

27 September 2023

## Final report by the Complaints Commissioner

### Complaint number 202300313

#### *The complaint*

1. On 3 July, you asked me to review a complaint about the FCA. On 5 September 2023, I issued my preliminary report. You have provided your response to my preliminary report along with a number of supporting emails with attachments.

#### *What the complaint is about*

2. The FCA set out in its decision letter dated 28 June 2023 that your complaint was that you were not happy that you had not received a response to your email of 28 March 2023 addressed to Nikhil Rathi and Ashley Alder. (Part One)
3. In addition to this the FCA set out in its decision letter that you were raising broader complaint about the FCA's supervision of QROPS.

#### *What the regulator decided*

4. The FCA did not uphold Part One of your complaint, it set out that this was because the ECU had informed you in its email dated 3 February 2023 that they would no longer correspond with you on the same issue and had previously informed you that future communication should be made directly with the FCA Supervision Hub.
5. In relation to the broader concerns you raised in relation to the FCA's supervision of a QROPS the decision letter set out that the FCA's position regarding QROPS had already been responded to, and relayed to you through both the ECU and the Supervision Hub and that there is nothing further to add.

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

6. In your complaint emails to my office you have said that you do not agree with the rationale applied in the FCA decision letter (element one). You have also set out in detail in 3 tranches, the background to your complaint. I consider that the crux of your complaint is that you believe that the FCA has not regulated QROPs sufficiently and that it should have taken action against the IFA whose actions led to you losing significant amounts of money through QROPs (element two).

*Preliminary points*

7. Firstly, I would like to note that in your responses to my preliminary report you have set out that you are not confident that the FCA has shared all correspondence which has been shared with the FCA by yourself since 2016, especially the June 2019 letter about the FCA regulated insurer who you identified had breached multiple FCA rules of conduct. I note that you had yourself provided a copy of that letter to me on 3 July 2023, before I prepared my preliminary report.
8. You have also questioned how I was able to prepare my preliminary report without corresponding further with you. You wrote to my office expressing your dissatisfaction with the FCA's decision letter, I accepted your request and undertook a review of the decision letter and the investigation that the FCA made into your complaint. My investigations are largely paper based investigations and I was satisfied based on the information received from both yourself and the FCA that I had the relevant information to make my decision without additional enquiries with yourself.
9. In your response to my preliminary report you have also been copying my office into a number of emails to the Executive Casework Unit Manager at the FCA attaching a large number of further documents. I thank you for providing me with this additional information, however I note that my investigation relates to the correspondence you had with the FCA prior to and inclusive of its decision letter.
10. I have set out my analysis and decision about the compliant points you had raised to the FCA and set out in its decision letter dated 23 June 2023. I

appreciate that you may feel that there are further aspects to your complaint that the FCA and subsequently that I have not considered at this time. The Complaints Scheme provides that the regulator should be given the opportunity to consider all complaints at the first instance, so if you have further concerns which have not been addressed these should first be directed to the FCA for consideration.

*My analysis*

11. I have reviewed the FCA file and I am satisfied that the FCA's position set out in its decision letter to Part One of your complaint is correct. The ECU informed you that any future correspondence it received from you on these same matters would not be responded to, following the 3 February 2023 email and appropriately directed you to send any further correspondence to the Supervision Hub who would review and pass the information onto the relevant team. As such I agree with the FCA decision and I also **do not uphold** element one of your complaint.
12. Looking at your wider complaint, which appears to be the crux of your complaint (element two, which the FCA referred to as your broader concerns), you do not think that the FCA has acted upon the information that you provided to it about Mr X and the advice he gave to you about QROPS, because it has not taken any action against Mr X. In reviewing the information that you have provided to my office and the information that I have reviewed from the FCA's files, it is clear that the FCA has set out to you that Mr X was not authorised to provide you with advice in relation to your pension or QROPS. You have not disputed that you were told this by the FCA and I consider that this fact is not in contention.
13. In addition to Mr X not being authorised, the FCA has explained that QROPS are not regulated by the FCA. As a result of this the FCA was limited in what actions it could take with the information you provided to it about Mr X and the QROPS you subsequently transferred your pension to.
14. I note that you have tried to refute the fact that QROPS are not regulated by the FCA by providing a Google screen shot from an internet search dated 28 June 2023 that states that 'QROPS are regulated by the FCA'. In my

preliminary report I noted that the screen shot did not provide any details of the page it was extracted from and it provides no detail about which legislative provision would support this. In your response to my preliminary report you have provided a full print out of the site where you extracted the statement from. Thank you for providing this detail. Having reviewed the information and visited the site, I can see that the firm who posted the information is based in Cyprus. It is my position that this statement on the website you have found is not correct and consider it very unhelpful in assisting you to recognise the FCA's actual position. To understand the FCA's position on QROPS I suggest that you should visit its website and review the relevant material rather than relying on a secondary party site that operate in a different jurisdiction.

15. To resolve your complaint the remedy you are seeking is for the FCA to take action against an unauthorised individual for advising you to transfer your pension to an unregulated QROPS some years ago. The FCA has explained to you that QROPS are not regulated by the FCA, and in addition to this taking action against an individual or a firm is not a remedy that is available under the complaints scheme. I consider that the loss you have suffered is a result of being directly affected by the actions of Mr X, an unauthorised individual and that your loss does not relate to the actions or inactions of the FCA.
16. Consequently, I do not consider that this is an eligible complaint under paragraph 3.2 of the complaint scheme and I **have not investigated** it. I am satisfied that the FCA has explained its position in relation to this broader element and there is nothing further to add.
17. Finally, I agree with the FCA's summary in its decision letter that it appears that you have already been pursuing the appropriate and correct paths to remedy your concerns through the Maltese authorities having already made complaints to the Financial Ombudsman service and the Isle of Man Ombudsman. I hope that you are able to get the assistance you need through these channels.

*My decision*

18. This is my final report, for the reasons set out above, I have not upheld element one of your complaint and I have not investigated element two.

Amerdeep Somal  
Complaints Commissioner  
27 September 2023