

The Financial Conduct Authority's response to the Complaints Commissioner's Annual Report 2021/2022

July 2022

The Financial Conduct Authority's response to the Complaints Commissioner's Annual Report 2021–22

(For the year ended 31 March 2022)

Presented to Parliament pursuant to section 87 of the Financial
Services Act 2012 (as amended by the Small Business, Enterprise
and Employment Act 2015)

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Introduction

In this report we respond to the points raised in the Complaints Commissioner's Annual Report, give an update on key performance measures and on our improvements in performance, while building on the transformation programme for this area of the FCA.

We note that the Complaints Commissioner ('the Commissioner') recognised that the FCA has made significant progress in reducing our backlog of complaints. Building on our change programme and significant investment in people, systems and processes in recent years, we have also reduced the average age of our open complaints. We have also improved our service level performance, in a year when the volume of complaints increased.

While there is more to do, our investment in complaints handling has created significant improvements. We continue to build significantly on this in the coming year. We aim to provide a great service to those that bring complaints to us by setting appropriate operating service metrics, while recognising the changing shape and nature of the complaints we receive and always trying to achieve them in a transparent and open manner. We also want to make sure as an organisation we learn lessons from complaints and make improvements.

Excluding complaints about London Capital & Finance plc (LCF), last year (financial year 2021/22) the Commissioner agreed with our decisions in the vast majority of the complaints that she concluded. The Commissioner referenced matters including our approach to compensation, confidentiality and transparency in her report.

We also note the references to the Financial Services Register which, together with other themes identified across a small number of complaints, are important matters that are subject to ongoing conversations between us and the Commissioner and a range of other interested stakeholders (particularly given the legislative underpinning for the Register).

The Complaints Scheme

Complaints help us learn lessons and improve our performance. We take complaints seriously and aim to resolve them efficiently, effectively and sensitively, treating complainants with courtesy and empathy.

The Financial Services Act 2012 requires the Financial Conduct Authority (the FCA), the Prudential Regulation Authority (the PRA) and the Bank of England (the Bank), (collectively the Regulators), to have arrangements in place for the investigation of complaints against them. This is known as the Complaints Scheme (the Scheme). The Scheme explains that complaints can be made in connection with the exercise of, or failure to exercise, any of the Regulators' relevant functions. The FCA Board has oversight of the FCA's operation of the Scheme through its Audit and Risk Committees and takes a close interest in complaints handling and outcomes.

The Regulators are also required to appoint an independent person, approved by HM Treasury – the Complaints Commissioner (the Commissioner) – to be responsible for conducting investigations in line with the Scheme. We expect most of the complaints we investigate to be resolved in a timely and satisfactory manner, and without being referred to the Commissioner.

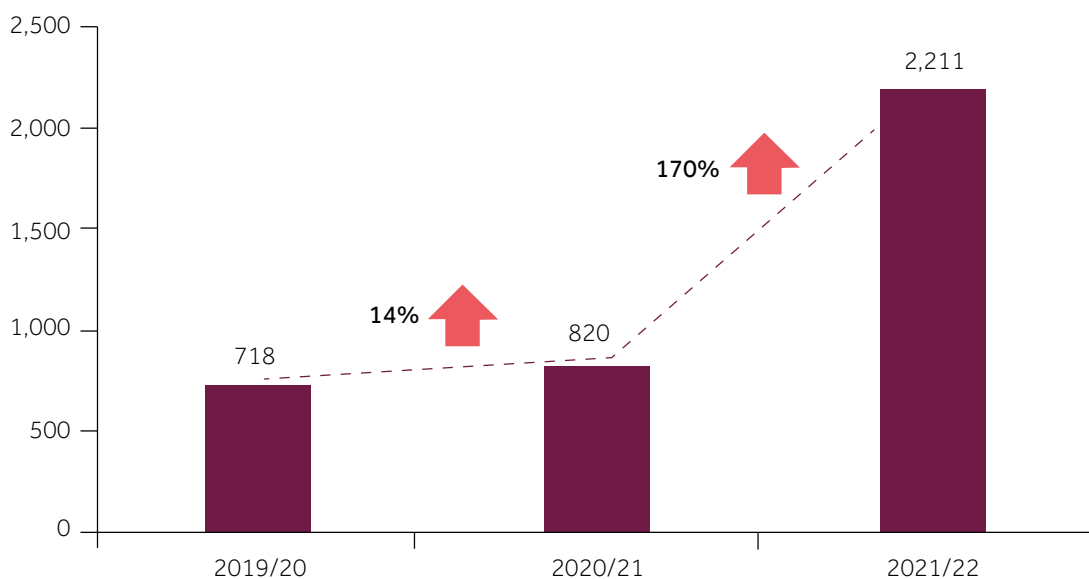
The Commissioner plays a crucial role in the effective operation of the Scheme, as the independent figure overseeing it.

