

2-2-2017

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00270**

Thank you for your email of 3 January. I have now reviewed the information sent to me by you and the Financial Conduct Authority (FCA), and am able to write to you.

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.

I have reviewed all the papers you and the regulator have sent to my office and both you and the FCA have had the opportunity to comment in response to my preliminary decision. My decision on your complaint is explained below.

Your complaint

In November 2016 you contacted the FCA about your dispute with a financial services provider (Firm A) dating back to 2005 when you were working as an IFA. You said that Firm A had stolen your clients and you were seeking redress but the Financial Ombudsman Service (FOS) had told you that it could not assist because it amounted to a commercial dispute.

The FCA advised you that while it welcomed information about regulated firms, it could not deal with individual complaints. You were invited to email details of your issues with Firm A for sharing with the relevant supervision team. You were advised that this would be looked at as part of the wider regulatory picture relating to Firm A, but that due to the confidentiality restrictions of s348 of the Financial Services and Markets Act 2000 (FSMA) it would not be possible for the FCA to share information with you or provide you with any feedback.

You agreed to share your information with the FCA but said that you were unhappy with the way the FCA has dealt with your enquiry and believed that you had been 'fobbed off'. Your concerns were referred to the FCA's complaints team in December 2016.

The FCA treated your complaint as an allegation of 'lack of care' by the FCA and investigated it under the Complaints Scheme ("the Scheme"). On 3 January 2017 the FCA wrote to inform you that your complaint had not been upheld. This was on the basis that the FCA had given sufficient consideration to the information you had provided and taken appropriate steps. You were reminded of the option to take legal advice on your situation.

The FCA's response letter gave you further details of what it had done with your information and its role as a risk-based regulator. It said that the information had been flagged on the FCA systems for use by the Supervision division responsible for monitoring the conduct of regulated firms and ensuring they comply with the FCA's rules. It said that the FCA has discretion over which issues it decides to pursue. While it values and uses the information provided by members of the public in its dealings with firms it does not provide direct feedback. If it decided to take any further action because of the information you supplied it would remain confidential unless it was something that could be announced publicly.

You are dissatisfied with the FCA's response and have asked me to investigate.

My position

I can appreciate how disappointing it must be to remain dissatisfied after making a complaint and involving the FOS. However, as it explained to you, the FCA can decide which issues and concerns to pursue. Even if it took further action because of the information which you have supplied, it would not be able to provide you with any compensation or redress. In addition, most of the actions it takes are confidential, so it is unlikely that you would receive any further information from the FCA.

It seems that what you are seeking is practical assistance in your dispute with Firm A; however, that is not something either my office or the FCA can provide. For that reason, frustrating though it must be for you, I am afraid that your only options are to pursue your concerns with Firm A or to take legal action.

Conclusion

In conclusion, for the reasons set out above, I do not uphold your complaint and I am unable to help you further under the 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