

17<sup>th</sup> May 2007

Dear Sir or Madam:Complainant,

**Complaint against the Financial Services Authority  
Reference Number GE-L0721**

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. Under the Complaints Scheme (Complaints against the FSA - known as COAF) my role is as an independent reviewer of the FSA's handling of complaints. I have no power to enforce any decision or action upon the FSA. My power is limited to setting out my position on your 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>.

From your correspondence with my office, I understand your complaint relates to the following:

1. You do not believe that your complaint about the "unsatisfactory handling of the refund in respect of a cancelled workshop" was properly investigated by the FSA. Specifically, you have raised concerns over the following:
  - a. You do not believe that you should have been referred back to your credit card company for clarification of whether the refund had been received. You believe that the FSA should have been able to confirm this.
  - b. You believe that the FSA's internal communication channels should be sufficiently robust to allow information on whether a refund has been made to be readily available and be provided to customers upon request.
  - c. You feel that the FSA's Complaint Handler made assumptions about the availability of your credit card statement which was incorrect.
  - d. You feel that the emails you received from the FSA, in September and October 2006, relating to the refunded course fee were not specific and did not address the question of compensation. You are unhappy as the FSA Complaint Handler failed to answer these points.
2. The FSA Complaint Handler stated that he enclosed a copy of a document, which he believes provides confirmation that the refund was made. You say that:
  - a. This document was not enclosed with the FSA Complaint Handler's letter of 22<sup>nd</sup> December 2006.

- b. If this information was readily available, you would like to know why did the FSA not make any reference to it in its emails to you of 19<sup>th</sup> September and 3<sup>rd</sup> October 2006?
3. You believe that the FSA operates an inconsistent approach to payments and refunds. You hold this view as the FSA debited your credit card only a few days after you booked your course, but you say it took it some 21 days to refund the course fee to you. You feel that the FSA Complaint Handler has not addressed this in his letter of 22<sup>nd</sup> December 2006.
4. You are also unhappy that a letter, sent by the Royal Mail's 'Special Delivery' service was misplaced by the FSA. You feel that the FSA's Complaint Handler has not answered your concerns about why this happened.

From the file the FSA have passed to me, I understand that you originally intended to attend a FSA workshop entitled "*Is My Firm Compliant?*" which was due to take place in Manchester on 6<sup>th</sup> September 2006. Due to a lack of interest in the course the FSA, on 17<sup>th</sup> August 2006, emailed you to tell you that the course had been cancelled and offered you the opportunity to either change to a different venue or to receive a refund of the course fee. On the 29<sup>th</sup> August 2006, you emailed the FSA and requested the refund of the course fee, of £150, you had already paid.

I appreciate that you feel that the FSA should not have referred you to your credit card company and should have been able to tell you whether the funds had been transferred, but this is not the case. Once a firm (in the case the FSA) makes a refund to a credit card, it only receives confirmation that the attempted transaction has been successful. The firm does not receive confirmation that the funds have been transferred to your individual account (i.e. allocated to your credit card).

Additionally, I must point out that there can often be a delay of a few days between transactions (both debits and credits) being made and them actually appearing on a statement and you had stated that the refund had not appeared on your statement. As the FSA had only received confirmation that the refund had been successfully made, it had no way of telling whether the funds had actually been transferred to your own account.

The only way to check this is to check the balance and/or transaction history of your credit card. I am sure that you will appreciate that as this can only be done by the cardholder, or someone acting with that person's authority, and that the FSA could not check whether the refund had actually been applied to your credit card. Additionally, as the FSA held confirmation that the attempted refund was successful, the only way it could check whether the refund had actually been applied to your credit card, was to ask you to check with the credit card company.

This must also be remembered when considering the FSA's replies of 19<sup>th</sup> September and 3<sup>rd</sup> October 2006. Although the information provided by the FSA complaint handler confirms that the refund was made, it does not (and cannot) confirm when the refund was actually applied to your credit card. Additionally, whilst, in my opinion, it would have been better if the two FSA emails you refer had included the actual date when the refund was made, they are correct in what they say. The email of 19<sup>th</sup> September was sent after the refund was made and the email of 3<sup>rd</sup> October was sent two week after the refund was processed by the FSA.

