

17 April 2024

Final report by the Complaints Commissioner**Complaint number 202300734***The complaint*

1. On 19 January 2024, you asked my office to review a complaint about the FCA. My office issued a preliminary report to you on 20 March 2024 and gave both you and the FCA time to provide any comments, which I have taken into consideration in this final report.

What the complaint is about

2. The FCA set out in its decision letter dated 19 January 2024 that its understanding of your complaint was as follows:

“.....you’re unhappy with banks and the way money is deposited and borrowed.

You explained that you have lost millions in ‘fraudulent mortgage payments’ over the last 25 years, and you have complained to the Financial Ombudsman Service about a mortgage you had with a bank and you’re awaiting a final decision.

To resolve your complaint, you are seeking that the FCA tell the truth about banking and cease ‘this fraudulent system’.”

What the regulator decided

3. The FCA concluded in its decision letter dated 19 January 2024, that it could not investigate your complaint under the Complaints Scheme (November 2023) for the following reasons:

“..... 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 the way that banks deposit and borrow money. This 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.”

Why you are unhappy with the regulator’s decision

4. In your complaint email to my office dated 19 January 2024, you forwarded a copy of the FCA’s decision letter of the same date and asked how you could complain about the FCA and stated that you felt that:

“The banks are allowed by regulators to flaunt the law and they are in breach of many Acts, including the one your organisation covers (see attached redacted bank letter.)”

5. In your webform complaint you additionally set out that you felt the “FCA should be held account for enabling these crimes”. These are the alleged crimes of the banks as set out in the redacted bank letter, in which you set out that it appears that the bank may have breached the following legislation:

1. Bank of England and Financial Services Act

- No transparency
- No investigation (at this stage)

2. Data Protection Act 2018

- Sharing my data without a valid contract or consent
- Penalties are 4% annual group turnover or £17.5M

3. Theft Act

- Of my consideration for the 'loan', being my Security Instrument
(7 years imprisonment)
- 4. Fraud Act.
 - Fraud vitiates everything and hence our contract is void ab initio
- 5. Modern Slavery Act (5 years imprisonment)
- 6. Misrepresentation Act
 - Your customer-facing staff would be guilty, even though they are not aware they are in breach of this legislation
 - Contract is rescinded
- 7. Protection from Harassment Act
- 8. Companies Act, s.44
 - A valid signature is required on all documents (hence my query regarding the attached document from your DSAR team).

Preliminary points (if any)

6. These paragraphs from the [Complaint Scheme \(November 2023\)](#) about the FCA are relevant to this complaint:

2.5 Only complaints about the relevant functions of the Regulators can be investigated under the Scheme.

2.6 For the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA), broadly speaking, relevant functions include our authorisation, supervisory, and enforcement functions and our operation of this Scheme and, for the FCA only, maintaining the Financial Services Register.

2.8 The types of complaint we can investigate under the Scheme include allegations of:

- a. mistake;
- b. lack of care;
- c. unreasonable delay;

d. unprofessional behaviour;

e. bias;

f. lack of integrity.

2.9 We cannot investigate complaints that do not relate to our relevant functions. This includes complaints about:

.....

c. complaints about the exercise of our legislative functions – such as rule-making and issuing general guidance;

2.10 Under this Scheme, we also cannot investigate complaints about the firms we regulate. If you have a complaint about a regulated firm, you should complain directly to the firm involved in the first instance. The Financial Ombudsman Service may be able to help if you are dissatisfied with the response you have received from the firm.

2.11 Even where your complaint is eligible, we will not investigate a complaint under the Scheme if we reasonably consider:

a. it amounts to no more than general dissatisfaction with our policies or practices (i.e. you are not alleging any specific unreasonable, unprofessional behaviour or other misconduct);

My analysis

7. I have reviewed the information that you have sent through to me in relation to your complaint including your redacted and undated letter to Bank X, the Bank of England Quarterly Bulletin and I have also reviewed the FCA's decision letter dated 19 January 2024, in which it set out that it could not investigate your complaint. I have also reviewed the further information that you sent through in your response to my preliminary report.
8. I agree with the FCA that your complaint is not one that can be considered under the Complaint Scheme, but for slightly different reasons to those set out in the FCA's decision letter.
9. The key issue in your complaint to the FCA seems to stem from your complaint about Bank X in relation to a mortgage agreement which you entered into with

Bank X. The FCA acknowledged this in its decision letter setting out that your complaint relates to the way that banks deposit and borrow money. The FCA set out that it could not investigate this complaint, as it does not arise in connection with the exercise of the FCA's relevant function.