Improvement plans: performance improvements

In our public response to the Commissioner's 2020/2021 Annual Report, we explained that we are committed to significant changes to improve how the Scheme operates. We also explained that our investment in our people, systems, data and processes is helping to reduce our complaints backlog and improve the quality of our investigations and responses. This investment has continued, with the recruitment of additional colleagues, including in more senior roles, because of the increasing volumes and complexity of complaints we receive. We are also becoming more data-led by creating a cross-FCA management information (MI) tool which provides statistical analysis across all aspects of complaints, enabling more effective workload management and assisting our root cause analysis work.

Our investment into complaint handling meant that we were able to close 170% more cases last year than we did the previous year (820 closures in 2020/21 and 2,211 closures in 2021/22, including complaints about our regulation of London Capital & Finance plc (LCF), and we responded to our incoming complaints whilst at the same time reducing our backlog.

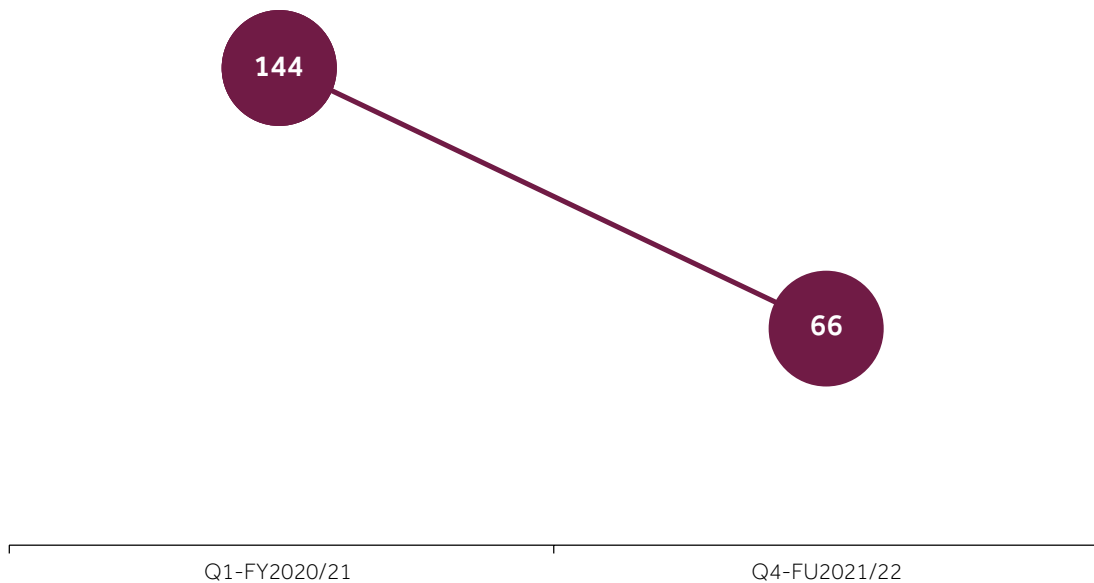
Figure 1: Year on year comparison of closed complaints



The 2,211 complaints closed in 2021/22 includes the 1,184 complaints about our regulation of LCF that we responded to last year.

In the first half of last year, we focused on removing our backlog of complaint investigations, which does not include deferred cases. We are now operating without a backlog of complaints and our average age of open complaints has reduced by more than half since the beginning of the 2020/2021 financial year (FY), from 144 days in quarter 1 to 66 days in quarter 4 2021/2022 FY (see figure 2).

Figure 2 – Average age of complaints over time (not including group complaints)



In the second half of last year, having reduced the backlog of cases, we focused on improving our operating service metrics, resulting in notable improvements across each of our service levels.¹

As part of the complaints process, if a complainant remains unhappy with our decision, they can refer their complaint to the Commissioner for an independent review of our investigation (a Stage 2 Complaint). The Commissioner agreed with our outcomes in 89% (110/124) of the complaints that were investigated and concluded by her last year (excluding LCF complaints), compared to 86% (78/91) in the previous year.²

We acknowledge that there is still work to do to ensure we build on our progress and consolidate our strong performance. There will always be areas we can improve and learn from to make sure that we continue to deliver a good service to complainants.

