

19 December 2022

Final report by the Complaints Commissioner**Complaint number 202201647***The complaint*

1. On 8 November 2022 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

My understanding of your complaint is that you are unhappy the FCA is failing to fulfil its duty of care by failing to exercise reasonable care and skill to ensure that the Financial Ombudsman Service and banks ensure payment systems work correctly in authorising legitimate payments.

You explained that in your experience transactions are regularly being declined and the problem is with the banks as you have previously contacted your bank to have a transaction actioned.

You are unhappy with the actions of Firm X and you have a complaint to them which you believe they have not handled correctly.

What the regulator decided

3. The FCA excluded your complaint, they advised you:

After carefully considering the information, you have provided, we have decided that we cannot investigate your complaint under the Complaint Scheme.

This is because the Complaints Scheme covers the investigation of complaints that arise in connection with the exercise of, or failure to exercise, any of the FCA's relevant functions.

The 'relevant functions' of the FCA are defined in the Complaints Scheme and Part 6 of the Financial Services Act 2012, and broadly speaking cover the FCA's regulatory functions that arise under the _ Services and Markets Act 2000, or such other functions as may be ordered by HM Treasury.

Your complaint relates to the actions of banks and building societies. That is not something we are able to investigate under the Complaints Scheme because your complaint is not arising in connection with the exercise of the FCA's relevant functions.

I am sorry to hear that you are experiencing difficulties when carrying out transactions using your bank accounts. I can appreciate this must be very frustrating.

The FCA cannot intervene in individual complaints about specific firms. If you do experience difficulties then you should complain to the bank or building society concerned. Please see here for further details: <https://www.fca.org.uk/consumers/how-complain>

You explained the difficulties you are experiencing with Firm X in relation to your complaint. I am sorry to hear this. Firms are expected to handle complaints in line with the FCA Dispute Resolution rules (DISP) which you can find here:

<https://www.handbook.fca.org.uk/handbook/DISP/>

You also mentioned your experiences with the Financial Ombudsman Service. It may be helpful if I explain that the FCA does not investigate complaints against the firms it regulates, nor can the FCA get involved in disputes handled by the Financial Ombudsman Service. The Ombudsman Service is operationally independent of the FCA.

The FCA does take seriously the information provided about firms it regulates. We use this, along with information from other sources, including any information that the Financial Ombudsman Service may share with us, to build a picture of where firms may be failing to

meet the required standards. The FCA will then take appropriate action if necessary.

Whilst the FCA cannot assist you with your issues or your complaints, if you would like to provide any information about the issues you have experienced then I can arrange for this to be provided to the relevant supervisory teams. Although the teams will not be able to give you any feedback or provide any updates, they will be able to use the information to inform their on-going supervision of firms.

Why you are unhappy with the regulator's decision

4. You have told me:

Made a false statement that my complaint relates to banks / building societies. My complaint relates to the FCA and its incompetence and malice in ensuring GB payment systems meet the needs of individuals with disabilities and that the FCA has failed to exercise reasonable care and skill in that regard. (Element One).

Also, in the handling of my complaint against the FCA, they engaged in malice and targeted disability hate which cost me £2.50. I want them as a minimum to refund the £2.50 they maliciously me by deliberately sending a letter without any postage, which was a deliberate act of disability hate by complaint handler X at the FCA. (Element Two)

They are not capable of putting things right. I want the FCA abolished and replaced by a competent regulator. One that can regulate based on science and sanity and not hateful ideology and post modernism. (Element Three)

My analysis

5. Element One

I have read the complaint you made to the FCA, and I cannot agree the FCA made a false statement about your complaint. Within your complaint to the FCA you said:

The FCA is negligent in its legal obligations to ensure the proper and reliable functioning of payment systems in the UK.

The FCA is failing to fulfil its duty of care by failing to exercise reasonable care and skill to ensure that the Financial Ombudsman Service and banks ensure payment systems work correctly in authorizing legitimate payments.

There is substantial evidence to prove beyond reasonable doubt, that changes were made to payment services 12 months ago the FCA is professionally negligent in its regulation of online payment services made by consumers.

Transactions are regularly being declined, even though details are entered correctly and 2FA authentication has been carried out.

The problem is with the banks, because I have to phone Firm X and previously, they have done something on their end to allow the transaction and then the transaction has gone through.

I can only look into complaints that fall within the remit of the Complaints Scheme as set out by the Financial Services Act 2012 and by the Financial Services Market Act 2000.

This means that I can only look at complaints that do relate to the relevant functions of the FCA.

Under the Complaints Scheme I am not able to look at complaints that look at the legislative function of the FCA, this includes its function in making rules and issuing general guidance. I cannot review complaints against financial services providers/firms or the Financial Ombudsman Service (FOS).

Whilst I know this will disappoint you, the FCA was right to tell you your complaint about the authorisation of banking transactions is excluded from the Complaints Scheme.

6. Element Two

I can understand why you are unhappy the FCA sent you a letter without postage which you had to pay; however, I cannot agree this was done deliberately and out of malice but instead due to human error. I **recommend**

the FCA apologies for this oversight and reimburses you for the cost you incurred. I uphold this element of your complaint in relation to this unfortunate error, which happened within the FCA's post room rather than the actions of the complaint handler.

7. Element Three

You have advised you want the FCA abolished and replaced with a competent regulator. This is not a matter for the Complaints Scheme, you may want to raise your comments with your MP. This element of your complaint is excluded from the Complaints Scheme.

Since issuing my Preliminary Report you have explained again that you would like the postage refunded and an apology which I am pleased to confirm the FCA has agreed to do.

You advised you want an investigation of payment system, as I have explained above, this is excluded from the Complaints Scheme.

You have also expressed disappointment that I issued my Preliminary Report to you by email, however, when you submitted your complaint you did so using our webform online and did not ask for it to be sent by post. I have however, resent it by post now.

My decision

8. Whilst I know you are disappointed, for the reasons outlined above, Element One and Three of your complaint are excluded from the Complaints Scheme. I have upheld Element Two in respect of what happened in the post room, which I find was due to human error.

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Complaints Commissioner
19 December 2022