

Rt Hon Mel Stride MP
Chair of the Treasury Committee
House of Commons

By email to treascom@parliament.uk

11 May 2020

Dear Mel

Thank you for your letter of 30 April, in which you ask for my comments on the progress being made by the Financial Conduct Authority (FCA) in response to concerns which I have raised about serious delays in its handling of complaints.

Background

I will start with some context. The regulators – the FCA and the Bank of England (including the Prudential Regulation Authority) – are required under the Financial Services Act 2012 to establish a complaints scheme to deal with complaints ‘arising in connection with the exercise of, or failure to exercise, any of their relevant functions’.

The Act also requires the regulators to appoint an independent investigator – the Complaints Commissioner. If complainants are not able to resolve their complaint with one of the regulators, I consider the complaint and can make recommendations. The recommendations I can make include issuing an apology, putting things right, or an ex gratia compensation payment.

I am required to publish an annual report, and since 2016 this has been laid by HM Treasury before Parliament. My most recent report is at <https://frccommissioner.org.uk/wp-content/uploads/OCC-Annual-report-2018-2019.pdf>. I am currently preparing my report for 2019-20 which – circumstances permitting – should be laid before Parliament in July.

Delays

You refer to a report I wrote on 3 April 2020 in which I identified serious delays and poor complaints handling. The full details are at <https://frccommissioner.org.uk/wp-content/uploads/FCA00700-For-publication-FR-03-04-2020.pdf>, but I would draw the Committee’s particular attention to the following extract:

You have told me that you have had seven case handlers since April 2018. There have certainly been four allocated in the period since 31 August 2018. There was a clear lack of effective supervision of newly appointed investigators between April and October 2019. This was despite the Complaints Team’s initial recognition that your complaints were complex and required a Senior Investigator. A lack of support for inexperienced case handlers new to the Complaints Team appears to have contributed to the delays you experienced.....

*This is not the first time that the Complaints Team has been under such pressures causing delay, as has been noted in my previous Annual Reports. However, the situation has considerably worsened over the past year. I note the additional measures the FCA has put in place to start to address this situation and I will be keeping this under careful review, and reporting on the situation publicly in my forthcoming Annual Report. The Complaints Team has also taken the sensible step of identifying an approach to ex gratia payments for delay, based on the time taken against what would have been a reasonable time. However, in my view there have been basic failures to appropriately manage and supervise your case that go beyond delay to maladministration. **I recommend** that the FCA offers you a further £100 for these failings, a total of £250 for delay and maladministration in its processing of your complaint.*

*You have told me you do not believe the FCA's apology for delay is sincere and that it is just a stock apology phrase churned out to all dissatisfied people. There is indeed a risk that this is the impression given, particularly if no demonstrable improvements occur. I am aware that the Complaints Team has seen a large increase in its workload and has been struggling to cope. I have not seen any evidence that suggests the failings I have identified arise from bias towards you personally. Rather, they are a measure of the difficulties the Complaints Team has been facing in general and show what happens when a team is inadequately resourced and put under stress. However, in view of the high turnover of staff and poor communication you experienced, with little or no activity on your file for many months, **I recommend** that you receive a further apology for delay from a member of the FCA's Executive Committee.*

While this particular case is at the worst end of a spectrum, it is not unique. Many complainants are currently suffering prolonged delays in the handling of their complaints, with inadequate communication. I need to emphasise that many of the complainants under the Scheme – whether consumers of financial services or people in small businesses regulated by the FCA - are people who have suffered significant loss and are in considerable distress. They come to me often at their wits' end because of the lack of progress.

Other concerns

The effects of these delays go beyond individual complainants. As I have stressed to the FCA repeatedly, a well-functioning complaints scheme is a tool for organisational improvement: thorough investigations of complaints can unearth systemic problems which can then be addressed. But a Complaints Team working under the kinds of pressures that the current team is working under – and the team members are working very hard – is less likely to be able to identify failings. This means that sometimes significant issues are only picked up when my Office investigates – and many complaints do not reach me. Examples of the kinds of systemic failings which my office has drawn to the FCA's and public attention include the problems with the Connaught Fund, the overcharging of a large number of credit card customers by HSBC, and serious failings in the accuracy and maintenance of the register.

The FCA's response

In its response to the particular case you identified, the FCA accepted my findings and recommendations, and said:

The FCA is taking ongoing steps to address the complaints handling delays that the Complaints Commissioner has commented on in his Final Report, and we continue to liaise with the Commissioner on this.

The FCA has been candid with me about the problems which it is facing. The new senior managers who have recently been put in charge of the complaints function appear to me to be genuinely determined to deal with the problem, and I have seen their plans for improvement, which I support. I recognise, too, that over the past 18 months, the Complaints Team has experienced a major spike in complaints arising from the problems with Collateral and LCF (though most of these complaints have been deferred), and a more recent increase in 'normal' complaints. These are real problems.

However, I have been drawing the FCA's attention for several years to the need to strengthen the complaints function, in order to provide the resilience which it requires. Its recent attempts to draft in additional staff have been only partially successful, with a turnover of investigators often leading to the problems illustrated in the case I have quoted. Unless the FCA can strengthen and stabilise the team, it will not be able to overcome its current difficulties.

Conclusion

The FCA is making genuine efforts to address the serious problems in its handling of complaints; but these problems are not new, and they have not yet been solved.

Parliament required the establishment of a complaints scheme so that the regulators – which enjoy statutory immunity from being sued for damages in most circumstances, and wield substantial powers capable of causing significant harm to individuals – could be held to account for shortcomings. For that reason, the Scheme *requires* the FCA to give complainants timescales, *requires* the FCA to ensure that complaints are dealt with by people with sufficient seniority, and *requires* the FCA to resolve the complaint as swiftly as possible, *with the aim of satisfying the complainant*. These requirements are not currently being met.

Please let me know if I can help the Committee further in any way.

I am copying this letter to Charles Randell at the FCA, since I know that you have written to him about the same issue.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner