

11 April 2023

Final report by the Complaints Commissioner**Complaint number 202201705***The complaint*

1. On 23 January 2023 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

You are unhappy that the FCA's Whistleblowing Team has decided, after an investigation lasting over two and a half years, not to take any further action.

You have asked a number of questions relating to the actions of the firm which you are seeking a response to and for the FCA to take public action and inform you of this.

I can see that the correspondence between the Whistleblowing team and you explained the confidentiality restrictions and the team have been clear from the beginning of the engagement that the FCA will not be in a position to disclose details to you.

What the regulator decided

3. The FCA did not uphold your complaint. It said 'Although I am unable to give you any detail of the actions of the FCA, I can confirm the intelligence received by the FCA was sent to the correct team and I have reviewed the action taken by the area. I am satisfied the intelligence was handled in the appropriate manner. I have not upheld your complaint. I am sorry to hear of the difficulties you have experienced and I appreciate you are seeking to understand what action has been taken, however, due to confidentiality restrictions, as explained

above, we cannot share any further information beyond what has been shared already.'

Why you are unhappy with the regulator's decision.

4. You have said to me that whilst employed with Firm X you experienced an incident of racial discrimination: in particular one email in which

'an official had attempted to beat me by kicking hard by an official mail and X India, has never denied this incident'.

Instead their response was that they will take action if any required. Thereafter I had sent multiple mails and correspondences to X, India, enquiring on the action taken but they have sent a standard response saying that they have nothing more to add than whatever is already stated. What does this mean for since the incident took place in writing ? Does this not mean that they are defenceless since the matter was official and proven unless I am unaware of some larger picture.

I hope, you would agree that there cannot be any superior documents and evidence than whatever I have already shared to prove genuineness of the incident. What else do you need to prove that my submission is valid and genuine, if you can kindly clarify.

In view of the above my sincere appeal to you that an organisation who has failed to protect its employee from racial discrimination,must be penalised at organisation level as well as an individual level and appropriate compensation should be paid to the Victim'.

My analysis

5. You have referred your complaint to me because you are not satisfied with the FCA response.
6. You have been told that the FCA will not take any further action with respect to your disclosure, but not why, due to confidentiality restrictions. You feel it ought to both formally sanction Firm X and arrange for you to be compensated.
7. Like the FCA, I am required to respect confidentiality This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to 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.

8. In your case, I am satisfied on balance that the FCA's complaint response, that it would not take further action, in response to the information you provided about Firm X, was reasonable in the circumstances. Unfortunately, I cannot say any more than that, and I recognise that that will be frustrating for you. I note the FCA took over two years to respond to you, but I am satisfied that there were good reasons for this.
9. Based on the information I have seen in this case, I am satisfied that the FCA's complaint response was reasonable in the circumstances and that there is no other confidential material that can be released to you. I realise that this leaves you with concerns and unanswered questions but I hope you will be reassured that I have reached this conclusion after independently reviewing the confidential material.

My decision

10. For the reasons above, I do not uphold your complaint.

Amerdeep Somal

Complaints Commissioner

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