During the next year, we will increase the availability and accessibility of complaints MI which will help the wider organisation to determine what is causing people to complain. This insight will help us to improve continuously the way we do things across the FCA.

¹ See pages 13 and 14, 'Our service levels for complaints' and our Annual Service Level Report

² Under paragraph 7.8 of the Complaints Scheme, a complaint is considered to be concluded by the Commissioner when a Final Report has been issued. During FY2021/22, the Commissioner concluded 124 complaints with a Final Report (FR) being issued. We note the Commissioner reports 129 concluded complaints in her Annual Report but note this includes some cases where FRs were not issued.

Summary of FCA complaints in 2021/22 (excluding LCF)

1,064

complaints closed or deferred

124

decisions reviewed by the Commissioner³

110

decisions fully upheld by the Complaints Commissioner (fully agreed with the FCA outcome)

14

decisions that were not upheld (the Commissioner did not fully agree with the FCA outcome)

Summary of FCA complaints in relation to LCF 2021/22

1,184

complaints closed or deferred

443

decisions reviewed by the Commissioner

0

decisions fully upheld by the Complaints Commissioner (fully agreed with the FCA outcome)

443

decisions that were not upheld (the Commissioner did not fully agree with the FCA outcome)

³ Under the Complaints Scheme, a complaint is considered concluded when a Final Report is issued by the Commissioner – see paragraph 7.8 -here. The Commissioner reports on both complaints that are concluded (124) and also those complaints where they have invested significant effort, but there has not been a Final Report issued (5). Therefore the Commissioner's Annual Report states 129 complaints reviewed in total.

Complaints against the FCA

In this section, we report on the volume of complaints received during the year, the number of referrals to the Commissioner and complaint outcomes.

Due to the volumes of LCF complaints investigated during 2021/22, we have reported on volumes, outcomes and referrals to the Commissioner for all complaints excluding LCF, and then separately reported on LCF complaints.

Summary of FCA complaints in 2021/22: all complaints

When we receive complaints under the Scheme which are low impact, and can be dealt with quickly and easily, then we may ask for them to be investigated by the area that is the subject of the complaint. These complaints are referred to as local area complaints.

If we receive a complaint under the Scheme that the Complaints Department investigates and provides a response to, then we refer to this as a standard complaint. Local area complaints are referred to the Complaints Department for further investigation as a standard complaint if the complainant remains dissatisfied after the initial response.

Occasionally we can receive multiple complaints about the same issue e.g. our regulation of LCF. We class these as a group complaint. Last year we received fewer complaints overall than in 2020/21. This is because, while we received more local area and standard complaints than in 2020/21, we received fewer group complaints, noting that the number of group complaints in recent years was inflated by complaints about our regulation of LCF.

Group complaints often relate to events which are subject to ongoing regulatory action by the FCA, and therefore cannot be investigated until the regulatory action is completed, or we believe it will no longer be prejudiced, so are typically deferred. Local area and standard complaints are typically investigated immediately, so while the overall number of complaints received reduced last year, because we received more complaints that could be investigated and responded to immediately the demand on the Complaints Department increased.

Table 1: Volume of complaints received

Year	All complaints received in the year	% change	All complaints received excluding LCF	% change
2021/22	1,212	-24%	1,070	-3%
2020/21	1,596	+21%	1,098	21%
2019/20	1,261	+47%	904	11%
2018/19	1,081	-3%	816	46%

Complaints and allegations

Each individual complaint may contain multiple allegations, and when we conclude a complaint, every allegation made will have a separate outcome. For example, if we receive a complaint that includes two allegations, after we have investigated, we might uphold one of the allegations but not uphold the other. If a complaint is received that contains an allegation that we need to defer as it relates to continuing regulatory action,⁴ then we refer to this as a deferred complaint even if there are other allegations that can be investigated. We report outcomes at a complaint level and have used that as the basis for our reporting this year.

Table 2: Year-on-year comparison (all complaints)

	2021/22		2020/2021	
	Received	Closed or deferred	Received	Closed or deferred
Complaints	1,212	2,248 (2,211 closed)	1,596	1,470 (820 closed)

In total, we concluded 2,211 complaints last year which was a 170% increase from the 820 complaints concluded in 2020/21. In 2021/22 1,184 of the complaints concluded were in relation to our regulation of LCF.

This year we also received 37 group complaints where the investigations needed to be deferred, which is significantly lower than the previous year where we deferred 650 complaints. The decrease in deferred cases was because we were able to investigate, and close, complaints relating to LCF.

