

07 January 2025

Final report by the Complaints Commissioner**Complaint number 202400437***The complaint*

1. On 25 September 2024, you submitted a complaint about the FCA to my office. I issued a preliminary report on 14 November 2024, and you have provided your comments in response, which I have considered and addressed below.

Background

2. In 2006 you entered into a car finance agreement with Firm X. You recently learned that in January 2024 the FCA had commenced a review into whether motor finance customers have been overcharged because of the past use of Discretionary Commission Arrangements (DCAs). You submitted a complaint to Firm X and asked it to investigate whether your agreement was affected by any DCAs between Firm X and the broker (or any other third party). Following its investigation, Firm X advised you that since your car finance agreement was made before 2007, which is when the Financial Ombudsman Service (FOS) started handling complaints about the Consumer Credit Act 2006, it fell outside the scope of the FCA's review and your complaint was, therefore, not upheld.
3. Dissatisfied with that response, you called the FCA on 20 July 2024 to find out more information about DCAs and to raise your concerns regarding Firm X's decision not to investigate your complaint because it was your understanding that car finance by 2006. However, you felt that the call was not handled properly by one of the FCA's supervisors, who you alleged was "*unhelpful and rude*".
4. You made an initial complaint to the Supervision Hub on 20th July 2024, which they partially upheld on the basis that "*a more concise response to your query,*

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including the dates of regulation, and what that would have meant for your ongoing complaint” should have been provided to you. It also confirmed that it “will be providing feedback to the supervisor about the call, in terms what could have been done different[ly] and will be providing some training around the subject of DCA and consumer finance regulation” to ensure its Staff is equipped to answer questions on this subject matter.

Your FCA complaint

5. On 31 July 2024 you submitted a Complaint about the FCA regarding the decision you received from the Supervision Hub, reiterating that the supervisor on the call was *“unhelpful and rude”* and asking for compensation in the amount of £50. You also alleged that Firm X was not adhering to the regulations, and you wanted the FCA to investigate it, however you felt the FCA was not taking your concerns seriously. Finally, you wanted the FCA to provide more information around car finance regulations from 2006 onwards.
6. The FCA agreed with the Supervision Hub’s decision and partially upheld your complaint on the basis that the requested information in relation to car finance had not been provided to you; however, it did not find the supervisor rude or unhelpful. The FCA responded to your concerns regarding Firm X and also provided additional information in relation to car finance regulation.

Your OCC complaint

7. You then referred the FCA’s decision to my office for review, saying that whilst the FCA accepted that the response to your calls was unsatisfactory, it failed to acknowledge that *“the call handler was being rude and obstructive at times through both calls.”* You also say that the FCA has failed to provide truthful account to your question as to whether *“all car finance was regulated in 2006 under the Consumer Credit Act.”* You say that you were *“left deeply disappointed by the FCA on this occasion seeing their service levels reach an all time low!”* You want the FCA to acknowledge what you felt was *“poor customer service”* and compensate you in the amount of £150 (Element One).
8. You also say that the FCA failed to provide clear answers to your questions regarding the state of car finance regulation in 2006 and was being *“very obstructive in responding to questions relating to all DCA regulations.”* You find

the information to be very confusing and feel that you have been *“left with no clear understanding from the FCA [as] to how to apply regulations to firms.”* You find the FCA’s response very unhelpful given their current review of DCAs and the fact that consumers *“were asked to raise their complaints before a deadline so its important the FCA were ready for customers questions regarding the regulations on car finance.”* (Element Two)

9. Finally, you allege that the FCA failed to act on the evidence you had provided about Firm X because you have not received any further communication from the firm despite reporting it to the FCA (Element Three).

My analysis

Element One

10. I note your comments and feelings concerning the FCA supervisor’s handling of your calls. Having reviewed the phone call recordings, it is clear you were becoming frustrated because the supervisor was being unhelpful in terms of providing you with the requested information and I can see how this led to a heated situation. I note that the Supervision Hub had acknowledged that during the call in question, *“you asked to be put through to someone else [i.e. manager], as you felt your query was not being handled properly.”* However, once the supervisor begun to provide guidance *“...there was less friction in the call.”*
11. Whilst I understand that the situation has made you very upset, having reviewed the calls, I did not find Supervisor to have been rude. I can see that the Supervision Hub said in its decision letter that *“Going forward, [it] will be providing feedback to the supervisor about the call, in terms what could have been done different[ly] and will be providing some training around the subject of DCA and consumer finance regulation, to ensure she is better equipped to handle future contact on the subject matter.”*
12. I note that following receipt of my Preliminary Report (PR), you submitted a Data Subject Access Request to the FCA to obtain a copy of telephone recordings between yourself and the FCA call handler. You subsequently submitted comments on the PR in which you disagreed with my findings, and this is acknowledged.

