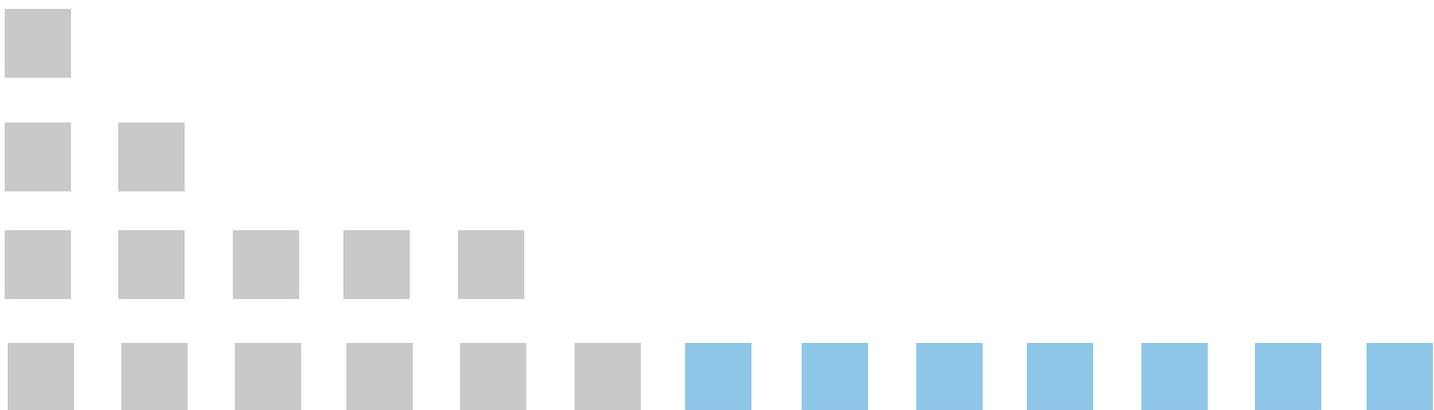


Complaints against the GFSC

Complaints Handling Procedure



Complaints Handling Procedure – Complaints against the GFSC

Introduction

The GFSC acknowledges that, from time to time, Regulated firms or individuals may wish to make a complaint concerning the GFSC, regarding the way it exercises its functions.

Regulation 3 of the [Financial Services \(GFSC Complaints\) Regulations 2020](#) (the “GFSC Complaints Regulations”) requires the GFSC to establish and maintain a complaints procedure for the handling and consideration of complaints made about the GFSC concerning any matter reasonably connected with the exercise of its functions. This procedure has been established in accordance with those regulations.

We have implemented this Complaints Handling Procedure to ensure that we deal with complaints made against the GFSC fairly, quickly and transparently. In doing so, this procedure sets out:

- what we consider a complaint to be;
- how to make a complaint against us;
- how we deal with complaints – including information on how we consider and investigate the complaint, as well as when you can expect to hear from us; and the process to follow if you are not happy with the outcome of the complaint.

Please note that this procedure does not include complaints made against firms the GFSC supervises.

If you are seeking to make a complaint about a firm, [please click here for further information](#).

What a complaint looks like

A complaint against the GFSC can be about any matter reasonably connected with the exercise of our functions. This covers any expression of dissatisfaction about the way we have carried out or failed to carry out our role and includes, but is not limited to, complaints alleging:

- a mistake or lack of care;
- unreasonable delay;
- unprofessional behaviour;
- bias; or
- lack of integrity.

If you are not sure whether the complaint is covered by this procedure, please see **Appendix 1** of this document, which sets out the scope of complaints that are not covered by this Complaints Handling Procedure. In addition to those, the GFSC may refuse to investigate a complaint in some circumstances. These are set out in the “**When the GFSC does not accept a complaint**” section below.

Who can complain?

Any person who is directly affected by the way the GFSC has carried out its functions can make a complaint.

This includes private individuals, regulated firms, employees of regulated firms, listed companies and their legal representatives¹.

Any reference to a complainant in this Complaints Handling Procedure includes their legal representative.

When to make a complaint

Generally, in order for a complaint to be investigated by the GFSC, the complaint must be made within **12 months** from the date on which the complainant first became aware of the circumstances giving rise to the complaint.

