

2 September 2019

**Final report by the Complaints Commissioner****Complaint number FCA00628***The complaint*

1. You wrote to me on 21 July about the FCA's response to a complaint you had made about a pension.

*What the complaint is about*

2. In your email to me, you describe your complaint as follows:

*I was mis sold a pension which had a redress made to it many years ago, if the redress was made now it would be totally different in calculating suitable compensation. The redress at the time followed the set rules then, which allowed no further monitoring and was based on period of very high interest rates never seen again since. So forecasts made with my pension fund were not accurate and the fund is far smaller than if it stayed within a company pension. Nowadays forecasts are more realistic as we have had a decade at least of very very low interest rates.*

*What the regulator decided*

3. The FCA decided that your complaint was not one which could be dealt with under the Complaints Scheme. It explained that this was 'because your complaint relates to the performance of the regulators' legislative functions as defined in the Financial Services Act 2012 (including making rules and issuing codes and general guidance).'
4. Although the FCA did not accept your complaint, it did offer you an explanation of what had happened. It said:

*The guidance you refer to was issued by predecessor organisations to the FCA (the Securities and Investment Board and the Financial Services*

*Authority), and was consulted on at the time. In calculating redress, certain assumptions were made about future investment returns and respondents had an opportunity to comment on their reasonableness. As these assumptions could only be estimates of what will happen in the future, they are not and cannot be guaranteed. Unfortunately, in this case the returns were not achieved, however, this was unforeseeable at the time.*

*Why you are unhappy with the regulator's decision*

5. You have asked me to review the FCA's decision.

*Preliminary point*

6. I should explain that this Complaints Scheme only deals with complaints against the regulators (including the FCA and its predecessor, the Financial Services Authority (FSA)). It does not deal with complaints against financial services firms (such as the firm which mis-sold you the pension) – those are dealt with by the [Financial Ombudsman Service](#).

*My analysis*

7. I sympathise with your position. Like many others, you have been disadvantaged by the long period of low interest rates which have affected products like personal pensions and endowment policies.

8. However, I consider that the FCA's decision was right. Your complaint is about the rules and guidance which were consulted upon and then applied at the time you received redress many years ago. There was always a risk that the assumptions made at that time would prove wrong – and unfortunately, that risk has materialised. In your response to my preliminary report you emphasise that you think it unfair that you have been treated less generously than someone might be in the same circumstances now – I recognise why you feel that, but I am afraid that you have been treated in accordance with the rules made at the time.

9. The making of rules and guidance is excluded from this Complaints Scheme (see paragraph 3.4 (c) of the [Complaints Scheme](#)). Also, your complaint comes a long time after this problem first became apparent – usually complaints will

only be considered within 12 months. For both these reasons, I do not think that your complaint can be considered under this Scheme.

*My decision*

10. I am very sorry to disappoint you, but I agree with the FCA's decision not to consider your complaint under the Scheme. While I recognise that the long period of low interest rates has disadvantaged you, the fact is that you appear to have received the redress you were owed by your pension provider in accordance with redress scheme rules and guidance which were properly consulted upon and made at the time by the then regulators.

Antony Townsend  
Complaints Commissioner  
2 September 2019