13. You have said that the FCA call handler demonstrated insufficient knowledge and understanding of the topic you sought information about and reiterated that compensation is due to you for the unprofessional manner in which the FCA call handler had conducted themselves towards you. You have also stated that I failed to explain in the PR why you were not put through to a different supervisor when requested by yourself during the call. Finally, you have asserted that a fair treatment would result in a conclusion that supports your position.
14. The purpose of my role is not to tell the FCA how to do their job, but rather to review the FCA's actions or inactions in the context of a complaint to determine whether they have been reasonable; and, where I find that they have not been, ask the FCA to re-review, where possible, and/or recommend the payment of compensation. Further, I must remain impartial and approach each complaint in an unbiased and independent manner.
15. I agree that your calls could have been handled differently, and you were right to highlight this issue by way of raising a complaint. However, I do not think that monetary compensation is the appropriate way forward. There are a number of remedies available to the FCA to provide redress and these are set out in the Complaints Scheme (see pp 11-14). The appropriate solution or action to take will vary based on the specific details and conditions of each individual situation.
16. In this instance, I note that the FCA acknowledged in its decision letter *"the length of the time it took to provide an answer to your query surrounding the dates of regulation"* and *"that an explanation as to why you were being asked the questions by the supervisor should have been given and guidance should have been delivered in a more concise manner. Furthermore, more detail should have been provided which would have given a more nuanced, rather than generic, response to the enquiry. It is [the FCA's] view that it would have been beneficial for you if the [Supervision Hub's] decision letter provided some further information you were seeking in relation to your query surrounding DCA's."*
17. Following your complaint, the FCA apologised to you and informed you that feedback and training would be provided to the relevant supervisor. I consider

the FCA-proposed solution to be exactly what is appropriate in these circumstances.

18. This, in my view, is sufficient given the circumstances and the situation does not call for monetary compensation (the amount of which, I note, you raised from £50 (in your FCA complaint) to £150 (in your complaint to my office)). Circumstances which may warrant a compensatory payment for distress and inconvenience usually have additional factors which are present, such as a repetition of the failures identified, which is not the case here. On that basis, I do not uphold this Element of your complaint. However, my office will continue to liaise with the FCA generally going forward to clarify circumstances in which compensation is appropriate.

Element Two

19. I understand that you want to know whether car finance was regulated in 2006 in order to determine if your car finance agreement was impacted by DCA issues and if you have a valid complaint against Firm X. You also say that clarity on this point is important given the FCA's current review of historical motor finance commission arrangements with a view to determining whether there was a widespread misconduct and loss to consumers.
20. You say that you have come across various pieces of information, which led you to form a view that car finance may have been regulated prior to 2007, however you have struggled to find a definitive answer to your question.
21. You approached the FCA in the hope that it would clarify the matter and provide clear answers to your questions, however you were left dissatisfied with its response. I have reviewed both the Supervision Hub and the Complaints Department's decisions and note you have been given some helpful guidance.
22. Unfortunately, it would appear that the answer to your question is not straightforward. As the FCA put it: *"..not all car finance was, or is, regulated."* Additionally, *"The Consumer Credit Act is fact and circumstance specific."* Whilst *"motor finance has been captured since 1975, however not every type of motor finance is captured in the same way. There are several exemptions and exclusions to this."* Therefore, in order for you to receive a specific answer to

your question, you need your car finance agreement to be reviewed in light of the legislation. The FCA does not provide this type of service.

23. If you would like to know more about this, I suggest you read the following guidance, which you may find helpful <https://www.fca.org.uk/consumers/car-finance-complaints>. I would also recommend keeping an eye on the FCA's website, as there have been many recent developments in this area.
24. I understand you may wish to know more details, however, although I wish to be helpful, it is not within the remit of the Complaint Scheme to provide general research answers to broad questions on legislation such as yours, to which there is no one simple answer. Further, I note that the FCA advised in its decision letter to consider seeking legal advice and/or approaching the Financial Ombudsman Service (FOS) in relation to your specific query and I would agree with that approach.
25. In view of the above, I do not uphold this Element of your complaint.

Element Three

26. I note that you believe that the FCA has failed to investigate Firm X for its alleged non-compliance with car finance regulations because you have not received any further communication from Firm X. Having reviewed the FCA's decision, I can see that the Complaints Team has already informed you that it has shared the information you provided about the firm with the relevant supervisory team. This is for the purpose of ensuring appropriate supervision and not to look into the circumstances of your complaint against Firm X. Any action the FCA may take as a result of the information you provided is unlikely to lead to redress for you personally. The FCA also said that it "*appreciate[s] members of the public raising their concerns with [them], because this can be a valuable source of intelligence which better enables [the FCA] to supervise the conduct of the firms and individuals [they] regulate*", but that due to confidentiality reasons it will likely not be possible for it to give you any feedback.
27. In your response to the PR, you indicated that, based on your prior experience with the FCA and my remarks regarding another complaint where I highlighted a lack of clarity on whether the FCA had forwarded your information to the

relevant department, you now have concerns regarding the proper recording and consideration of the information you provided to the FCA in relation to the current complaint.

28. As I previously advised you on a separate matter, each case turns on its own facts. A finding that was appropriate in one set of circumstances, might not be relevant in another set of circumstances. In this instance, as I have stated above, the FCA have clearly stated in its decision letter that your information had been passed onto the relevant department and I am satisfied with that answer.
29. I would also like to add that while the regulator welcomes information from people who report concerns, the FCA does not generally say what action has been taken in response to the information that it receives, if any. This is because section 348 (s.348) of the Financial Services & Markets Act 2000 (FSMA) classes some information the FCA holds about firms as confidential and restricts how that information is dealt with. In addition to this, any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals, who also have legal protections. Under this policy, the FCA will not normally disclose the fact of continuing action without the agreement of the firm concerned. This means that, there is no general right for members of the public to know the outcome of reports that they make.
30. Furthermore, based on the information you have provided, it would appear that you have a dispute with Firm X regarding its handling of your complaint. As the FCA has clarified, it is unable to investigate complaints from individuals against regulated firms, therefore, you may wish to consider lodging a complaint with the FOS. This is because the FOS – unlike the FCA – has the power to adjudicate in relation to individual complaints.
31. I consider that the FCA's response on this point of your complaint to be reasonable and appropriate and, therefore, Element Three is not upheld.

The Complaints Commissioner

Complaints Commissioner

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