We may however consider complaints received after the expiry of the 12-month period if we consider that:

- having regard to all the circumstances, the complainant had good reasons for not making the complaint within that period; and
- despite the time that has elapsed, it is still possible to investigate the complaint effectively and efficiently.

How to make a complaint

A complaint must be made in writing and addressed to the GFSC's Complaints Manager.

This can be sent electronically to complaintsagainstGFSC@gfsc.gi or sent by post, addressed to the Complaints Manager, at the following address:

Gibraltar Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar

Please note that there is no charge for the investigation of a complaint.

We will acknowledge receipt of your complaint within **5 working days** of receipt.

How we deal with complaints

We are committed to investigating and resolving a complaint fairly, quickly and in a transparent manner. In doing so, we will keep you updated on the progress of your complaint.

Once we have received a complaint from you, we will decide whether it is a complaint that can be investigated under this Complaints Handling Procedure. The Complaints Manager will assess the validity of the complaint and ensure that it falls within the "type" of complaints covered by this procedure (as set out in the "***What a complaint looks like***" section).

¹ For these purposes, a "legal representative" includes a barrister or solicitor admitted and enrolled under the Supreme Court Act.

Where your complaint is not covered by this procedure, we will communicate this to you explaining why the complaint falls outside of this procedure (please refer to the list of complaints not covered by this procedure in **Appendix 1** and the “**When the GFSC does not consider a complaint**” section below). Where it does, the complaint will be investigated as quickly as possible.

The investigation into your complaint will be carried out by the Complaints Manager (in accordance with Regulation 8(2) of the GFSC Complaints Regulations).

During this process, we may ask you to provide us with any additional information and documentation that we may reasonably require to investigate the complaint. This may include information and documents supporting the complaint or clarifying its nature and scope.

Communications from the GFSC following complaint

We will seek to conclude an investigation and provide you with a response no later than **20 working days** from receipt of the complaint. Where we are unable to meet this timeframe, we will contact you to inform you when you can expect a response from us. In these circumstances, the response date will be decided by the CEO and will not be later than 2 months from receipt of the complaint.

In exceptional circumstances, we may require more time to investigate and respond to your complaint. In these cases, we will need to apply to the Minister with responsibility for financial services (the “**Minister**”) for a further extension.

After investigating your complaint, we will provide you with a written response that:

- summarises the nature and substance of the complaint;
- describes the investigation carried out;
- summarises our conclusions.

Where we conclude that a complaint is **well founded**, the response will set out the steps the GFSC proposes to take, which could include one or more of the following:

- an apology;
- an explanation; or
- corrective remedial action.

Our response will also inform you of your right to request that the Minister review the decision made in relation to the complaint and provide the requisite contact information for submitting your request.

Where we have investigated your complaint and concluded that it is **not well founded**, our response will set out the reasons for our decision and inform you of your right to request that the Minister review the decision we made in relation to your complaint.

When the GFSC does not accept a complaint

As set out in regulation 8(5) of the GFSC Complaints Regulations, we may refuse to investigate a complaint under the following circumstances, either where we consider that the complaint:

- is frivolous or vexatious;
- amounts to no more than dissatisfaction with:
 - the GFSC’s general policies, codes or guidance; or
 - the exercise of, or failure to exercise, a discretion, where no unreasonable or improper conduct is alleged;
- concerns a matter that was the subject of a previously determined complaint and in respect of which no new evidence has come to light; or

- where we decide not to investigate the complaint on the ground that it has not been submitted within the 12-month required timeframe.

In the above scenarios, we will write to you to inform you that we are not investigating your complaint no later than **20 working days** from receipt of the complaint explaining:

- why the complaint has not been investigated;
- how we have reached this conclusion, setting out the reasons for our decision; and
- details if you want to take your complaint further – i.e. of the right to request that the Minister review the decision not to investigate (*which will provide the requisite contact information for submitting your request*).

Review of complaint by the Minister

As noted above, if you are unsatisfied with a decision made in relation to your complaint you may make a written request for the Minister to review the GFSC's handling and consideration of the complaint and its outcome.

