

09 May 2016

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00155**

Thank you for your email. 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

I was very sorry indeed to hear of the difficult circumstances you and your family have faced over the past 13 years. From your email and the papers submitted to me by the FCA I understand that your underlying concerns primarily relate to the conduct of Bank A and Insurance Company B following an insurance claim arising from subsidence in your home. It took Bank A over five years to realise that it had transferred its insurance business to Insurance Company B. During this time works at your property were not completed and you took out further borrowing with Bank A on another property. You then experienced severe financial difficulties which affected not only your family's health but your wife's professional reputation in the financial services industry. The arrangement you have now made with Bank A means that you have to continue making payments until 2031. You also consider that Bank A blackmailed you into withdrawing your complaint to the Financial

Ombudsman Service (FOS) by making this a condition of the arrangement. You are also dissatisfied with an Arbitration award reached with Insurance Company B in April 2014.

Your complaint about the FCA was that it had been negligent and failed to ensure that both UK Bank lending and Insurance are safe and fit for purpose. In response, the FCA decided that your complaint was outside the scope of the Complaints Scheme because it relates to your individual complaint against a Bank and an Insurance Company. The FCA said that your concerns amount to dissatisfaction with the FCA's general policies or with the exercise of, or failure to exercise, discretion where no unreasonable, unprofessional or other misconduct is alleged (Paragraph 3.5 of the Complaints Scheme). The FCA also advised you that complaints must be brought within twelve months of the date on which you first became aware of the circumstances giving rise to that complaint (Paragraph 3.3). For these reasons, the FCA decided not to investigate your complaint.

The FCA's decision letter included some details about its recent approach to engagement with and regulation of insurers and told you that the information you provided had been considered and the relevant supervisory teams contacted. The FCA informed you that it is limited as to what information it can disclose to consumers about this, due to the confidentiality restrictions in section 348 of the Financial Services and Markets Act 2000 (FSMA).

My position

I can appreciate how disappointing it must be to remain dissatisfied with your Bank and your insurance company after all of the proceedings that you have been involved with. However the Financial Services Complaints Scheme (the Scheme) was created to allow those who are unhappy with the regulators' (in your case, the FCA's) conduct to be able to challenge the regulator without incurring the significant expenses associated with the legal process and the courts. The Scheme was not designed to allow consumers who are unhappy with the conduct of a regulated firm to challenge the conduct of that firm (that is the role of the FOS).

Furthermore, to the extent that your complaint was about the FCA, I consider that the FCA was right to conclude that your complaint was essentially one of general dissatisfaction. It is clear from the records that the FSA had some correspondence with you and your wife in 2011 in an attempt to facilitate a resolution, and that there was correspondence in 2014 about the matter and about your wife's position as a regulated person. I can find no evidence that the FCA has acted unprofessionally or unreasonably.

I am also satisfied that the FCA was right to point out the time limits for bringing complaints contained in Paragraph 3.3 of the Scheme. The FCA was therefore correct to decline to investigate your complaint, since it falls outside the Scheme.

Although the FCA concluded that it could not consider your complaint, I understand that it has passed on details of your complaint to the supervision teams responsible for monitoring the conduct of regulated firms and ensuring that they comply with the FCA's rules. The FCA is a risk-based regulator and has discretion over which issues and concerns it decides to pursue. If it did decide to take any further action because of the information which you have supplied, it would not be able to provide you with any compensation or redress, and most of the actions it takes are confidential, so it is unlikely that you would receive any further information from the Supervision Division. For that reason, frustrating though it must be for you, I am afraid that there are no further options for you to pursue under the Scheme.

Conclusion

Although I understand that you are unhappy with the FCA's decision not to investigate your complaint, I believe it was correct to do so and, as a result, I am 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

A handwritten signature in black ink, appearing to read 'Antony Townsend'.

Antony Townsend
Complaints Commissioner