, by letter dated 2nd May 2008, that your appeal was unsuccessful and its decision to dismiss you therefore stands.
29th May 2008	You met with Mr X and discuss a position of employment with Partnership A.
11th June 2008	You hold a further meeting with Mr X from Partnership A
17th June 2008	You hold a further meeting with Mr X from Partnership A
23rd June 2008	You hold a further meeting with Mr X from Partnership A
26th June 2008	The FSA issues a Memorandum of the Appointment of Investigators (although this is not sent to you until 10th July 2008).
27th June 2008	A member of staff from Partnership A contacts the FSA Firm's Contact Centre (FCC).
7th July 2008	Partnership A offers you a position of employment with a start date of 1st September 2008. You accept this position and sign the contract of employment.
7th July 2008	You also say that on this day you signed one part of a tenancy agreement for a new property in London (which was effective from 4th August 2008).
10th July 2008	The FSA sends you the Memorandum of the Appointment of Investigators (issued on 26th June 2008) and a Notice of Appointment of Investigators
24th July 2008	You email the FSA and indicate you appear to be aware that there could be a problem with your re-authorisation.
30th July 2008	The FSA advises you that Partnership A contacted the FCC rather than the authorisations department.
1st August 2008	You hold a further meeting with Mr X from Partnership A
4th August 2008	The landlord signs the counter part of the tenancy agreement (you had signed your part with its agent on 7th July 2008).
5th August 2008	The FSA's permissions department indicates to you that it is likely that the FSA will defer considering/granting you approved person status until it (Enforcement) had completed its investigation.

12th August 2009	Partnership A contacts the FSA Authorisations' Department and enquires about your re-authorisation.
14th August 2008	Partnership A notifies you that it is withdrawing its offer of employment.
5th January 2009	You submit a formal complaint to the FSA about what you believe was it providing potentially incorrect information to Partnership A.
3rd April 2009	The FSA provides you with its decision on the complaint.
5th May 2009	As you remain unhappy with the position you refer the matter to my office for further consideration.

My Position

As part of my investigation into your concerns I have obtained and reviewed the FSA's investigation file. I have also reviewed the information you have provided, the further information obtained from the FSA, the timeline shown above and the information provided directly to me by Partnership A in relation to the offer of employment it made to you. Consideration has also been given to the arguments you have made in both your correspondence with the FSA and my office.

From these documents it appears that in mid-2008, Partnership A was considering you as a candidate for a position of employment with the firm. During your numerous meetings with Mr X from Partnership A, you say you made him fully aware of the events which led to your dismissal from Firm B.

As it appears that Partnership A was intending to extend an offer of employment to you, on 27th June 2008, a member of staff from its Compliance Department called the FCC with some questions about your FSA history and process for 're-approval'. As you are aware, although calls to the FCC are recorded, the FCC has been unable to obtain a recording of the call Partnership A made due to the time which had passed between the call and your complaint.

Before I comment on the information the FCC provided to Partnership A I would make the following observation. As you were dismissed from a controlled function with a regulated firm for "gross misconduct" and you had had your registration as a CF30 cancelled following your dismissal which was confirmed to you by letter dated 1st April 2008, Partnership A should have directed its questions to the FSA's Authorisations Department (Authorisations). I appreciate that the FCC can answer questions in relation to approved persons, however, in situations such as yours where an individual has previously been dismissed for gross misconduct (and has not received approved persons status since their dismissal) its is Authorisations who would be able to provide the appropriate guidance rather than the FCC which would only have been able to answer the specific question put to it.

As you are aware from the FSA's decision letter of 3rd April 2009, it has not been possible to obtain a recording of the telephone conversation Partnership A had with the FCC on 27th June 2008. Unfortunately, without a recording of the call it is unclear why Partnership A contacted the FCC rather than Authorisations and what specific questions Partnership A put to the FCC operative. I should add that recordings of such calls are kept for six months. By delaying your complaint about the FSA until 5th January 2009 it meant that the recording had just been destroyed. That delay was unfortunate.

