



05 August 2024

Final report by the Complaints Commissioner

Complaint number 202300638

The complaint

1. On 11 December 2023, you submitted a complaint to my office about the FCA.

What the complaint is about

2. The FCA said your complaint is that:

“Part One

You allege that the Hub supervisors did not address the questions you asked and provided you with ‘incorrect and irrelevant advice.’

Part Two

You claim that the FCA must ‘retain some interest, responsibility, and powers’ as the FCA appoints the Financial Ombudsman Service [FOS] board and relies on the Financial Ombudsman Service. You also claim that there is a widely held misconception at the FCA as to the relationship between the Financial Ombudsman Service and the FCA and the FCA’s ability to intervene.

To resolve your complaint, you would like copies of call recordings and call notes; an explanation for the lack of knowledge of the supervisors; and an explanation for the FCA’s claimed lack of interest and responsibility for the proper operation of the Financial Ombudsman Service”.

What the regulator decided

3. The FCA partially upheld Part One as some emails you had sent the Supervision Hub had not been responded to, but it did not uphold Part Two.

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Why you are unhappy with the regulator's decision

4. You referred your complaint to me, and I can summarise the main points you make as being:
 - a. "The FCA to Provide compensation and/or direct the FOS to provide me with compensation given the FOS' unlawful activities, abusive misconduct and numerous civil wrongs and criminal offences committed against me."
(Element One)
 - b. You say have 'incontrovertible documentary evidence of a culture of dishonesty and abuse which the Executive Team and the Board of Directors of the FOS directly facilitate and enable and refuse to address'. You would like "effective access to those at the FCA who are in a position to remove the FOS' Board members (should they agree that their conduct is unacceptable) and to take all other action against the FOS and/or its staff and directors that is merited and within their powers" (Element Two)
 - c. You say that the FCA Supervision Hub acted fraudulently in providing information to you about CAB, its oversight of the FOS and how it noted your concerns. It had advised you to contact the CAB on some matters, however, the CAB later informed you that the matters you raised were not for them. You feel your time was wasted in approaching the CAB on the advice of the FCA (Element Three)

My analysis

Element One and Element Two

5. You have alleged that the FOS has been harassing, abusing and discriminating against you, and that it has been dishonest. You feel that this: "caused me substantial financial loss, emotional distress, massive disruption, damage to relationships and opportunities - including the loss of my former home, otherwise unnecessary and protracted court proceedings and bankruptcy".
6. You would like the FOS to compensate you or for the FCA to compensate you for this.
7. I am afraid compensation by the FOS is not a remedy that is available under the Complaints Scheme. Neither the FCA nor I can direct the FOS to compensate

you. The FCA has limited oversight of the FOS, and I will turn to that below, but that does not extend to compensating dissatisfied FOS complainants.

8. The FCA is correct to have told you that it cannot become involved in individual decisions the FOS makes.
9. If you are unhappy with the service of the FOS, you may refer your complaint to the FOS Independent Assessor if you have not already done so. Alternatively you may be able to pursue this through legal proceedings.
10. Compensation by the FCA, although technically available as a remedy under the scheme, would, as a start, require information regarding the wrongdoing of the FCA and why this amounted to a supervisory failure which caused you loss. Other considerations would apply to whether compensation is payable.
11. As the FCA have confirmed, they do have certain obligations regarding the FOS. You have told me that you have evidence/material you wish to submit to the FCA. I suggest you submit any information you choose to the FCA Complaints Team. I note you have expressed a wish for discussions with appropriate persons within the FCA on these matters. It is up to the FCA how it chooses to accept any information you submit: whether in writing or through other means. I suggest any information you provide is referred to the appropriate area within the FCA. My understanding is that the FCA monitors complaints about the FCA's oversight of the FOS, and the appropriate area will assess the information you provide. I note though, that in its decision letter the FCA said "Decisions made by the Ombudsman on individual complaints would not be a relevant consideration" in its oversight of the FOS. The information would, therefore, have to go beyond dissatisfaction with the decision itself. It will then be up to the FCA to decide how much feedback to provide you on its consideration of any information provided, given their confidentiality restrictions.
12. The FCA welcomes information from members of the public, however, this will not benefit you directly in the resolution of your case with the FOS, and will not lead to any financial redress to you.
13. Given what you allege about criminal behaviour and discrimination, should you wish to pursue these matters you should refer them to the police or other relevant bodies.

Element Three

14. I have listened to the telephone recording you had with the FCA Supervision Hub.
15. I have seen no evidence of fraudulent behaviour on the part of the FCA and I do not uphold that complaint. I am of the view that the FCA did not act unreasonably in advising you to contact the CAB for sourcing free legal advice if you wish to pursue the challenge to your FOS decision. Assisting consumers with finding free legal advice is part of the functions undertaken by the CAB. However, I find that the Supervision Hub could have been clearer and more helpful in explaining to you both how the CAB would help you, and also in explaining the role of the FCA with respect to the FOS. I recommend the FCA Supervision Hub review its internal procedures and refine the wording of the information it provides callers for the purposes of completeness, consistency and helpfulness.
16. The Supervision Hub was absolutely correct in telling you that the FCA does not authorise the FOS and that it will not intervene in a FOS decision, but it could have done a better job in explaining the role of the FCA's oversight of the FOS or pointing you to the FCA website which explains this role.
17. Similarly, with respect to CAB, at one point the Supervision Hub said to you "I'll give you their number for Citizens Advice, It's a free line they provide free legal advice", although other times it explained the CAB would point you in the right direction for free advice, the latter being the correct position. Whilst the overall conversation in the round makes the position clear that you were being asked to contact CAB to source free legal advice, and that was the spirit in which the sentence was made, and whilst I think that it was the correct advice to give you to approach CAB, the FCA should ensure that its messaging is clearer and more helpful to the Hub users. For this reason, I uphold your complaint that the customer service you received from the Supervision Hub could have been better in explaining matters to you as outlined above. Therefore, I recommend the FCA apologise to you for this.

18. Having said that, I do not find that the matter above has a bearing on the substance of your main complaint: in my view, you were correctly advised to go to CAB; you were correctly advised that the FCA will not intervene in your complaint with the FOS and the FCA and I have both suggested that you pass any further information you want to share about your concerns regarding the FOS to the FCA complaints Team so it can be referred to the appropriate area.

Rachel Kent

Complaints Commissioner

05 August 2024