We review all decisions to defer the investigation of a complaint at least every six months, or earlier if our ongoing regulatory action concludes sooner, to ensure we conclude all complaints under the Scheme as soon as possible. We also update all complainants regularly during the period of deferral.

Outcomes of complaints considered by the FCA

The possible outcomes for a complaint are:

- Upheld
This is where the outcome of all allegations made within one complaint have been investigated and upheld in favour of the complainant.
- Partially upheld
This is where there are multiple allegations with different outcomes, at least one of which has been investigated and upheld in favour of the complainant, although there are other allegations that have not been upheld or not investigated.
- Not upheld
This is where at least some of the allegations in a complaint have been investigated but none have been upheld.

⁴ See paragraph 3.7 of the Complaints Scheme for further detail on why we defer complaints – [here](#).

- Not investigated

This is where we have decided to 'not investigate' all of the allegations made in a complaint. There are several reasons for this. For example, the allegations made may be about something that is specifically excluded from the Scheme, such as the exercise of our legislative functions, including making rules and guidance. We may also decide not to investigate an allegation under the Scheme if we believe it would be more appropriate to deal with it in another way, for example through legal proceedings.

If any allegation made in the complaint has been investigated, the complaint will have an outcome of upheld, partially upheld or not upheld.

There is further information about the reasons why we may not investigate an allegation at paragraphs 3.2 – 3.6 of the Complaints Scheme. However, even though a complaint is not investigated, we may still provide a comprehensive response to the complainant providing further information or useful reference sources relevant to the subject matter of their complaint.

In Table 3 and Figure 4 below, we show an analysis of the outcomes for all complaints, excluding LCF, concluded during 2021/22. Of these complaints, we did not uphold 395 complaints (38%) and did not investigate 356 complaints (35%). We fully upheld 10% (106) of these complaints, and partially upheld a further 17%.

Table 3: Outcomes of complaints for 2021/22 (excluding LCF)

Outcome	Total
Upheld	106
Partially upheld	170
Not upheld	395
Not investigated*	356
Total	1027

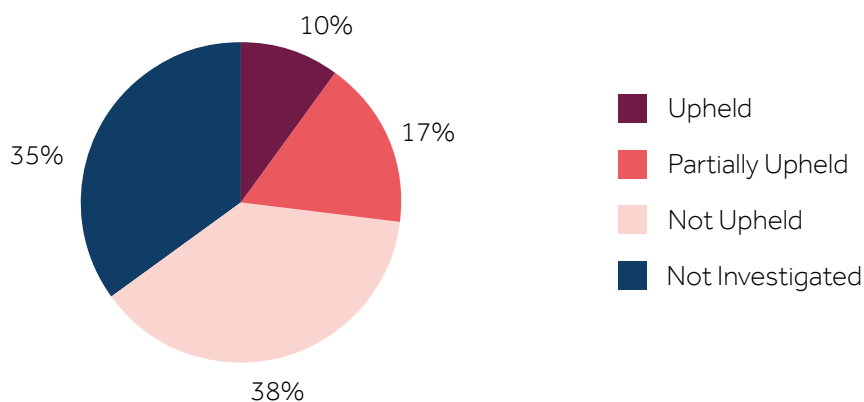
*This includes complaints that are out of scope, not investigated or withdrawn.

Last year we upheld or partially upheld a lower proportion of concluded complaints (27% total) compared to 2020/21 (31%), see figure 4. The proportion of not upheld complaints increased this year to 38%, up from 23% for 2020/21.

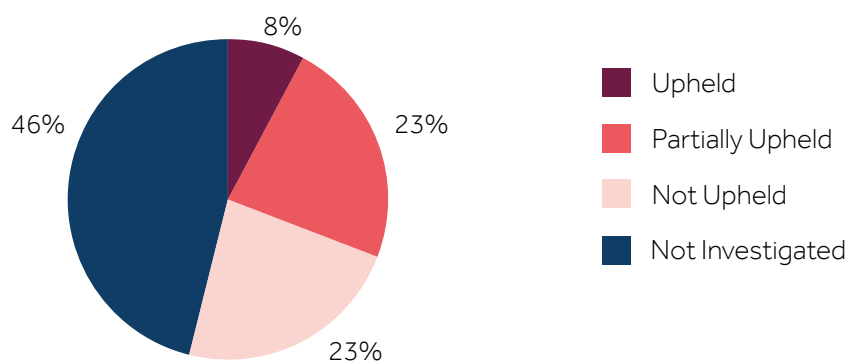
The data on outcomes of concluded complaints does not include deferred complaints, as the outcome of those will be reported once the investigation has been undertaken and the complaints have been concluded.