Although you allege that the FCC provided incorrect information to Partnership A, without a recording of the telephone call it is not possible to comment with any degree of certainty on what exactly was or was not said or, perhaps more importantly in this instance, in what context, the caller from Partnership A asked the questions. However, as the FCC operative did record and retain some brief notes of the call I am able to base my investigation on these. These notes record that the caller was:

> "*searching for somebody on the regiseter (sic), and asking if they have any disciplinary history. I checked the register and advised there was none there, and if they are going to employ this person they should use their own fit and proper testing.*"

From these notes, it appears that Partnership A contacted the FSA and asked whether you had a FSA disciplinary history. Although a Memorandum of the Appointment of Investigators had been produced (but it had not actually been issued to you), when the call was made, the FCC operative provided factually correct information to the caller as your entry on the FSA register did not show that the FSA had taken (concluded) any disciplinary action against you. Although I accept that the fact Enforcement had indicated that it was to undertake an investigation into your conduct suggests that it may well take future disciplinary action against you, it does mean that disciplinary action would (my emphasis) result as an outcome of its investigation. Likewise, the information provided to Partnership A that, if it was intending to employ you, it should use its own fit and proper test is also correct.

I have noted your comments that you feel the FCC operative should have realised that the call was meant for Authorisation and transferred the call. Unfortunately, without a recording of the call I cannot support this view. The FCC is in place to field generic questions from authorised firms rather than specific or complex questions one relating to the re-authorisation of certain individuals. The question asked and answer that was given, as recorded on the FSA's call logging system, in my opinion, indicates that a generic question was being asked. On a common sense basis if Partnership A had wanted to ask a specific question about the possible reappointment of an individual who had been dismissed from a controlled function for gross misconduct, then it should have contacted Authorisations direct rather than contacting the FCC. I would stress that this is my view based upon the information available to me and, if I have been able to listen to call, my view may possibly have been different.

Notwithstanding that it is unclear whether the Partnership A caller made the FCC operative aware that you had been dismissed from a controlled function for "gross misconduct", in my opinion, as the request concerned your FSA disciplinary history, the operative should have checked other FSA systems to clarify whether there was any ongoing action against you. Had this check been carried out it would have been clear that the FSA's Enforcement Division had an interest in you and this should have alerted the operative to the fact that there could be a problem with your re-authorisation. I am therefore going to recommend that the FSA reviews its procedures to ensure that that when future enquiries regarding an individual's disciplinary history are received checks of other FSA systems (in addition to the FSA register) are made and if appropriate transfers the caller to the appropriate area.

However, whilst I am making this recommendation, I do not believe the losses you say you have incurred are as a direct result of the FSA's actions. I hold this view as, whilst I accept that the FSA's systems indicated that its Enforcement Division had an interest in you, it did not provide any specific information about the reasons for its interest.

Further, whilst it is also clear that at the time of Partnership A's call to the FSA, the FSA had decided that it was to conduct a formal investigation into your conduct whilst you were employed by Firm B, in my opinion it would not have been appropriate for any department from the FSA to have released this information to a potential employer. I hold this view as, the FSA the Memorandum of the Appointment of Investigators, confirming that a formal investigation was to take place, although prepared, had not been issued to you. Had the FSA made any comment about the impending investigation at the time, in my opinion, it would have been breached the Data Protection Act by releasing personal information to an unrelated third party, particularly as it related to impending events which you were not aware of.

I would also add that whilst Partnership A may have understood from the FCC operative that there would not be a problem with your reappointment, it would have been aware that neither the FCC nor Authorisations can confirm that an individual will or will not receive approval to conduct a controlled function over the telephone. Partnership A would also have been aware that if it had any significant concerns over whether you (or any other individual) would receive approval (which some might say might be unlikely given that you had been dismissed for 'gross misconduct') it should contact Authorisations for a view. It would also appreciate that any view Authorisation gave would purely be an opinion and should not be relied upon as confirmation of whether an individual would receive approval to conduct a controlled function as this can only be given after the submission and consideration of an 'Application to Perform a Controlled Function Under the Approved Persons Regime' (otherwise known as a Form A).

As you are aware, Partnership A neither completed nor submitted a Form A to the FSA. In view of the fact that you had been dismissed from Firm B, and the fact that Firm B indicated that it may enter into correspondence with the FSA in relation to your dismissal (as indicated in its letters to you of 21st April and 2nd May 2008), Partnership A could (and may be should) have submitted a Form A to ensure that you would receive approval from the FSA before (my emphasis) offering you a formal contract of employment.

