



01 July 2025

Final report by the Complaints Commissioner

Complaint number 202400730

The complaint

1. On 13 March 2025, you submitted a complaint to my office about the FCA, which broadly comprises the following elements:
 - a. **Element One** – you alleged that the FCA failed to investigate Firm 1, Firm 2 and Bank A or to take enforcement action against them, despite the Financial Ombudsman Service (FOS) ruling against the Firms.
Outcome: not upheld
 - b. **Element Two** – you queried the FCA’s alleged decision not “to refer the matter to law enforcement despite available evidence that could have led to criminal proceedings.”
Outcome: I am satisfied the FCA’s decision was reasonable.
 - c. **Element Three** – you asked my office to review FOS decision regarding Bank A.
Outcome: not investigated
 - d. **Element Four**- you allege the FCA complaints process has not been adequate.
Outcome: Not investigated
2. I have not upheld any of your complaints concerning the FCA's conduct and therefore consider no remedy to be appropriate. However, I note that you have already received compensation from the FOS. In response to my preliminary report you made it clear that your complaint does not concern the Financial Ombudsman Service, and you do not dispute that you were able to recover the 202400730

funds lost to fraud. Rather, your focus is on whether there has been adequate supervision of the relevant firms on the part of the FCA. I accept that your concern relates to a wider “public interest”. I acknowledge that, and it is from that perspective that I have considered your complaint. I have noted the recovery of your funds, not because it forms the basis of your complaint, but in the interests of completeness.

Background

3. Both you and your daughter engaged Firm 1 to provide investment advice and manage your investments, which led to ISA accounts being opened with Firm 2.
4. Unbeknownst to anyone at the time, a data breach subsequently occurred allegedly at Firm 1 resulting in the theft of your and your daughter's personal data, which was then used to open a bank account at Bank A in your daughter's name and perpetrate fraud.
5. You later discovered that your data had been compromised, and a large sum of money had been fraudulently withdrawn from your daughter's ISA with Firm 2. Although the misappropriated funds were reimbursed by Firm 2, you remained dissatisfied with how the firms and the bank managed your data and questioned their compliance with regulations.
6. As a result, you submitted complaints to the ICO, FOS and FCA and also reported the matter to the police.
7. FOS concluded that there were deficiencies in the security processes at both Firm 1 and Firm 2, and that adequate controls, as required under FCA regulations, were not in place. Therefore, it upheld your and your daughter's complaints against them and, although you were compensated by Firm 2 in respect of the fraud itself, awarded compensation for distress and inconvenience, as well as a monthly credit and reporting subscription and reimbursement of the cost of a new passport. However, FOS determined that it lacked jurisdiction to investigate your daughter's complaint against Bank A, as she was not considered an eligible complainant. Although Bank A opened an account in your daughter's name, it did so using stolen personal information. As your daughter was not a genuine customer of the bank but rather the victim of identity fraud, she was not considered to have had a consumer relationship with

the bank. On that basis, FOS determined that its rules did not permit it to investigate the complaint.

8. In your FCA complaint, you alleged that the FCA failed to investigate Firm 1, Firm 2 and Bank A. You have also complained about the fact that FOS decided not to investigate your complaint against Bank A about their alleged failure to comply with AML requirements and wanted the FCA to review the FOS decision.
9. The FCA did not uphold your complaint on the basis that it had conducted an investigation into all firms involved and appropriately considered and acted on the matters you had raised.
10. However, the FCA omitted to comment on your request to review the FOS decisions regarding the firms involved.

Preliminary points

11. Like the FCA, I am also required to respect confidentiality. 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 [There is a good explanation of the statutory and FCA policy restrictions on information sharing at <https://www.fca.org.uk/freedom-information/information-we-can-share>.]
12. This means that sometimes I cannot report fully on the confidential material to which I have access, as in this case. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably.

Analysis

Element One

13. You are concerned about what you perceive to be a lack of formal action by the FCA with respect to Firm 1, Firm 2 and Bank A.