Figure 4: Outcomes of concluded complaints (excluding LCF)

2021/22



2020/21

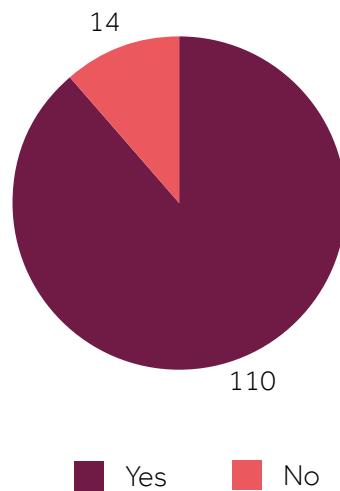


Performance (excluding LCF)

The Commissioner reviewed and concluded her review of 124 complaints referred to them and agreed with our outcomes in 110 of them (89% of complaints they concluded).

Table 4 – Complaints considered by the Commissioner (excluding LCF)

1027	complaints investigated and closed by the FCA
124	decisions reviewed by the Complaints Commissioner
110	decisions fully upheld by the Complaints Commissioner (Fully agreed with the FCA outcome)
14	decisions that were not upheld (the Commissioner did not fully agree with the FCA outcome).

Figure 5 – Did the Complaints Commissioner agree with our decisions? (excluding LCF)

The Commissioner's report provides commentary on the 124 complaints which were investigated and resolved by her office last year excluding LCF, compared to 91 the year before.

Of the complaints referred to the Commissioner, where a report was issued, the Commissioner fully agreed with our decision in 110 complaints (compared to 78 in 2020/2021). This represents full agreement in 89% (110/124) of cases, compared to 86% (78/91) in the previous year.

In 14 of the complaints, the Commissioner did not fully uphold our decision. This represents 11% (14/124) of the complaints the Commissioner concluded in the reporting period, and 1% (14/1027) of the overall volume of complaints we concluded in 2021/22.

Of the decisions issued by the Commissioner excluding those for LCF complaints, 74 included a recommendation (51) or suggestion (23) for the FCA of which we did not accept eight and partially accepted four. The main area of focus for the recommendations were:

- to enhance or review our processes
- to make an apology to the complainant
- to offer a compensation payment known as an 'ex gratia payment'

Our service levels for complaints

We aim to close 75% of all complaints we receive within eight weeks. We report this service level just for our standard and local area complaints, but not group complaints, as these are often deferred due to ongoing regulatory action. Last year we closed 60% of cases within eight weeks (excluding those complaints that had been deferred or that were being investigated as part of a group of similar complaints). This is an increase on the previous year's performance of 4 percentage points (56%).

Table 5: Percentage of complaints resolved within 8 weeks

Year	SLA met
2021/22	60%
2020/21	56%
2019/20	68%

We recognise that there is more to do to achieve our target service level, but we are encouraged by our performance in the second half of 2021/22, where, having cleared our backlog of open local area and standard complaints, we focused on improving our performance against service levels, averaging 69% of cases closed within eight weeks over the last quarter of the year, compared to only 47.5% in the first quarter. Our performance also improved for cases closed, excluding group complaints, within sixteen weeks of receipt, improving to 87% (from 65% in FY 2020/2021).

Summary of FCA complaints in 2021/22: LCF

We acknowledge that the collapse of LCF had a profound effect on the many bondholders who invested money they could not afford to lose. Nearly 1,200 affected bondholders have complained to us, explaining the impact that LCF's collapse has had on them. We have previously set out in our response to Dame Elizabeth Gloster's Independent Report (the Gloster Report) that we accepted the nine recommendations Dame Elizabeth made for us and apologised for the errors we made in our handling of this case. We have subsequently provided regular updates on our progress against these, as well as on our Transformation Programme in general. We published our latest update in December 2021.⁵ Together with the Serious Fraud Office (SFO), we are continuing to investigate the circumstances surrounding the sale of mini-bonds by LCF.

Last year we closed 1,184 LCF complaints of which 443 were referred to the Commissioner to review our decision. The Commissioner issued an overarching report covering the main allegations made regarding LCF, where she agreed with most of our decisions on the allegations made. The Commissioner did not agree with our decision on an allegation made about the Financial Services Register (the Register) nor our approach to compensation. Our response to the Commissioner's observations about the Register is set out under the Themes section (see page 18).

Table 6: FCA complaints in relation to LCF 2021/2022

1184	complaints closed or deferred
443	decisions reviewed by the Commissioner
0	decisions fully upheld by the Complaints Commissioner (fully agreed with the FCA outcome)
443	decisions that were not upheld (the Commissioner did not fully agree with the FCA outcome).

