

28th June 2016

Dear Complainant,

Complaint against the Financial Conduct Authority
Reference Number: FCA00156

Thank you for your emails. 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.

You can find full details of how I deal with complaints at www.fsc.gov.uk.

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

On 18 March 2016 you wrote to the Chairman of the FCA, John Griffith-Jones, expressing your view that the FCA were failing to ensure that the Financial Services Ombudsman (FOS) was meeting its requirements under the Alternative Dispute Resolution (ADR) Directive 2015. You had reached this view as you had submitted a complaint to the FOS which had not been dealt with in accordance with the ADR principles.

Both John Griffith-Jones and Nicholas Montagu, Chairman of the FOS, wrote to you to address your concerns. You have attached these letters to your complaint. However, you remain dissatisfied with the responses, and have requested that I review the matter.

My position

The Financial Services Ombudsman was set up by Parliament to be an impartial and independent body under the Financial Services and Markets Act (FSMA) 2000. It is operationally independent from the FCA, although the FCA appoint the Board members of the FOS. I am unable to review complaints against the FOS under paragraph 3.4 (e) of the Complaints Scheme.

The FCA does not regulate the FOS as such, although it has statutory responsibilities under FSMA to take such steps as are necessary to ensure the FOS is capable of exercising its statutory functions. The Memorandum of Understanding signed between the FOS and the FCA on 1 April 2013 outlines the individual roles of both the FOS and the FCA and the statutory responsibilities of each body. A link to the Memorandum is below:

http://www.financial-ombudsman.org.uk/about/MOU_with_FCA-APRIL2013.pdf

Since April 2013, when the document was signed, the FCA has acquired an additional responsibility: ensuring that the ADR objective is complied with.

In your case, you submitted a complaint to the FOS some time ago, and you are unhappy with the level of service you have received from the FOS. You do not believe the level of service you received is compliant with the ADR directive. From the papers I have seen, it is apparent the FOS has acknowledged that in your case it has fallen short of its internal service standards, and apologised for this, whilst also offering an explanation as to why the delays have occurred. As has been explained to you, the ADR directive does not apply to your complaint, since it was submitted before the directive came into force.

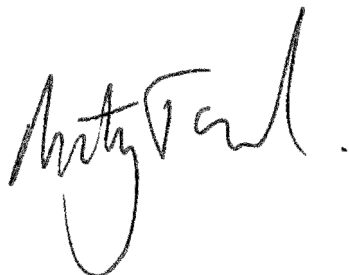
Whilst it is unfortunate that there have been shortcomings in the review of your case by the FOS, that does not mean in itself that the FOS is failing to meet the overall standards set by the ADR. The FCA monitors overall the FOS's adherence to ADR objectives as part of its duties to oversee the FOS, but does not become involved with individual complaints. Complainants to the FOS who feel that their complaint has not been treated in accordance with the set service standards should approach the FOS Independent Assessor, and I believe you have already contacted her, which is the appropriate course of action.

Conclusion

Although I understand that you are unhappy with the FCA response to your complaint, in my view, the FCA's response was reasonable, and they have provided you with an adequate explanation of the way in which they deal with such issues. I have sympathy with your circumstances, but am unable to help you further 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', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner