



17 February 2025

Final report by the Complaints Commissioner

Complaint number 202400477

The complaint

1. On 16 October 2024, you submitted a complaint to my office in relation to your fraud refund claim with Firm X and the role of the Financial Ombudsman Service's (FOS) and the FCA in relation to your fraud refund claim.

Background

2. My understanding of your complaint is that you are principally unhappy with the way that FOS and Firm X have handled your complaint in relation to the reimbursement of funds owed to you following a fraud refund claim. You have also raised this issue with the FCA which has been liaising with the fraud victims in relation to the reimbursement of funds.
3. I understand that Firm X has agreed to reimburse the funds that you lost under their Fraud Guarantee but has delayed making this payment to you until after the conclusion of the confiscation and compensation hearing. You have complained to Firm X, FOS and the FCA regarding the delay in you being able to recover your funds but you have still not received full reimbursement from Firm X.
4. You are frustrated that your case has been grouped with other cases under the Contingent Reimbursement Model Code (CRM Code) when Firm X is not a signatory to the CRM Code.
5. You are also unhappy because you believe other customers of Firm X who are in the same position as you have already received their reimbursement payments.
6. You allege that the FOS and the FCA have not assisted in expediting the return of any funds owed to you.

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7. I understand from the FCA that the reason that the banks are delaying reimbursing victims of the fraud in this case is because the final figures for the Proceeds of Crime Act (POCA) funds are in the process of being calculated. The calculations are part of the process of the POCA compensation and confiscation regime which is designed to deprive a convicted defendant of the financial benefits gained through their criminal conduct so that compensation can be ordered by the Court where it is due to victims.
8. Given the complications associated with the fraud case and the substantial assets restrained, it has been necessary for CRM Code banks and other banks who are not signatories to the CRM Code (like Firm X) to wait until the confiscation and compensation proceedings to conclude in order to calculate the amounts that are due to the fraud victims including yourselves.

Update since my Preliminary Report

9. I have contacted the FCA and it has stated that you should be hearing from Firm X shortly regarding the outcome of the confiscation and compensation hearing which took place on 29 January 2025. I understand from the FCA that the amounts to be issued to the victims of the fraud are in the process of being determined and that Firm X is committed to refunding customers as quickly as possible. I **recommend** that the FCA continues to monitor the situation and keep me informed as to the progress of your reimbursement with an update due from the FCA within one month from the date of this Final Report.
10. With regards to your allegation about other customers of Firm X receiving their reimbursement payments before you, I have investigated this aspect of your complaint and your assertion that other customers of Firm X have received their reimbursement before you is incorrect. We cannot provide you with further details relating to this due to confidentiality reasons. I understand that this is frustrating but rest assured, I have thoroughly investigated your concerns.
11. Following your initial complaint to me, you have subsequently raised a number of issues relating to your bank account with Firm X and concerns about Firm X's treatment towards you in relation to your account. These matters are outside of the scope of the Complaints Scheme. If Firm X is unable to help you with these

issues directly, I would recommend approaching FOS to further discuss your complaint in relation to Firm X.

12. Nevertheless, given your concerns regarding Firm X's treatment towards you, I **recommend** that the FCA pass your concerns onto the relevant Supervision Team at the FCA to see what action, if any, needs to be taken against Firm X. Due to confidentiality restrictions, the FCA will not be able to advise what action, if any, will be taken against Firm X.
13. After carefully considering the circumstances of your complaint and the detailed information you have provided, I unfortunately cannot consider the elements of your complaint which relate to the FOS as the actions of the FOS are excluded from being considered by us under the Complaints Scheme.
14. In view of the above, I cannot investigate your complaint as the matters are excluded from the Complaints Scheme.

The Complaints Commissioner

Complaints Commissioner

17 February 2025