Our approach to compensation

We carefully consider our approach to remedies in every complaint we handle, including those complaints relating to LCF. In our public response to the Commissioner's Final Report on LCF, we explained in detail why we arrived at our approach to compensation – and we summarised that position [here](#).

⁵ <https://www.fca.org.uk/publication/corporate/implementing-recommendations-independent-reviews-update-december-2021.pdf>

We agree with the Commissioner that in deciding what remedy is appropriate we should assess complaints in accordance with paragraph 7.14 of the Scheme. However, we do not agree that our approach to compensation introduces a self-devised 'test' for compensation where payments will never be available to complainants. As we stated in our response to the Commissioner, the Remedies Statement clarifies our general approach from which the FCA remains willing to depart (and has in the past departed) where justified and appropriate.

Where we consider that a complaint is well founded, we will tell the complainant what we propose to do to remedy the matters complained of. Making a payment on an ex gratia basis is just one of the remedies available to us. Our approach is consistent for all complaints.

While we accept that we made mistakes in our oversight of LCF, and we could have made better judgements, these are the types of judgements which Parliament has tasked the FCA with making in good faith, and for which it has specifically excluded liability. When we considered paragraph 7.14(a) of the Scheme in the case of LCF complainants, we gave weight to the fact that, while there were substantial total losses, many investors have also received significant compensation for losses in respect of a high-risk unregulated investment. Our approach recognised the Government compensation scheme (the Government Scheme), which as of 14 April 2022 has paid out £114m.

In our view paragraph 7.14(b) of the Scheme is clear in requiring us to consider the nature of our relationship with the complainant and the extent to which the complainant has been adversely affected in the course of their direct dealings with us. This is why, in our general approach to LCF complaints, we considered that bondholders given incorrect information in direct communications with the FCA, had a different relationship with us compared to other complainants who did not have direct dealings with us, and were not adversely affected by such direct dealings. We made ex gratia payments in cases where we gave investors incorrect information in direct communications which may have led them to believe that their investment would be safer than it was (incorrect information cases), even where the FCA was not the sole or primary cause of that loss.

We also considered whether our mistakes were at an operational level or whether they were administrative ones – paragraph 7.14(c) of the Scheme. While some of our mistakes were clearly operational ones, we also recognised that we had to balance conflicting interests and complex issues, such as taking on the responsibility for the regulation of approximately 50,000 consumer credit firms on 1 April 2014, that were previously regulated by the Office of Fair Trading ('OFT') and where we had limited information when trying to decide where to prioritise our limited resources.

Under paragraph 7.14(d) of the Scheme, when we consider if we should make an ex gratia compensatory payment, we need to carefully consider the impact of the cost on firms, issuers of listed securities and, indirectly, consumers. In this case, the estimated remaining loss for LCF investors is £50m and if we made significant payments for all the LCF complaints we receive this could become a significant financial burden on the firms we regulate and, as a result, their consumers.

We also carefully considered precedent when we considered our approach, and our view was that if we were to award payments to all LCF investors and apply the same approach to every complaint about unregulated activities from now on, we risk the Scheme imposing a disproportionate burden on consumers as regulated firms' costs would increase significantly. This would also call into question the legislative scheme, which requires us to prioritise the regulated activities of authorised firms and sets boundaries to the FSCS.

We are currently consulting on a revised version of our Complaints Scheme, which is more user friendly, using plain language to make it more accessible. Our proposals under this consultation includes a more detailed description of our approach to ex-gratia compensatory payments. We think this more detailed description will help complainants understand what they can and cannot expect from the Scheme. We are currently considering the responses we received to the consultation and we intend to publish the new Scheme later this year.⁶

6 CP20/11: Complaints against the Regulators (The Financial Conduct Authority, the Prudential Regulation Authority and the Bank of England) – [here](#).

Themes

In her Annual Report, the Commissioner outlined four key themes:

- the FCA's oversight of high cost credit firms
- the FCA's regulation of the mini bond industry: financial promotions
- the Financial Services Register
- failure of processes including lack of transparency

The FCA's oversight of high cost credit firms

As the Commissioner recognised in her Report, last year we received a number of complaints, relating to our oversight of high cost credit firms. Consumer credit enables consumers to buy goods and services, spreading repayments over time, and to manage cash-flow shortages. High cost credit, a subset of the wider consumer credit sector, involves products such as payday loans, home collected credit, pawnbroking and logbook loans.

