



26 November 2024

Final report by the Complaints Commissioner

Complaint number 202400399

The complaint

1. On 25 August 2024, you submitted a complaint about the FCA to my office.

Background

2. You applied for a credit card with Bank X, however your application was rejected. You believe this was due to “banks making credit lending decisions using ‘bots’ that are not fit for purpose”. You raised a complaint with the Financial Ombudsman Service (FOS), however it was not upheld on the basis that Bank X acted fairly and reasonably in its assessment of your application and as you had not met the bank’s lending criteria, it was within its rights to reject your application.

Your FCA complaint

3. You subsequently submitted a complaint to the FCA for permitting banking institutions to rely on automation in the financial decision-making process. You said that this is a systemic problem and that the use of this technology is not fit for purpose. The FCA understood your complaint to be that it was allowing banks to rely on automated processes and it said that as your “*complaint relate[d] to the FCA’s rules around firms using automated processes to assess creditworthiness*”, it could not be investigated because complaints in relation to the exercise of the FCA’s legislative functions are expressly excluded under the Complaints Scheme. Nevertheless, it shared the information that you had provided with its supervision team. It also provided you with helpful information about its expectations generally on how the FCA expects financial institutions to behave when using automated processes in assessing creditworthiness.

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Why you are unhappy with the regulator's decision

4. Dissatisfied with the outcome of the FCA's decision, you referred it me for review. You state that "Please refer to attached documents. It is my opinion that electronic systems are being put in place that are not fit for purpose. It seems financial institutions may have no interest in management interventions when the AI behaves as idiot". You refer me to the particular circumstances of your dispute with your bank.
5. You also want to know whether you might get the same decision if you were to cancel your credit card with Bank Y to apply for a different product with the same bank.

My analysis

6. I will begin by saying that the FCA is correct that it is open for banks to use automated processes for credit worthiness under its rules, and therefore a complaint about the use of such automation per se is excluded.
7. You have additionally referred to the specific case of your dispute with your bank, alleging that in your case the bank's automated decision making systems had not reviewed your individual circumstances. This was the exact same complaint which you referred to the FOS. It reviewed this complaint and did not uphold it: the FOS found that the bank had done nothing wrong, had followed its internal processes, and had treated you fairly.
8. You were not satisfied with the FOS decision and you subsequently brought this complaint to the FCA, alleging that your dispute with your bank evidences that your bank is using automated processes which are not fit for purpose because they did not take account of your personal circumstances, and that in your view the FCA ought to do something about it. You have also referred to banks in the plural misusing technology in the way you allege, however, you have not provided evidence of your allegation about the wider banking industry and therefore in my view the focus of your allegation remains on your bank and how it used automated technology to deal with your credit card application.
9. You have said to me that you have been affected by the FCA's supervision of the bank because you were 'denied a credit card by bank X'.

10. I am sorry but I do not agree that it is the fault of the FCA that your bank denied your credit card application.
11. To the extent that you have a complaint against your bank, and how the bank used automated technology in your credit card application, this Complaints Scheme cannot deal with complaints against individual firms nor is it a redress service for individual consumer complaints against their financial services providers. The FOS, established under the Financial Services and Markets Act 2000 provides for the resolution of disputes between consumers and regulated financial services firms. Your bank made a decision to deny your credit application, and the FOS did not find that your bank had done anything wrong in its use of automated processes. This is not a matter which either the FCA or I can review, or a matter for which the FCA bears any fault in its supervision of the bank, or otherwise.
12. To the extent that you wish to submit your concerns about your bank to the FCA, the FCA Complaints Team has already informed you that it has shared the information you provided about the bank with the relevant supervisory team, and that it “appreciate[s] members of the public raising their concerns with us, because this can be a valuable source of intelligence which better enables us to supervise the conduct of the firms and individuals we regulate”, but that due to confidentiality reasons it will likely not be possible for it to give you any feedback. I **invited** the FCA to provide me with feedback on what consideration it has given your complaint although I may also be bound by confidentiality restrictions in telling you what actions the FCA took, if any. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material.
13. I have received the FCA’s comments on the Preliminary Report. Having studied its response, I can say that I am satisfied that the FCA has not ignored the information which you have provided and gave it proper consideration.

Unfortunately, I cannot say any more than that, and I recognise that that will be frustrating for you.

14. In terms of your concern about receiving the same outcome if you apply for a new product with a different bank Y, it is not within my remit to review or answer your query, however, I suggest it might be worth discussing your circumstances with Bank Y before cancelling your credit card to understand their lending criteria and whether your particular financial situation would satisfy their requirements.
15. I note your general dissatisfaction with the findings in the Preliminary Report. However, my decision is based on the circumstances of your case. In view of the above, your complaint is excluded.

The Complaints Commissioner

Complaints Commissioner

26 November 2024