This option is available in the following circumstances:

- if you are not satisfied with the GFSC's response to the complaint;
- the GFSC decided not to investigate a complaint under the circumstances mentioned in the section above ("***When the GFSC does not accept a complaint***");
- the investigation of the complaint was not completed within the required timeframes referred to above; or
- the GFSC appointed a person to investigate the complaint that has previously been involved in the matter, which is the subject of the complaint.

A request for the Minister to review a decision made in respect of your complaint must be made **within 14 days** of receiving a notice or response from the GFSC concerning the investigation into your complaint and/ or the conclusion of that investigation.

Following receipt of the request, the Minister, as soon as reasonably practicable, must assess the nature and substance of the request and notify the complainant once a decision is made, together with the reasons for the decision.

This decision could be:

- to take no further action;
- to give directions to the GFSC as to the action it must take to resolve the complaint; or
- to appoint an independent investigator (that the Minister considers to be suitably qualified and competent and, on such terms, and conditions as the Minister considers appropriate, other than a member or employee of the GFSC).

For the purposes of making any of the decisions above, the GFSC is required to provide the Minister with any information and/or documents that may be reasonably required; and answer any questions relevant to the complaint.

The Minister may, in making a decision, distinguish one part of the complaint from another and make different decisions in respect of different parts of the complaint.

Appointment of Investigator and Investigator's review

Where the Minister decides to appoint an investigator (under Regulation 11 of the GFSC Complaints Regulations), the independent investigator will carry out an investigation in the manner he/she considers appropriate, which ensures that the complaint is dealt with fairly, quickly and transparently.

Where an investigator is appointed, the GFSC will cooperate with any investigation being conducted. In doing so, we will provide the investigator with any information and/or documentation that he/she may reasonably require and answer any questions appearing to the independent investigator to be relevant.

The appointment of an investigator and commencement of an investigation into a complaint **will not** however prevent the GFSC from continuing to take any action we consider necessary in relation to any matter related to the complaint or the complainant.

Once the requisite information has been collected the investigator must, as soon as reasonably practicable, prepare a written report of any investigation which:

- summarises the nature and substance of the complaint;
- describes the investigation and summarises its conclusions including:
 - any findings of fact
 - the investigator's opinion of those findings; and
 - the reasons for that opinion.

The report must also recommend what action the Minister should take in respect of that complaint (i.e. give the GFSC directions on what action we must take to resolve the complaint or take no further action). The report can also include suggestions the investigator considers would assist the GFSC to improve its services or avoid similar complaints.

The investigator must send a copy of the report to the Minister. The Minister will then share a copy of this report with you and the GFSC.

In circumstances where the Minister considers that the entire report or a relevant part of the report should be brought to the attention of the public, the Minister may also publish the report (or any part of it).

Further information

If you require any further information or have any questions relating to our Complaints Handling Procedure for complaints against the GFSC, please email our Complaints Manager on complaintsgainstGFSC@gfsc.gi

Data Protection

We use the information collected in line with our standard process on data collection. For more information, please refer to our [Privacy Statement](#) on our website.

Appendix 1

Complaints not covered by this Complaints Handling Procedure

Please note that the following complaints are excluded and will not be covered by the Complaints Handling procedure for complaints made against the GFSC:

- a complaint about any matter in respect of which the complainant has or had a right of appeal under the Financial Services Act 2019 or any other enactment
- a complaint about any matter:
 - relating to a GFSC employee's contract of employment; or
 - arising from the complainant's employment relationship with the GFSC
- a complaint in respect of a contractual or commercial dispute involving the GFSC which is not directly related to the exercise of its regulatory functions
- a complaint about which the complainant has commenced legal proceedings
- a complaint arising out of the GFSC's alleged failure to comply with a data subject request under the Data Protection Act 2004 (this can be sent to the GFSC Data Protection Officer, Alan Pereira at GDPR@gfsc.gi); or
- a complaint in relation to the performance of the GFSC's functions:
 - as the [Gibraltar Resolution Authority](#) (including the Financial Service Resolution and Compensation Committee's exercise of any resolution functions); or
 - in respect of the Deposit Guarantee Scheme (including the FSRCC's exercise of any functions in respect of the scheme).

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