Complaints Commissioner

Office of the Complaints Commissioner
Alliance House
12 Caxton Street
London
SW1H 0QS

Tel: 020 4599 8333
E-mail: info@frccommissioner.org.uk
www.frccommissioner.org.uk

14 October 2025

Final report by the Complaints Commissioner

Complaint number 202500362

The complaint

1. On 11 July 2025, you submitted a complaint to my office about how the FCA has dealt with your complaint about the Financial Ombudsman Service (**"FOS"**).

2. I have summarised your complaint as follows:

   The scope of what the FOS can investigate is too narrow and does not include complaint handling, so the FCA should expand its guidelines and advise when this will be done.

   Outcome: Excluded. Complaints regarding the FCA's legislative function, which encompasses rule-making and issuing guidance, are excluded from the Complaints Scheme.

3. You assert that the FCA should compensate you for the distress and inconvenience caused by having to bring your complaint to the FCA.

4. However, because I do not uphold your complaint, I do not recommend compensation.

Background

5. On 12 February 2025 you complained to the FOS about Firm X, specifically that Firm X had not upheld your complaint over its complaint handling.

6. On 28 April 2025 the FOS provided you with its report and excluded your complaint, citing FCA Handbook DISP 2.3.1. This limits the FOS to investigating complaints about regulated or other a specified activity, and complaint handling in isolation is not listed as one of these. In your case, the FOS explained that

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because the activity giving rise to your complaint about poor complaint handling was unregulated, it could not investigate your complaint.

7. On 24 June 2025 you complained to the FCA, noting the FOS position that your complaint was out of its jurisdiction and suggesting that the FOS did not have to follow FCA guidelines. You asserted that you had suffered distress and inconvenience and wanted the FCA to expand guidelines to allow the FOS to act on a firm's poor complaint handling practices.

8. On 7 July 2025 the FCA issued its Decision Letter. It did not uphold your complaint because:

    a. The Complaints Scheme only covers investigation of complaints arising in connection with the exercise of or failure to exercise any of its regulatory functions.

    b. Complaints about the FOS fall outside the scheme and the FCA does not consider individual complaints brought against regulated entities, only concerns arising if they relate to assessing whether the FCA should take regulatory action.

9. The FCA added that it had not investigated your complaint but had liaised with the FCA team most closely connected to it so as to provide a general response to matters raised, specifically the role of the FCA, FOS and the extent of the FCA's oversight of the FOS.

10. On 11 July 2025 you submitted a complaint to my office.

Analysis

The scope of what the FOS can investigate is too narrow and does not include complaint handling, so the FCA should expand its guidelines and advise when this will be done.

Your position

11. You assert that complaint handling is not currently within the jurisdiction of the FOS. The FCA should change the FCA Handbook guidelines to include it and advise when it will do this.

The FCA position

12. The FCA does not address this aspect of your complaint directly, although it did tell you that matters relating to its exercise of or failure to exercise any of its regulatory functions are excluded from the Complaint Scheme.

My analysis of the issues

13. The Complaints Scheme describes the relevant functions of the FCA which can form the subject of a complaint, and this excludes *"complaints about the exercise of our legislative functions – such as rule-making and issuing general guidance."*

14. Any complaint regarding possible amendments to the FCA Handbook would be a complaint concerning rule-making and is therefore excluded from the Complaints Scheme.

15. However, I provide the following information which you may find useful: The starting premise is that complaints handling on its own is not a regulated activity and cannot be reviewed by the FOS unless it relates to an activity which falls within the jurisdiction of the FOS. Under the Financial Services and Markets Act 2000 (FSMA), the compulsory jurisdiction of the FOS is not confined to regulated activities. The FCA does have the power under Schedule 17 FSMA to specify the compulsory jurisdiction of what the FOS can investigate. However, s.226 FSMA states that this power only extends to regulated activity or activity which could be made regulated activity by a s.22 order. Section 226 and Schedule 17 empower the FCA to specify, through its rules, additional activities that fall within scope. These "specified activities" are listed in DISP 2.3 of the FCA Handbook and include, for example, certain payment services, ancillary banking services and some forms of lending that are not otherwise regulated under the Regulated Activities Order. The power to define what counts as a regulated activity remains with HM Treasury through the RAO, but the FCA has discretion, within the limits set by FSMA, to identify specified activities for the purposes of FOS jurisdiction. The FOS itself does not expand its remit; it applies the scope laid down in the FCA's rules.

16. For an unregulated activity to fall within the compulsory jurisdiction of the FOS, the FCA would first need to review that activity to determine whether it is

suitable to be designated as a “specified activity” under section 226 and Schedule 17 FSMA. This review would involve assessing whether the activity is one which could be made a regulated activity under section 22 FSMA, and whether extending FOS jurisdiction would further the FCA’s statutory objectives of consumer protection, market integrity and competition. Only once such a review has been completed, and the FCA has specified the activity in the Dispute Resolution: Complaints (DISP) sourcebook, would the FOS be able to consider complaints relating to it.

17. All of this is to explain that your request for the FCA to widen the FOS’s remit to include complaint handling cannot succeed, because complaint handling on its own (i.e. if not connected to an activity within FOS jurisdiction) is not a regulated activity under FSMA. The FOS has made clear that your complaint relates to the way a firm handled a complaint about an unregulated activity. In such circumstances, the only way the FCA could lawfully extend the FOS’s jurisdiction would be by reviewing the underlying activity itself to determine whether it could properly be specified in DISP as within scope. If that were done, complaints handling in respect of that particular activity would then fall within FOS jurisdiction. You are, of course, free to suggest to the FCA that the underlying activity should be brought into scope, though it should be noted that while the FCA welcomes suggestions and comments from members of the public, formal rule-making is excluded from the Complaints Scheme.

18. In my view, however, the essence of your complaint is not about the nature of what Firm X did or did not do, but about complaint handling in general. With respect to this, as I have explained above, the FCA is not permitted by law to widen the scope of what the FOS can investigate to include complaint handling generally.

19. For the above reasons, I exclude your complaint, however, I hope my explanation to you has been useful.

20. I note you do not agree with my decision, however, your complaint is not upheld for the reasons I give above.

Complaints Commissioner

14 October 2025