

28 April 2016

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00154**

Thank you for your email of 8th April 2016. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

As you can find full details of how I deal with complaints at www.fsc.gov.uk I do not intend to set them out fully below. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

We have now reviewed all the records you and the regulator have sent us. My decision on your complaint is explained below.

Your complaint

From your email and the papers submitted to me by the FCA I understand that your concerns primarily relate to the conduct and integrity of the Financial Ombudsman Service (FOS). You consider that an FOS staff member lied to you because he told you that between April and November 2015 the FCA had delayed in responding to an information request. When you complained about this to the FCA, the FCA established that there was no record of the FOS sending an information request to the FCA, and your complaint against the FCA was not upheld. The FOS offered to deal with your complaint itself, but this has not been resolved to your satisfaction.

Your complaint about the FCA is that its investigation into the matters you raised is incomplete. In support of this you make the following points:

1. The FCA established that no contact from the FOS was received but not why that service had lied repeatedly to you, the consumer.
2. The integrity of the FOS has been called into question as a result of your complaint to the FCA and this warrants an independent investigation.
3. The FCA oversees the relevant section of the Financial Services and Markets Act 2000 (FSMA) relating to the FOS. If it is aware that there has been a breach of

professional integrity on the part of the latter it cannot ignore it. It has the appropriate protocols in place, the Memorandum of Understanding (MOU) between the two bodies having been updated in December 2015, and can clearly intervene.

4. As the FOS appears to be self-regulatory, there is no other truly independent body to which a consumer can refer a matter of this nature. The FCA is responsible for consumer protection and therefore has ultimate accountability for the FOS.

My position

I have reviewed all of the complaint papers supplied by you and the FCA. I can appreciate how disappointing it must be to experience dissatisfaction with the way your complaint is being considered by the Ombudsman. However, the FCA was clearly correct to conclude that your original complaint to them – that they had delayed in responding to information requests from the FOS – was not substantiated.

In my view it was then appropriate for the FOS to deal with your complaint that you had been lied to by an FOS staff member. It does not appear that you have raised your subsequent concerns directly with the FCA. I appreciate that this may be because you had reached the time limit for approaching my Office.

You are correct to say that under FSMA the FCA is required to ensure that the FOS is at all times capable of fulfilling its obligations under FSMA and that this is recorded in an MOU between the two organisations. However the two organisations are operationally independent and the FCA's consumer protection and integrity objectives do not extend to jurisdiction over the way in which the FOS handles individual consumer complaints. Complaints about the actions or inactions of the FOS are specifically excluded from the Complaints Scheme under paragraph 3.4 of the Scheme.

The FOS has an Independent Assessor who can review complaints about the service provided by the Ombudsman. Her terms of reference appear more applicable to your substantive complaint and you may therefore wish to contact the Independent Assessor if you have not already done so: http://www.financial-ombudsman.org.uk/about/IA_terms_reference.htm.

Conclusion

Although I understand that you are unhappy with the outcome of your complaint to the FCA, I believe its decision was correct for the reasons stated. The issues about the FOS that you have raised are excluded under paragraph 3.4, and I am therefore unable to help you under the Complaints Scheme. I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it.

Yours sincerely



Antony Townsend
Complaints Commissioner