Since April 2014, when the FCA assumed responsibility for the regulation of consumer credit, we have undertaken substantial work on the high cost credit sector where we identified significant problems. Our consumer credit interventions have led to firms paying over £900m of redress to date. You can read more about the work we have done [here](#).

To help inform the Commissioner's understanding of our work in this sector we presented to her office on the interventions we have made and the positive impact these had, and continue to have, for consumers. We welcome the Commissioner's recognition of the work we have done in the high cost credit sector.

The FCA's regulation of the mini-bond industry: financial promotions

In the last year, the Commissioner observed that there have been a number of complaints relating to minibonds and our regulation of firms, including but not limited to LCF, offering this type of investment. There is no legal definition of a 'mini-bond', but the term usually refers to illiquid debt securities marketed to retail investors. It is essentially an IOU issued by a company (the issuer) to an investor, in exchange for a fixed rate of interest over a set period. At the end of this period, the investor's money is due to be repaid.

Mini-bonds typically offer high returns, reflecting the often much higher risks involved in the investment. This is because mini-bonds are usually issued by small or start-up companies, or companies that find it difficult to raise funds from institutional investors or borrow money from a bank.

We wrote to the Commissioner setting out the regulatory steps we have taken on minibonds and also what the future legislative landscape looks like.

In November 2019, the FCA published guidance for the approval of financial promotions of unauthorised persons. The guidance was issued when the FCA had particular concerns about the promotion of mini bonds. It sets out how the FCA expects firms to conduct these approvals, including suggested due diligence when assessing if the promotions meet FCA requirements. This followed earlier publications on this area.

In January 2020, we introduced a temporary ban on the mass-marketing of speculative illiquid securities, including mini-bonds, to retail investors. This ban was made permanent in January 2021, and we also published a Consultation Paper this year on strengthening our financial promotions rules for high risk investments – here.

In June 2021, further to a consultation led by Her Majesty's Treasury (HMT), the Government announced that a gateway should be introduced for the approval of financial promotions of unauthorised persons. Under the new gateway, any firm wishing to approve a financial promotion of an unauthorised firm will need specific permission from the FCA.⁷ In addition, in December 2021 Her Majesty's Treasury published a consultation on proposals to amend the financial promotion exemptions for high net worth individuals and sophisticated investors. We await the outcome of that consultation.

The Financial Services Register

In her Annual Report, the Commissioner stated her view that the Register was misleading in relation to LCF. We note the Commissioner's position, but we do not agree that the Register is misleading, and we have previously explained why in our public response to the Commissioner's Final Report on LCF – here.

While we accept that the Register could have been clearer, we do not accept it was misleading. We are legally obliged to provide certain information on the Register as a minimum. In the case of LCF, and based on the information we have, the Register entry reflected LCF's permissions and authorised status at the time. We therefore cannot agree that the Register was misleading. In our public response to the Commissioner's Final Report on LCF complaints, we publicly recognised that the Register could have been clearer and we are taking steps to make it easier to understand for consumers.

In July 2020, we launched a re-designed Register. This specifically focused on helping consumers understand how they should use the Register and how important it is to check what activities the FCA or PRA has authorised the firm to carry out (permissions), rather than relying on its authorised status. This is because, under the legislative framework, authorised firms can undertake unregulated activities as well as regulated activities.

In March 2021, we also added a new banner on the Register to highlight to consumers that firms we regulate may carry out unregulated and regulated activities and that they should contact the Financial Ombudsman Service and the FSCS directly if they want details about the protection those organisations might offer them.

7 Regulatory Framework for Approval of Financial Promotions: Consultation Response, June 2021 – here.

We continue to respond to feedback on the design of the Register. As an example, in July 2021, we introduced changes to the Financial Ombudsman Service / Financial Services Compensation Scheme (FSCS) protection wording for Exempt Professional Firms (EPF), European Economic Area (EEA) firms and firms on the Register under money-laundering regulations, based on feedback provided to us by the Financial Ombudsman Service and the FSCS.

The Commissioner suggests in her Annual Report that the FCA should review the warning messages on the Register.

In May 2022, we made changes to our consumer protection wording on the Register. This made it clearer that the Register can only give information about the regulated activities the FCA has permitted the firm to carry out, and that it does not include details of firm activities that do not need FCA approval. We also clarified how the protections offered by the Financial Ombudsman Service and the FSCS are different, and that any protection offered depends on the type of activity the firm is carrying out and that other conditions, such as bringing a complaint or claim in a set time period, also apply.

We will continue to consider the language and prominence of the warning messages and see where we can further improve the current Register and associated webpages to help consumers. This work will be informed by consumer research and testing. We will make further improvements based on the feedback we get.

