Complaints Commissioner

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17 September 2025

Final report by the Complaints Commissioner

Complaint number 202500352

The complaint

1. On 08 July 2025, you submitted a complaint to my office about the FCA.

2. **Element One**: You are dissatisfied with the decision of the Financial Ombudsman Service ("FOS") in relation to a complaint you lodged against a bank. You allege that you suffered a considerable financial loss as a result of the bank's actions, but the FOS did not uphold your complaint.

3. It is your position that the FOS acted negligently in its decision-making and, as a result, is not "fit for purpose."

4. The FCA has a statutory duty, under the Financial Services and Markets Act 2000, to ensure that the FOS remains capable of discharging its functions.

5. Your complaint is therefore that, because the FOS has in your case failed to act competently and fairly, the FCA should exercise its oversight responsibility to review and, if necessary, intervene in the FOS's operation to address the deficiency you have experienced by asking the bank to compensate you.

   Outcome: not upheld

6. **Element Two**: You are dissatisfied with the appointment of the current Chair of the Financial Ombudsman Service ("FOS"). You believe that the Chair allegedly has a financial conflict of interest, arising from their own business dealings, historic and/or current involvement with major banks and building societies, and any personal benefits derived from such connections. You also raise concern that members of the Chair's family may have involvement in the banking sector, which, in your view, compounds the risk of conflict.

7. It is your position that these conflicts of interest mean the Chair should not have been appointed by the FCA.

8. Additionally, the FCA excluded this complaint on the basis that it amounted to rule making and therefore related to its legislative functions. You do not agree with the exclusion.

   Outcome: I agree that the FCA should not have excluded this complaint. The appointment of the Chair of FOS is a ''relevant function'' about which complaints may be made under the Scheme, and I therefore uphold your complaint on that point. However, having reviewed the matter in full, I do not uphold the substance of your underlying complaint.

Analysis

Element One

9. Your primary complaint is about the FOS. The FOS is the legal complaint resolution scheme 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. The FOS is operationally independent from the FCA, which in practice means the FCA has no remit to intervene in the decisions it makes in individual cases. The FCA's functions in relation to the FOS under FSMA include taking such steps as are necessary to ensure that the FOS is, at all times, capable of exercising the functions conferred on the FOS by or under FSMA. The FCA's oversight role is distinct from responsibility for the FOS's day to day operations, which remains with the FOS's Board. It does not extend to giving the FOS directions on handling particular complaints or the making of operational decisions. If you have exhausted the FOS procedures for appeal and remain unsatisfied, it is open to you to take court proceedings.

10. Therefore, I cannot consider a complaint which seeks to require either myself or the FCA to challenge the FOS, or to overturn a specific decision made by an Ombudsman in an individual case.

11. The FCA's oversight role does extend to ensuring that there is no systemic failure at the FOS. However, you have not provided evidence of such a systemic failure that would justify upholding a complaint of FCA oversight

failings. therefore, I am unable to uphold your complaint that the FCA is failing in its oversight of the FOS.

12. Nevertheless, in a complaint which you can read at https://frccommissioner.org.uk/wp-content/uploads/FCA00605-FR-forpublication-16-8-2019.pdf, the FCA accepted the Commissioner's suggestion to collate and monitor information provided about the FOS independently of the FOS's own reports as part of its general oversight function. The FCA has confirmed that the team responsible for supporting the FCA's Oversight Committee will shortly be passing information about this complaint to this committee ahead of its next scheduled meeting in November. This will be alongside information on any other complaints concerning the Financial Ombudsman Service that have been considered under the FCA's Complaint Scheme since April. The Oversight Committee provides support and advice to the FCA Board on its relationship with the Financial Ombudsman Service and when reviewing this information will consider whether there is evidence of any wider systemic issues affecting the Financial Ombudsman Service's ability to perform its statutory role".

Element Two

13. The FCA excluded your complaint about the FCA Board's decision to appoint the Chair of the FOS (an appointment approved by HM Treasury) on the grounds that this was the exercise of its legislative functions, which are excluded from the scope of the Complaints Scheme.