14. By way of general background, the FCA uses a range of tools to carry out its responsibilities and to meet its objectives. Formal regulatory action is just one of the tools available to the FCA. The FCA assessment of which tool to use includes considering whether using alternative tools to enforcement action is more appropriate taking into account the overall circumstances of the person or firm concerned and the wider context. The FCA's choice as to the use of a regulatory tool is therefore a question of how the FCA uses its resources effectively and efficiently and how it ensures that it is an effective regulator.
15. In response to the preliminary report, you stated that despite the FOS' findings regarding Firms 1 and 2, the FCA neither took formal regulatory action nor issued a warning. Given issues like forged identity documents, unauthorised transactions, and data failures, visible regulatory follow-up would be expected. The FCA's claim it "considered the matter" does not, in your view, "*constitute reasonable regulatory oversight*".
16. The fact that the FCA has not used formal regulatory action against a firm does not mean that it has taken no action to bring that firm into compliance if appropriate. Having studied the FCA's records I can say that I am satisfied that the FCA thoroughly investigated your complaint, gave proper consideration to the issues you raised, and the actions it took in relation to the firms concerned were reasonable in the circumstances. I am sorry that I am unable to provide more information on this point due to confidentiality reasons.
17. For the reasons above, I do not uphold this Element of your complaint.

Element Two

18. I note that you reported the data breach and fraud to the police, but queried why the FCA did not do more to bring about criminal proceedings. I invited the FCA to comment, and it has now done so. I have reviewed the FCA's response and am satisfied that it addressed the matter appropriately. While I am unable to share certain details due to confidentiality obligations, I can confirm that the FCA took into account your confirmation that you had already reported the issue to Action Fraud. The FCA also considered another factor in reaching its decision, which I am not able to disclose for the same confidentiality reasons.

Element Three

19. I understand you initially asked the FCA to review the FOS decision regarding Bank A, and, not having received a response, have now referred this point to me for investigation. The FCA should have answered this question.
20. As you know, the FOS was established by Parliament to be the body which determines complaints against regulated firms. The Complaints Scheme is concerned with the "Relevant Functions" of the FCA and other financial regulators. Except in limited circumstances (which are not relevant here) the FCA is not responsible for the FOS. In accordance with paragraph 2.9(d) of the Complaints Scheme, the FCA is not able to interfere in or review the decisions made by independent Ombudsmen in relation to complaints submitted to the Financial Ombudsman Service (FOS). As such, complaints about the actions or inactions of the FOS, including dissatisfaction with its decisions, fall outside the scope of the Scheme. Therefore, I also cannot investigate issues that are not within the jurisdiction of the Scheme.

Element Four

21. This is also a new complaint point, not previously considered by the FCA. You have queried whether the FCA has an adequate complaints handling process. In general, as part of my review of complaints, when I identify issues with the FCA complaints handling, I raise these with the FCA and also report on them in my annual report. Specifically, in your case, I have not identified any complaints handling deficiencies. However, if you have any evidence, please provide it to the FCA for consideration.

Other matters

22. You queried "whether there is a systemic issue in how the FCA handles cases where the FOS has established wrongdoing." This is not a query you referred to the FCA in the first instance and therefore it has not reviewed it.
23. I can provide some general information which you may find helpful, however, if your concerns are not addressed through this then I suggest you refer your complaint to the FCA for its review in the first instance, in accordance with the Complaints Scheme.
24. In general terms, the FCA has a range of formal mechanisms for detecting and addressing systemic risk. It does not rely solely on FOS referrals to become

aware of such risks. However, FOS decisions can contribute to the FCA's overall intelligence picture, especially when they reveal patterns or recurring issues.

25. Having said that, the FCA does not routinely review every FOS decision, nor is it required to do so. The FOS issues thousands of decisions each year, most of which do not raise wider regulatory concerns.
26. Specifically, the FCA did consider the question of systemic risk in relation to the matter you reported. I have reviewed the material on the FCA's file and, on that basis, I am satisfied that this aspect was considered and dealt with appropriately.
27. Separately, in response to my preliminary report you expressed your concern that "Bank A's acceptance of forged documents carries regulatory implications beyond the scope of the FOS complaint".
28. You provided the following context: You are concerned about a potential loophole in the regulatory system—namely, that serious misconduct by financial services providers could go unchecked if those raising concerns are not deemed eligible complainants. I understand that this concern stems from your experience with the firms involved, particularly Bank A.
29. This was not an issue raised in your original complaint, nor was it one the FCA investigated. I provide the following information however, if your concerns are not addressed through this then I suggest you refer your complaint to the FCA for its review in the first instance. There are established mechanisms by which individuals, regardless of eligibility, can provide the FCA with information about possible wrongdoing by firms. The FCA may investigate such concerns, even when raised by ineligible complainants, where it considers that regulatory action may be warranted.
30. In your case, although you were not an eligible complainant (for FOS purposes) in relation to Bank A, the FCA did review the concern you raised in line with its usual approach.

The Complaints Commissioner

Complaints Commissioner

01 July 2025