

25 March 2025

Final report by the Complaints Commissioner**Complaint number 202400570***The complaint*

1. On 2 December 2024, you submitted a complaint to my office about the FCA.
2. You have explained that in 2009 you took advice from an independent financial advisor (IFA) about your pension. He advised you to transfer your pension into a self-invested pension plan (SIPP) and to put your funds into investments which turned out to be unsuitable. You allege that they failed to take into account your risk profile which resulted in significant financial losses. I understand your complaint to be about the FCA's failure to supervise your IFA and SIPP operator and to ensure they carry out suitability assessments to assess knowledge and understanding of the proposed investments, risk tolerance and ability to bear losses (Element One).
3. You have also said that *"At the time of my claim the compensation limits set out by the FSCS were £50,000 if the IFA was at fault, £85,000 if it was the SIPP provider and limitless if the pension company failed. As a consumer I struggle to see why the different limits exist as it seems to indicate each category would have limits and possibly lower levies. The impact of losing my pension fund would have been the same in any category."* (Element Two)
4. To resolve your complaint, as a minimum, you want the FCA to provide you with financial compensation for the losses you have suffered.

My decision

5. Element One – I have not investigated this Element of your complaint for the reasons I give below.

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6. Element Two – a complaint about the FSCS compensation limits is excluded under the Complaints Scheme, however I **invited** the FCA to provide a response on why the FSCS operates separate compensation categories for different types of financial providers/products. It has responded (see below). You may also find the following information useful
- <https://www.fscs.org.uk/globalassets/industry-resources/publications/the-balancing-act-of-compensation.pdf> and
- <https://www.fca.org.uk/publication/consultation/cp16-42.pdf>

Background

7. My understanding of the background to your complaint is as follows. In 2009, on your IFA's advice, you transferred your pension from Firm Y to a SIPP operator. At the time, you were approaching retirement and had a moderate risk profile. You said that *"[t]he switch was a disaster as the choices the IFA (and I believe in conjunction with the SIPP operator) made for the products to invest in started failing almost immediately."*
8. You have also advised that *"The IFA ceased trading in 2012 and [the SIPP operator] went into administration in 2018.* The balance of your pension fund was transferred to [Firm Z], who have also ceased trading.
9. In 2021, you submitted a claim against the IFA alleging poor advice to the FSCS, which was upheld and you were paid £50,000 in compensation. This was the maximum the FSCS was able to pay against your IFA.
10. In November 2022, you lodged a claim with the FSCS against the SIPP Operator. However, this claim was not upheld and a subsequent appeal was rejected.
11. In July 2024, you made a complaint against the FCA. The FCA described your complaint as two-fold:
- a. Part One: *"The FCA has failed to supervise Independent Financial Advisors from giving poor financial advice."*
 - b. Part Two: *"The limit of money which can be claimed back through the Financial Services Compensation Scheme is too low and does not reflect lost earnings."*

12. In November 2024, the FCA concluded that it could not investigate your complaint because Part One was out of time and Part Two related to the FCA's legislative functions and such complaints are expressly excluded under the Complaints Scheme.

My analysis

Element One

13. The FCA declined to investigate your complaint about its supervision of the IFA and the SIPP operator. The Complaint Scheme requires complainants to notify the FCA of their complaint within 12 months from the date on which they first became aware of the issues. The FCA was right to conclude that your complaint is out of time.
14. I note you are dissatisfied with my decision and have complained about the FCA rules on time limits for submitting a complaint, suggesting they are inadequate given that "*..the losses do not become clear until some time has passed*". Whilst complaints about FCA rules cannot be investigated under the Complaints Scheme and you did not raise this point in your original complaint to my office, I refer you to the FCA decision letter where it pointed out that "*..you received the financial advice in 2009. ..in October 2018 when [the SIPP operator] entered administration ...it become apparent the financial advice was poor. This complaint however was submitted in 2024. This is 6 years after first becoming aware..*" After this, in November 2022, you lodged a claim with the FSCS against the SIPP Operator. However, this claim was not upheld and a subsequent appeal was rejected. You had some information about the FCA and the firm at that point. It does not appear that any new evidence has come to light since then, therefore it seems that you had all the information on which a complaint could be made two years ago, and therefore sufficient time was available to submit a complaint, however you only lodged it in 2024. I sympathise with your situation; however I agree with the FCA that your complaint is out of time.
15. In order to be helpful, I provide the following information which you may find useful. The Financial Ombudsman Service (FOS) and the FSCS are the legal complaint resolution schemes set up by Parliament under the Financial Services

and Markets Act 2000 (FSMA). Its role is to resolve individual complaints between regulated firms and their customers.

16. That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates those in the context of considering whether or not regulatory action is justified. The fact that a financial services firm may have done something which justifies redress for you personally does not automatically mean that regulatory action is justified— that would depend upon the scale of the problem, and the risk of recurrence. In this case, there is the added complication that the firms are no longer in existence, so in any event there is nothing further the FCA can do with respect to regulatory action against the firms.
17. Whilst your complaint is out of time, to the extent you raise the point that the FCA has failed to properly supervise the firms, I can say I have not seen any evidence on the FCA file of that, nor have you provided any evidence. The fact that the firms may have provided poor advice, without further evidence, in and of itself is not proof that the FCA did not regulate the firms appropriately. Whilst I have sympathy with your situation, there is nothing further that can be practicably achieved under the Complaints Scheme under the circumstances in this case.

Element Two

18. The FCA has explained to you and I agree with the FCA that a complaint about the FSCS compensation limits concerns the FCA's legislative functions and, as such, cannot be investigated either by the FCA or by myself.
19. I note from your complaint to my office that you would like to understand why such differentiation in limits exists. However, you did not previously put this question to the FCA. I invited the FCA to comment on this point and their response is set out below:

“• The FSCS compensation limits seek to find an appropriate balance between providing protection to consumers and ensuring that FSCS funding is sustainable and affordable for levy payers in industry.

- *We periodically review these limits to ensure they remain proportionate for firms and in line with levels of consumer losses being seen in the market for different categories of claim.*
- *Should [the Complainant] wish to understand more about the context behind the current FSCS compensation levels and the ongoing consideration of the appropriateness of these levels, this is described in detail within our Compensation Framework Review discussion paper and feedback statement.”*

20. In the meantime, my office has conducted a brief search to gather additional information on this matter and have identified the following reports, which may be of interest to you: <https://www.fscs.org.uk/globalassets/industry-resources/publications/the-balancing-act-of-compensation.pdf> and <https://www.fca.org.uk/publication/consultation/cp16-42.pdf> and <https://www.fscs.org.uk/globalassets/industry-resources/research/fscs-consumer-research-september-2022.pdf>

The Complaints Commissioner

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