I can appreciate your disappointment that Partnership A withdrew its offer of employment and why you feel that it had to do this as a result of the incorrect information it was given by the FSA. I can also understand why you feel the information the FSA provided to Partnership A was incorrect/misleading and how this has led to your belief that the FSA should reimburse you for the rent you had to pay as a result of the tenancy agreement you entered into following Partnership A's offer of employment. However, from the information provided to me by Mr X of Partnership A it is clear that you were fully aware that:

> *"...the offer was subject to both approved status from the FSA and satisfactory references. This was expressed both verbally and in our written communications."*

From this it is clear that whilst Partnership A had offered you a position of employment, unless it obtained satisfactory references and the FSA confirmed that it would re-approve you (i.e. it had assessed and approved a completed Form A) Partnership A could withdraw its offer of employment. I specifically note that it was not therefore an unconditional offer of employment but one that contained important conditions which given your history were particularly relevant. The fact that it did this, in my opinion, is not the fault of the FSA. Likewise, if you feel that this was not made clear to you by Partnership A in the correspondence you received from Partnership A either prior to or at the time you accepted the position or in the contract of employment you signed, then this is a matter which you should take up with Partnership A.

In my opinion, given the reasons for your dismissal from Firm B and the warning included in its letter to you of 2nd May 2008 where it stated the FSA will have to "*make an assessment of your fitness and propriety in approving any future application to be an approved person*" you were clearly aware that the FSA may not approve any future application to become an approved person. With this in mind, whilst I can understand why you wanted to sign the tenancy agreement when you did, the fact that you did so based on information provided by a FCC operative in a telephone call which you were not party to and prior (my emphasis) to the submission of a Form A to the FSA (and therefore you receiving its confirmation that it was satisfied with your fitness and propriety to undertake a controlled function) could be regarded as premature if not reckless.

In the complaint you made to my office you have questioned how the FSA can indicate that it is unlikely it would have made a decision on whether you should be granted approved person status when it says that each application is considered on its own merits and, as an application was not submitted by Partnership A the FSA was effectively pre-empting this application. I have also considered your comments surrounding Partnership A's decision to withdraw the offer of employment it had made to you after a telephone conversation with the FSA.

I can confirm that Partnership A contacted the FSA on 5th August 2008 regarding the process (in light if the ongoing investigation which you were now aware of) for you to obtain approved person status. Although you feel that the FSA was effectively informing Partnership A that any application would be rejected, I disagree. The information the FSA provided to Partnership A was consistent with the information it provided to you on 6th August 2008, i.e. it referred to the requirements of section 61(1) of the Act (which can be found on the internet at the following address http://www.opsi.gov.uk/acts/acts2000/ukpga_20000008_en_6#pt5-pb2-l1g61) and which states:

FSMA 2000 61 Determination of applications

(1) The Authority may grant an application made under section 60 only if it is satisfied that the person in respect of whom the application is made ("the candidate") is a fit and proper person to perform the function to which the application relates.

In light of the ongoing Enforcement investigation, the FSA appears to have felt, correctly in my view, that due to the nature of the concerns about your conduct (as detailed in the your Firm B dismissal appeal letter and the Memorandum of the Appointment of Investigators), and because of the requirements of section 61(1) of the Act, until its investigation had been completed, it was likely that it could not confirm (or deny) that you were a "*fit and proper person to perform the function to which the application relates*" and as such it was likely that it would be unable to consider such an application. I believe that my view on this particular issue is supported by the outcome of the FSA's investigation, the findings of which you accepted, and the contents of the Final Notice which was recently issued to you.

In your further submission to my office you say that when you accepted Partnership A offer of employment to you on 7th July 2009 you were unaware that the FSA was intending to investigate you as the FSA did not write to inform you of this until 10th July 2008. From my investigations I accept that this was the case. As I was concerned at the two week delay between the investigation starting and you being notified, I asked the FSA to provide an explanation for it.

The FSA has informed me that although it decided that it needed to conduct an investigation into your conduct and part in the events which took place whilst you were employed by Firm B, on the 26th June 2008, it did not have a current address for you and therefore could not immediately write to inform you of its intentions. Whilst this delay is disappointing, and in this case particularly unfortunate, I can appreciate why it occurred. I am also satisfied that the FSA acted quickly to remedy the situation, and once it had an address for you there were no further delays and it immediately wrote to you to inform you of its intentions. As I have previously commented, in this my Final Decision, this could possibly have impacted upon the information which the FSA was able to provide to Partnership A when it contacted the FSA on 27th June 2008.