10. Whilst the FCA set out that its relevant function's broadly cover its regulatory functions that arise under the Financial Services and Markets Act 2000. I do not consider that this provided you with enough (any) relevant understanding as to why your complaint was not something it could investigate. Paragraph 2.6 of the Complaint Scheme provides some additional guidance; however I do consider that where the FCA concludes that it cannot investigate a complaint because it does not fall within its relevant function it should be more prescriptive in its decision letters as to exactly why a complaint doesn't relate to its relevant function.
11. In view of the FCA's lack of clarity as to why exactly your complaint does not relate to its relevant function, I will set out my reasoning as to why the key issue of your complaint, being a complaint about a standard banking practice, cannot be considered under this Complaint Scheme. Whilst you have related this complaint to your own experience with Bank X, this standard practice in the banking industry that you are complaining about is one that all banks in this country follow. If it is the case that you believe that your bank is failing to follow this (or any) standard banking practice then I do consider that the FCA provided correct guidance to you in its decision letter that, if your complaint relates to a financial product or service by a bank, you should complaint to the Financial Ombudsman Service. I am pleased to note that in your 'redacted letter' to Bank X you have stated that you have in fact done this, and I consider that this is the correct avenue to direct your complaint. I hope that you are able to get some of your concerns addressed through this avenue.
12. If, however, as I understand it, you are complaining specifically about a standard banking practice, this is in fact a complaint that would relate primarily to the Bank of England, not the Financial Conduct Authority. In your complaint to my office (and in your complaint to the FCA) you provided a copy of an article in the Bank Of England's 2014, Q1, Volume 54 No.1 Quarterly Bulletin, titled "Money creation in the modern economy"(page 16). This article sets out that the

Bank of England's instrumental role in setting out the monetary policy which in turn provides the landscape for the banks to engage with consumers.

13. The Bank of England's legislative role is specifically excluded under s.85(3)(a) the Financial Services Act 2012, which states:

“3. the relevant functions of the Bank of England are—

(a) its functions under Part 18 of FSMA 2000 (recognised clearing houses and CSDs) or under Part 5 of the Banking Act 2009 (... payment systems) or Part 5A of that Act (wholesale cash distribution), other than its legislative functions,”

As such, the crux of your complaint is not an issue that the Bank of England (or the FCA) are able to consider under the Complaint Scheme as it is expressly excluded by the Financial Services Act 2012.

14. I have noted that part of your complaint was that the FCA allows the banks to “flaunt the law” but your complaint did not specifically identify the specific FCA actions or inaction and/or whether it related to its legislative, supervisory or enforcement role. As such this complaint is seemingly a general dissatisfaction with the policies and practices of the FCA (as a regulator) rather than an allegation of specific unreasonable and/or unprofessional behaviour. Consequently, under 2.11 of the Complaint Scheme this is not a complaint that the FCA can investigate. I also note that in regards to your complaint detailed in paragraph 5 above, the alleged crimes of the Bank under the various legislative provisions detailed, are not the responsibility of the FCA.
15. Whilst your complaint is not one that can be investigated under the Complaints Scheme, you do clearly have very strong views on this issue and have conducted significant research into this specific aspect of banking practice. This maybe a matter that you want to raise with your local member of parliament to see whether they can assist you with pursuing changes to the legislation governing the practices in the financial service industry generally to stop the practices you are objecting to. I note that you have confirmed that you will take up this suggestion following the issuance of this final report. I wish you the best with this further avenue in this matter.

My decision

16. For the reasons set out above I have not investigated your complaint.

17. This is my final report about your complaint and concludes my investigation.

Rachel Kent

Complaints Commissioner

17 April 2024