

Final report by the Complaints Commissioner**Complaint number FCA00496***The complaint*

1. You have asked me to review a complaint you have about the Financial Ombudsman Service (FOS) and the FCA. The FCA has declined to become involved in your case with the FOS.

What the complaint is about

2. You were missold a pension and took your case to the Personal Investment Authority Ombudsman Bureau in 2000. You say that it is not in dispute the pension was missold and the FOS considered your case under the Pension Review. The case was adjudicated in your favour. However, now that you have retired and wish to draw an annuity, you have found that the annuity rate is lower than what you might have received under your previous occupational pension. You approached the FOS to reopen your complaint, but it declined to do so on the grounds you have presented no new evidence. You wrote to the Chief Executive of the FCA on 26 July 2018, complaining about the FOS and asking for assistance. Your correspondence was passed to the Customer Contact Centre (CCC).

What the regulator decided

3. The CCC wrote to you explaining the FCA's role with respect to the FOS, and said the FCA could not intervene with the FOS directly on behalf of a consumer as the two organisations are operationally independent. The CCC gave you some guidance on possible next steps.

Why you are unhappy with the regulator's decision

4. You are concerned that the FCA will not help you, as you feel the FOS has wrongly rejected your complaint. You consider that the low level of annuity you

have received for your pension fund is new evidence which should be considered.

Preliminary points

5. Usually the FCA Complaints Team review a complaint before I begin my investigation. In this case, the FCA Complaints Team and I have agreed that the swiftest way to resolve your complaint, given that you have already received a response from the CCC, is for me to look at your complaint.
6. My role, as Complaints Commissioner, is to provide an independent assessment of complaints against the Financial Conduct Authority (and the other financial services regulators). I am unable to deal with complaints related to any other organisations, including complaints about the actions, or inactions, of the Financial Ombudsman Service (FOS).

My analysis

7. Your primary complaint is about the FOS. The FOS is the legal complaint resolution scheme set up by Parliament under the Financial Services and Markets Act 2000 (FSMA). Its role is to resolve individual complaints between regulated firms and their customers.
8. The FOS is operationally independent from the FCA, which in practice means the FCA has no remit to intervene in the decisions it makes in individual cases. In your case the FOS has decided not to reopen your case. The FCA is not able to direct the FOS to do so. In my view, the letter you received from the FCA set out the position correctly and gave some useful advice on what you might do.

My decision

9. I have sympathy for the situation you find yourself in. However, the decision on whether your case can be reopened rests with the FOS. It is not within my power, or the FCA's, to direct the FOS to reopen your case.

Antony Townsend
Complaints Commissioner

1 October 2018