The Commissioner also refers to the 'halo effect' in her Report. Dame Elizabeth Gloster described the 'halo effect' as the 'imprimatur of respectability' that regulation gives a firm by using its FCA authorised status to promote risky products or attract investors for an unregulated activity. As Dame Gloster recognised, the halo effect is an inevitability of the current legislative framework and we agree with this because authorised firms can carry out regulated and unregulated activity.

We have taken steps since the Gloster Report was published to respond to the 'halo effect'. As we described, in March 2021 we added a new banner on the Register to highlight to consumers that firms we regulate may carry out unregulated and regulated activities and that they should contact the Financial Ombudsman Service and the FSCS directly if they want details about the protection those organisations might offer them for certain activities. We are also taking action to prevent firms which do not use their permissions from that information remaining on the Register. As of May 2022, as a result of our work on the 'use it or lose it' programme, 264 firms have voluntarily applied to cancel their permissions and a further 47 applied to modify what activities they are regulated to carry out. Our work on our 'use it or lose it' programme is ongoing.

As the Commissioner references in her Report, we also received complaints about our introduction of the new rules requiring most firms to complete a Firm Details Attestation every year. The attestation confirms the details provided to us by the firm and shown on the Register are still accurate. We introduced this new requirement through extensive communications via different channels, and we welcomed the Commissioner's recognition of our approach.⁸

8 Final Report reference FCA001439 – [here](#).

Failure of processes including lack of transparency

Last year, we concluded 1027 complaints, excluding LCF. In the same period, the Commissioner concluded 124 complaints, excluding LCF. Of these 124 complaints, the Commissioner identifies concerns relating to four complaints.

We recognise that we haven't always got our information sharing right with the Commissioner and we continue to improve our processes and systems to ensure we learn from lessons identified. However, in the cases identified by the Commissioner in her report, the intention of the Complaints Department in all cases was to provide an effective service to complainants, for example following up on issues identified during our own quality assurance reviews.⁹

In her Report, the Commissioner references a proposed Memorandum of Understanding ('MoU') regarding transparency and confidentiality for all regulators covered by the Complaints Scheme. We agree that transparency is fundamental to the role the Commissioner performs and the effectiveness of the Complaints Scheme, and transparency is also very important to the FCA. We have an established protocol with the Commissioner and are committed to working with the Commissioner on this, including any relevant updates. Our Interim Chair, Richard Lloyd has recently written to the Treasury Select Committee on the matters of operational performance and transparency which can be found [here](#)

Complainants in vulnerable circumstances

We recognise that the pandemic, along with the cost of living challenges and other wider macro-economic conditions, are creating pressures on consumers' physical and mental health.

We place importance on the fair treatment of those in vulnerable circumstances by firms. We were pleased that the Commissioner received fewer referred complaints from those who were in vulnerable circumstances last year, and we recognise the effect that our initiatives have had and continue to have.

In February 2021,¹⁰ the FCA published guidance on the fair treatment of consumers in vulnerable circumstances. The Guidance provides clarity on what firms should do to understand the needs of consumers in vulnerable situations and what changes they need to make to meet the standards set by our Principles for Businesses (the Principles). We also published a short summary of the Guidance¹¹ and a Feedback Statement¹² discussing responses to consultations. In May 2021, we also held a webinar to help firms understand the role they play in treating consumers in vulnerable circumstances fairly.

Our Complaints Department prioritises complaints from consumers in vulnerable circumstances and will continue to do so.

9 Final Report reference FCA001538 – [here](#).

10 <https://www.fca.org.uk/publication/finalised-guidance/fg21-1.pdf>

11 <https://www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers>

12 <https://www.fca.org.uk/publication/feedback/fs21-4.pdf>

Conclusions

This year we are pleased to have made notable progress in improving our operational performance of the Scheme. This is because of the significant investment we have made to improve our Complaints Department's resources, enhance our systems, reshape our processes and improve our capabilities.

We are strongly committed to continuously improving the service that we provide to the consumers and firms who complain to the FCA and enhancing our learning from them.

Looking ahead, we will consolidate the progress we have made and look to further improve our operating service metrics. Our vision is to capitalise on our data-led improvements to provide greater visibility to the FCA on the themes of the complaints we receive, which we believe will help us to continue to learn and improve as an organisation: a key purpose of the Complaints Scheme.

We remain committed to a transparent journey for complaint handling, and we shall continue to provide the Commissioner with the resources and information needed to enable her to properly discharge her independent function.