14. However, even though the FCA excluded your complaint, it provided you with information about its role in connection with the FOS Board. It also explained the recruitment process for the FOS Chair as well as the role of the Chair and other board members:

> *"The FCA Board is required to appoint the Chair of the Financial Ombudsman Service, with the approval of HM Treasury. This power has been given to the FCA under Schedule17, paragraph 3 (2) of the Financial Services and Markets Act 2000 (FSMA). The FSMA also sets out that the appointment of the Financial Ombudsman Service Chair must be on terms*

that secures the appointee's independence from the FCA in the operation of the scheme (i.e. Financial Ombudsman Service).

The members of the Financial Ombudsman Service Board are independent meaning they do not represent any particular group or sector and they are also 'non-executive', which means they do not have any involvement in the decision making on individual complaints

The appointment of the Financial Ombudsman Service Chair involved an open recruitment process, during which due diligence checks were completed and potential conflicts of interest were considered. For example, it was noted that the Chair of the Financial Ombudsman Service was a House of Lords Government Whip & Minister for the Home Office, International Trade and the Department for Health and Social Care. In taking up the role as Chair of the Financial Ombudsman Service, the Chair resigned from her role on the front bench, and agreed she would sit as a backbench Conservative peer meaning she would not participate in debates or vote on any matters touching the Financial Ombudsman Service's jurisdiction i.e. the type of complaints it can consider (this information was externally published when the Financial Ombudsman Service Chair appointment was announced).

The Chair of the Financial Ombudsman Service is a member of the Financial Ombudsman Service Board, whose role is to set the strategy for the service and ensure it has the resources needed to work effectively and independently. The members of the Financial Ombudsman Service Board are independent meaning they do not represent any particular group or sector, and they are also 'non-executive', which means they do not have any involvement in the decision making on individual complaints".

15. You disagreed with the exclusion of your complaint and referred the matter to me. Nevertheless, the FCA does not agree with you that the Chair ought not to have been appointed for the reasons you give.

16. I agree with you that that this element of your complaint is not excluded under the Complaints Scheme on the grounds of it being an exercise of the FCA's

legislative functions. The FCA subsequently wrote to confirm that it had reconsidered its position and accepted that the complaint should not be excluded on the grounds of it being an exercise of legislative functions, it amended its position to be "the reason we are not investigating this element is that the appointment of the Financial Ombudsman Service Chair, does not directly affect the complainant, under Section 2.1 (a) of the Scheme."

17. The FCA's revised position is based on the fact that your concerns rest on broad allegations of possible or potential conflicts of interest rather than specific examples of how the Chair's appointment directly affected you. I appreciate the point, however, the FCA's oversight of the FOS (reviewable under the Scheme) extends to its responsibility for appointing members of the FOS Board and if it were the case that the FCA had not conducted appropriate due diligence in this regard then the FCA would be accountable under the Scheme. For this reason, I do not think your complaint is excluded. However, having considered the matter, I do not uphold your complaint that the FCA ought not to have appointed the Chair of the FOS for the reasons you have put forward. Your concerns rest on broad allegations of possible or potential conflicts of interest. The FCA has explained that it carried out appropriate conflict of interest checks before making the appointment, which was approved by HM Treasury. Furthermore, the FOS has procedures in place to deal with any conflicts that arise. Given that the Chair (or the Board generally) had no involvement in this case, there would have been no need to involve them here.

18. It further clarified that the role of the Chair is to set the strategic direction of the service and ensure it has the resources necessary to operate effectively and independently. The Chair does not involve themselves in the day-to-day handling of complaints, nor do they participate in debates or vote on matters concerning the scope of the FOS's jurisdiction, such as the types of complaints it may consider. I appreciate your concerns, but you have not provided any evidence that the Chair was involved in the FOS decision on your complaint.

19. In my view, the FCA has taken reasonable steps to identify and mitigate potential conflicts of interest in relation to the appointment. While I note that you do not agree with this assessment, I am not persuaded that the FCA has failed in its oversight function when appointing the Chair of the FOS on the basis of

the reasons you have raised. Therefore, I do not uphold this element of your complaint.

The Complaints Commissioner

Complaints Commissioner

17 September 2025