

01 September 2023

Final report by the Complaints Commissioner**Complaint number 202300348***The complaint*

1. On 24 July 2023, you asked me to review 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 that Firm X is forcing you to sell your home and refusing to put your late father's mortgage account into your name even though you have been making payments on the account for more than 10 years. You feel that you have a legal right over the property and are being bullied into getting out of the 0.8% interest rate.

To resolve your complaint, you would like the mortgage to be transferred into your name.

What the regulator decided

3. The FCA did not investigate your complaint, it told you:

After carefully considering the information, you have provided, we have concluded that we cannot investigate your complaint under the Complaints 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 Financial Services and Markets Act 2000, or such other functions as may be ordered by HM Treasury.

Your complaint relates to allegations against a firm. 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.

Whilst I understand that you have already made contact with the Financial Ombudsman Service, I think it would be helpful to explain how our service is different to that of the Ombudsman Service.

Under the Financial Services and Markets Act 2000 (FSMA):

The FCA operates as the financial conduct regulator. Its strategic objective is ensuring that the relevant markets function well.

Furthermore, its operational objectives include securing an appropriate degree of protection for consumers; protecting and enhancing the integrity of the UK financial system; and promoting effective competition in the interests of consumers in the market for regulated financial services.

The Financial Ombudsman Service's main role is to operate a scheme to resolve disputes, as an alternative to the civil courts. The scheme's statutory purpose is to resolve certain disputes quickly and with minimum formality based on what is fair and reasonable in all the circumstances.

The Financial Ombudsman Service is operationally independent from the FCA. It provides consumers with a free independent service for resolving disputes between consumers and businesses quickly and informally.

If you are unhappy with the service that you've experienced from the Ombudsman Service in relation to your complaint about Firm X, you may wish to consider contacting the Independent Assessor. Further information on what the Independent Assessor can consider can be found on their website which I have linked below:

<https://www.financial-ombudsman.org.uk/who-we-are/customer-service/service-complaints/independent-assessor>

Contact details for the Independent Assessor can be found below:

Email: independent.assessor@financial-ombudsman.org.uk

Post:

PO Box 35738

London

E14 9YU

When making your complaint to the Independent Assessor please:

- include your case reference number
- outline the concerns you would like to have reviewed

Why you are unhappy with the regulator's decision

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

Preliminary points (if any)

5. It is important for me to highlight, matters which are excluded from the Scheme which I am unable to investigate.

Section 3.4 (c) of the Complaints Scheme provides:

[Exclusions to the Scheme](#)

3.4 Excluded from the Scheme are complaints:

- c) in relation to the performance of the regulators' legislative functions as defined in the 2012 Act;

My analysis

6. I have listened to the telephone call you had with my office; you explained the issues you have experienced with Firm X who have refused to transfer your late Father's mortgage into your name despite the FCA rules.
7. This Complaints Scheme is concerned with the actions or inactions of the FCA. It cannot deal with complaints against banks, individual firms [or against the

Financial Ombudsman Service (FOS)], nor is it a redress service for individual consumer complaints.

8. The FCA does have a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the financial industry through the setting of standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate individuals' complaints against the firms it regulates that is the role of the FOS.
9. The FCA investigator was right not investigate your complaint under the Complaints Scheme. This is because your complaint relates to the performance of the regulators' legislative functions as defined in the 2012 Financial Services Act (including making rules and issuing codes and general guidance), which is **excluded** from the Complaints Scheme.

My decision

10. I note in response to my preliminary report you are disappointed with my response; however I hope the reasons outlined above clarify why I cannot investigate your complaint.

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Complaints Commissioner

01 September 2023