Similarly, the fact that you entered into a tenancy agreement upon receiving and accepting an offer of employment that was still subject to you receiving approval from the FSA cannot, in my opinion, be regarded as the fault of the FSA. I have also noted from the information you have provided to me on 18th August 2009 that the tenancy agreement was signed in two parts and the landlord's part was not signed by the landlord until 4th August 2008, some four weeks after it was signed by you. As you were aware that you were under investigation by the FSA on 11th July 2008 (the day you tell me that you received notification from the FSA) it should have been possible to withdraw from the agreement well before it was signed by the landlord.

I make this comment as it is clear from the FSA's investigation file that on 13th July 2008 you had a telephone discussion with Officer Y, from the FSA's Enforcement Team, about whether you would be able to obtain employment whilst the FSA's investigation was continuing. I understand that Officer Y informed you that you should seek legal advice (my emphasis) as she could not answer this question.

This information, in my opinion, could (and should) have suggested to you that the FSA, upon consideration, may not grant you approved person status at this time. Similarly, on 24th July 2008 you emailed the FSA and questioned why Partnership A was led to believe that there would not be a problem with you receiving future approval.

> *"I have spoken to Partnership A today and I believe they will be in contact with the FSA in due course.*
>
> *I would appreciate hearing back from you/your team on how it is they were told there were no issues with re-registering me despite the fact that an investigation had been opened prior to them contacting you."*

In my opinion, the fact that you asked this question shows that you were aware that the FSA, in light of the on going investigation, potentially may not confirm your approved person status until its Enforcement investigation had been completed.

I also believe that Officer Y's response of 30th July 2008 clearly indicates that there may be a problem with FSA granting your approved person status before its investigation had been completed:

> *"My understanding is that Partnership A appears to have spoken to a main enquiries desk, rather than to the authorisations department. I do not know why the call was not put through to authorisations (and/or whether Partnership A asked to speak with the authorisations department). I apologise for any confusion."*

From this information you were clearly aware that it was possible, if not likely, that the FSA may well either fail to 're-approve' you or defer making a decision on whether it should 're-approve' you within days of you signing the tenancy agreement and in any event before the landlord had countersigned it (accepting you as a tenant). I make this point as until there is a formal exchange of documentation in the normal circumstances there would be no binding legal agreement and it is likely that you would therefore have been able to withdraw from the contract and not have incurring the rental expenses you are claiming.

I have also noted that you say that whilst you were discussing a position with Partnership A you were also pursuing an opportunity with Group C, a firm based in Geneva Switzerland. However, in light of the information the FSA provided to Partnership A (in the disputed telephone call of 27th June 2008) and Partnership A's offer of employment you opted to accept the position with Partnership A rather than the one with Group C as it meant that you could remain in the UK. You indicate that had you been aware the FSA may not have granted you approved person status at this stage, you may have accepted the position with Group C as you would not have needed the FSA to grant you approved person status to work in Switzerland and as a result your personal financial position would now be much better.

Although I sympathise with the position you now find yourself in, as I have said above, based on the written record of the telephone call between the FCC and Partnership A's Compliance department, the FSA provided factually correct answers to the questions Partnership A asked. Unfortunately, without a recording of the actual conversation there is nothing to support your claim that the FSA provided incorrect or misleading information which led to the financial position you say you now find yourself in. Again, I would reiterate even if the FSA had provided incorrect or misleading information to Partnership A over the telephone, Partnership A's offer of employment was subject, it tells me, to you receiving FSA approval and until a Form A was submitted any information Partnership A received from the FSA over the telephone was simply an opinion and could not be relied upon until full consideration was given to a Form A.

I would also add that, from the information you provided to both the FSA and me, there is nothing to show that you (my emphasis) formally attempted to clarify the likelihood of the FSA 're-approving' you (by asking Partnership A to submit a Form A to the FSA) before you decided to decline Group C's offer of employment.