Having viewed the FSA's file, it is accepted that there was a short delay in processing the refund. I have discussed this issue with the FSA and am told that it has a service standard of 28 days in which it must process all refunds. Whilst this service standard exists, I am assured that the FSA aims to process all of the refunds within a few days of being requested.

The FSA has previously explained that, in September 2006, it had to process a many more refunds than normal due to the courses it had cancelled and also from delegates who no longer wanted to attend the courses upon which they had booked a place. The larger than normal number of refunds the FSA had to process resulted in the delay you unfortunately experienced.

I accept that you did incur a small delay in processing of your refund. However, in my opinion, this delay can be explained and as the refund was made within the FSA's agreed service standard, I do not believe it was excessive. Whilst you are unhappy at the time it took the FSA to process this, particularly as you say it takes payments for courses in a much shorter time frame, you have not provided any evidence to show you experienced any financial detriment as a result of the delay. I am therefore unable to uphold this part of your complaint.

Although you say that the FSA complaint handler has not answered your concerns about why a letter sent by the Royal Mail's 'Special Delivery' service was misplaced have not been answered, I do not share this view. In its letter of 22<sup>nd</sup> December 2006, the FSA pointed out that it receives around 1,500 'Special Delivery' items each month.

As these items are often delivered outside the normal working hours, with your letter being delivered at 08:10, it is not possible for the actual recipient to collect and sign for the letter themselves. Mail addressed to the FSA is delivered to a central area where it is sorted and then in turn delivered to the appropriate area. Likewise, as the letter had been misplaced, the FSA asked you to provide details of who had signed for it in an effort to try and locate it; this is not something which could have been done with just the 'Special Delivery' number.

In the FSA's letter to you of 22<sup>nd</sup> December 2006, it accepts it received your letter and that it in turn was delivered to the correct team. However, the letter was subsequently misplaced by a member of the team and therefore not responded to. Whilst the FSA takes all reasonable steps to ensure that all of the letters it receives are acted upon, due to the large volume of items the FSA receives in the mail (estimated to be an average of around 46,500 items each month), occasionally mistakes like this do happen.

I appreciate that you would like to know specifically why this occurred, but I cannot answer this. Although there are a number of possibilities to explain how the letter was misplaced, e.g. it became attached to another letter, any explanation I gave you would simply be conjecture. All I can say is that your letter was misplaced and this is why it was not answered. The papers which have been presented to me indicate that the misplacing of your letter was a genuine mistake, on the part of a member of staff, rather than a systemic failing on the part of the FSA.

I have also noted that, as a result of the problems you were experiencing, you decided not to attend the FSA's '*Treating Customers Fairly*' conference. You therefore asked the FSA to cancel your booking and refund the conference fee in full. As you (rather than the FSA) were cancelling your booking, the FSA were entitled to deduct the £150 cancellation fee from the amount it was to refund. However, as an apology for the poor service it had provided, and as a gesture of goodwill, its Industry Training team decided to waive the cancellation charge.

In your letter to the FSA you have asked for an apology and compensation for the various problems you have encountered. In its letter of 22<sup>nd</sup> December 2006, the FSA have acknowledged it misplaced your letter, has upheld this part of your complaint and agreed that a compensation payment was due to you in respect of this. However, I believe that by waiving the cancellation charge on the *'Treating Customers Fairly'* course (which you decided not to attend) it has effectively provided you with a compensation payment of £150. As such, I do not believe that a further payment is warranted.

I am sorry, but from the papers presented to me I am unable to find any evidence to show that the FSA did not adequately deal with your complaint. I am therefore unable to alter the decision previously made by the FSA, or recommend that it should make a further compensation payment to you. I appreciate that you will be disappointed with my findings, but hope that you will understand why I have arrived at this decision.

Yours sincerely,

Sir Anthony Holland  
Complaints Commissioner