

11 December 2024

Final report by the Complaints Commissioner**Complaint number 202400351***The complaint*

1. On 17 July 2024, you submitted a complaint about the FCA to my office.

Background

2. You and your wife invested into self-invested personal pensions (“SIPPs”), operated by Firm (“A”), through which you acquired commercial property.
3. On 1 February 2022, Firm A went into administration and an insolvency firm was appointed to oversee the administration process (the “Administrators”). In 2022, the Administrators sold the business to Firm X. As a result, the assets held in the underlying SIPPs were required to be transferred to alternative registered pension schemes. Members of Firm A were given two options: a) to be transferred to Firm X, as part of a block transfer; or b) opt out of the block transfer, and alternatively transfer their funds to a registered pension scheme of their choosing. Any member who did not expressly opt out of the block transfer was deemed to have agreed to the transfer.
4. My understanding is that you chose to transfer to Firm X, even though you subsequently declined to sign a transfer deed. When this transfer took place, the co-trustee SIPP model you had with Firm A ceased to exist, meaning that Firm X was the sole trustee. This is because Firm X pension scheme does not operate a co-trustee model.
5. In the summer of 2022, your relationship with Firm X began to deteriorate due to issues surrounding the investments you held in the SIPPs. This eventually led to a dispute with the firm and was further exacerbated when you discovered that Firm X became the sole signatory on your SIPP bank accounts with Bank Y.

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6. You are unclear as to who has ownership over the assets in your SIPPs. You considered transferring your SIPP pensions to an alternative pension scheme, however this is proving to be difficult.
7. You say you unsuccessfully attempted to mediate with Firm X. You then brought legal proceedings against it and had a court hearing in May 2024. You also submitted a complaint to the Financial Ombudsman Services (FOS) and the Pensions Ombudsman (TPO), which are in progress.

Your FCA complaint

8. On 9th May 2024, you lodged a complaint about the FCA under the Complaints Scheme. You said that you first learned about the sale when a letter from Firm X arrived in March 2022 and that you never agreed to the firm becoming the sole signatory on your SIPP bank accounts with Bank Y. You said that, according to Bank Y, the administrators and the FCA authorised Firm X to become the sole signatory on your SIPP bank accounts. You wanted Firm X to be removed as a signatory from your SIPP bank accounts. You also confirmed that you did not wish to make a complaint about the FCA, but rather about Firm A, the administrators and Firm X.
9. The FCA decided that it could not investigate your complaint because it wasn't in connection with the exercise of, or failure to exercise, any of the FCA's relevant functions. As your complaint related to Firm A, the administrators and Firm X, the FCA advised contacting the FOS.

Your OCC complaint

10. You then submitted a complaint about the FCA to my office. You allege that, according to Firm X, the FCA "*oversaw and approved*" the change of signatory on your SIPP bank accounts with Bank Y. Furthermore, you are under the impression that the FCA declined to investigate your complaint because "*what they did was right*".
11. You mentioned there is a 15-month wait before the TPO can adjudicate your case. The ongoing situation has had a significant financial and mental impact on you and your wife. Your desired outcome is to transfer your funds, property, and SIPPs to another pension scheme.

My analysis

12. I have reviewed the information on the file and note the FCA's decision. For the FCA's Complaints Scheme to come into effect, a complainant must allege wrongdoing by the FCA in relation to its relevant functions. As you confirmed to the FCA that your complaint was not about them, but rather about Firm A, the administrators and Firm X, the FCA decided that your complaint was out of scope. Therefore, the FCA's decision was correct.
13. You have now complained to me that the FCA oversaw and approved the change of signatory on your account. The FCA did not review this aspect of your complaint. Under the Complaints Scheme, the usual procedure is for the FCA to have an opportunity to review a complaint before it is referred to me. In this instance I raised further queries with the FCA on this matter. The FCA confirmed that it has no powers to approve change of bank account signatories. For this reason, there is no need for me to return this issue for further investigation to the FCA. You should take these issues up with Firm X and /or FOS or the TPO.
14. From your comments on the Preliminary Report re-issued on 22 November 2024, I understand that you have many questions about the current structure of your SIPP's. You also queried whether your SIPP assets had been "stolen" by Firm X. Whilst it is not within my remit to advise you on the structure of your pension, to provide you some reassurance, I have further liaised with the FCA, who confirmed that: *"...his or Mrs [K's] SIPP's have not been stolen. The property and cash are being held by [Firm X's] trustee company on trust for their pensions."* The FCA also advised to continue engaging with Firm X in order to find a way forward. I agree with this approach. In light of the above, I do not uphold your complaint.
15. Based on the circumstances of your case, it would appear that the substance of your complaint is a dispute is with Firm X. I note that you have already submitted complaints with the FOS and TPO and this is the appropriate course of action. It's regrettable that you have such a long wait before your case is heard.

16. Given the concerns you have and your desire to transfer your SIPP's to another pension scheme provider, it is important you discuss your options with an independent financial advisor.

The Complaints Commissioner

Complaints Commissioner

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