I have noted that you say you spoke to the FSA on a number of occasions and were not told that the FSA was intending to undertake an investigation to your conduct or led to believe that there may be a problem with an application for your 're-approval'. As I have previously stated whilst Enforcement may have taken an interest in you, until it formally decided that it needed to conduct an investigation into your conduct and issued the Memorandum of the Appointment of Investigators, as the Act requires which it did on 26th June 2008, the situation is that Enforcement's interest may end with no further action being taken. I therefore believe that prior to the issue of the Memorandum of the Appointment of Investigators you were provided with the correct information as Authorisations could not comment on what action, if any, Enforcement may or may not take in the future and how this would impact on you.

Conclusion

Having considered your complaint in considerable detail and in prolonged correspondence, I believe that the FSA should have taken more care when answering Partnership A's telephone enquiry on 27th June 2008, and accept that this could possibly have influenced Partnership A's decision to extend a conditional offer of employment to you which it later withdrew. However, although I hold this view (and will be making a recommendation to the FSA in respect of this later in this, my Final Decision) I have to be mindful that as the FSA had not issued you with its Memorandum of the Appointment of Investigators, as it did not have a current address for you, it was limited, correctly in my opinion, in what specific information it could provide to an unrelated third party.

It is also clear that Partnership A should have been aware that any information provided verbally over the telephone was simply an opinion and would still be subject to the submission (and consideration) of a Form A. Further, you were aware that the offer of employment was subject to you receiving FSA approval and other than Partnership A's telephone call (and those you say you made) there is nothing to indicate that anything other than an opinion was given to you in relation to your possible 're-approval' or that a formal application was made to the FSA.

Whilst I accept that you rejected a position with Group C, for which you would not have needed the FSA's approval, to accept the Partnership A position, in my opinion, you did so before you had received formal confirmation (my emphasis) from the FSA that it would 're-approve'. As you were in possession of information, Firm B' letters dated 21st April and 2nd May 2008, which indicated that the FSA may not automatically 're-approve' you there is nothing to suggest that the income you say you have lost (as a result of rejecting the Group C position) is as a direct result of the FSA's actions.

I appreciate in your correspondence with my office that you have referred to two colleagues who were also dismissed from Firm B for 'gross misconduct' but subsequently received 're-approval from the FSA and this led you to believe that there would not be a problem with your 're-approval'. Although you have made this comment it is not clear whether your colleagues were dismissed for involvement in the same underlying events as you. However, in any event, it is not for me to comment on how their positions differed from yours. What I can say is the FSA deemed the events which led to your dismissal from Firm B to be sufficiently serious to warrant it to take further action against you and which you did not challenge before the RDC by a personal appearance.

There is also insufficient, if any, evidence to support your claims that you entered into a rental agreement on a property, following the offer of a position with Partnership A, as a result of the FSA providing incorrect information to Partnership A. Unfortunately, my investigation has identified that you were aware, or should have been aware, that it was possible that the FSA would not grant you approved person status before (my emphasis) you formally entered into this rental agreement. The fact that you did this was, on any evaluation, an unwise step to take owing to the knowledge that you possessed as to the possible uncertainty of your position.

I appreciate that in response to my Preliminary Decision you have provided further and detailed arguments which you feel support your claim that the FSA is liable for your financial loss as a result of omissions and the alleged provision of incorrect information when dealing with Partnership A. Although I have considered your submissions, ultimately I do not accept your analysis for the following reasons:

(a) what caused your financial loss in the context of the property you rented was a premature signature (which could probably have been withdrawn) of a rental agreement;

(b) the acts that you took in reliance upon a job offer that was not unconditional and which as a person who had been dismissed for gross misconduct must in any sensible view have put you on notice not to act before such job offer became in writing unconditional. Your own actions therefore caused the loss because they were premature in all the circumstances of your particular case.

I am therefore unable to alter the decision previously made by the FSA. I appreciate that you will be disappointed with my findings, but hope that you will understand why I have arrived at this decision.

Recommendation

The FSA should, when it receives an approach from a firm asking whether an individual has a disciplinary history with FSA or whether there will be a potential problem with an individual's 're-approval', it should ensure that the operative checks all FSA systems (not just the FSA register) to establish whether there is any ongoing action (in addition to concluded action) and if appropriate refer these enquiries to the authorisation team who will be better placed to answer the question.

Yours sincerely,

Sir Anthony Holland
Complaints Commissioner