



18 February 2026

Final report by the Complaints Commissioner

Complaint numbers 202500465 and 202500470

The complaint

1. On 05 and 08 September 2025, you submitted complaints to my office about the Financial Conduct Authority (the “**FCA**”). These submissions include several granular allegations about the FCA’s failings. You have subsequently provided further information in support of your complaints. I refer to my office’s email to you of 06 December 2025 as to why I have addressed both complaints in this report. You accepted this.
2. The purpose of this report is to set out my findings on the substantive issues in the complaints and my reasons for reaching them, and not to comment on every individual allegation about the FCA. Accordingly, I have summarised below as Elements 1 and 2 the crux of your complaints and under “Other Matters” have addressed some (but not all) of the other points contained in your submissions.
3. The key elements of your complaints and the outcome of my investigation into them are summarised below:
 - a. **Element 1 (case 202500465)**: You allege that the FCA has failed to act on evidence that Firm X’s systems allow potentially irresponsible lending and that this is illustrative of unfair lending practices across the unregulated SME lending sector. The FCA reasoned that it has no responsibility to supervise lending to SMEs (small and medium sized businesses) for sums over £25,000 because this activity is not regulated. You allege that this results in borrowers/personal guarantors (and their financial associates) who have been affected by such lenders continuing to be left without any effective route to regulatory redress.

Outcome: Not upheld. The FCA did not uphold your complaint. The FCA is correct in stating that it has no responsibility to supervise lending to small and medium-sized enterprises (SMEs) for amounts exceeding £25,000, as this activity is not regulated. Therefore, this aspect of your complaint falls outside its jurisdiction

- b. **Element 2 (case 202500470):** You allege that the FCA's household affordability rules (formulated in 2017) are not compatible with or have failed to integrate obligations related to data processing in the GDPR (which came into force in 2018). You consider that, had the rules expressly required or reminded firms to comply with their GDPR obligations (such as to obtain a data subject's consent, notify a data subject of intended processing of their data and to carry out a legitimate interest assessment), then financial associates of borrowers/personal guarantors would not find themselves in a position where their jointly-owned assets are put at risk without their knowledge or consent.

Outcome: Excluded.

Preliminary point

4. By Part 6 of the Financial Services Act 2012 (as amended), Parliament provided that the Financial Regulators Complaints Commissioner shall have powers to investigate the actions/inactions of the FCA, Bank of England, PRA and Payment Systems Regulator. As the current Commissioner, I cannot act outside of these powers and therefore do not have the ability to investigate complaints (or elements of them) which pertain to other public authorities (such as the Financial Ombudsman Service (the "**FOS**"), Information Commissioner's Office (the "**ICO**") or Advertising Standards Agency (the "**ASA**")).

Background

5. You are a joint homeowner with someone who is a personal guarantor for SME loans exceeding £25,000 and, in this context, you have learned that the lender ("**Firm X**") (or credit reference agencies, "**CRA**", on its behalf) has carried out "soft searches" against you, involving the processing of your personal data, without obtaining your consent, notifying you or providing a bespoke legitimate interest assessment in respect of your personal data. I understand your concern

to be that Firm X might take steps to enforce loan, such as through the courts, and, if it succeeded, the personal guarantor would likely need to sell their home (which you own jointly) to raise funds to pay the debt/comply with a court order in Firm X's favour. You assert that, but for Firm X processing your data without your consent or knowledge, you would have been put on notice about these loan applications and personal guarantees and intervened to stop the loans from being agreed and capable of enforcement against a person with whom you hold joint assets (including your home). Notwithstanding this, you have emphasised that your concern is not firm-specific, but rather you have referenced Firm X's conduct to highlight non-compliance with GDPR 2018 across the unregulated SME lending sector.

6. You are concerned about the following and consider this to reflect inaction by the FCA:
 - a. SME lending in the UK is not regulated by the FCA and accordingly borrowers/personal guarantors (and their "financial associates", such as householder members) do not benefit from the statutory protections that apply to regulated financial activities.
 - b. the FCA's rules do not expressly require firms which engage in lending to comply with their GDPR obligations when they process the personal data of financial associates of an SME loan applicant/personal guarantor.

Element 1 (case 202500465): You allege that the FCA has failed to act on evidence that Firm X's systems allow potentially irresponsible lending and that this is illustrative of unfair lending practices across the unregulated SME lending sector. The FCA reasoned that it has no responsibility to supervise lending to SMEs (small and medium sized businesses) for sums over £25,000 because this activity is not regulated. As a result, you allege affected borrowers/personal guarantors (and their financial associates) are left without any effective route to regulatory redress.

7. Firm X is registered under the Payment Services Regulations 2017 (the "PSRs") with the FCA in respect of its payment services but also is supervised by the FCA for anti-money laundering purposes. Firm X is not regulated or supervised

by the FCA for its lending activity. Firm X holds itself out as adhering to the Lending Standards Board's (the "**LSB**") Business Standards.¹

8. In May 2025, and again in July 2025, you provided evidence to the FCA showing that Firm X's loan application portal accepted what you consider to be unrealistic data for loan eligibility. You tested this portal on more than one occasion by requesting a business loan of £100,000 on a declared annual turnover of £1. In each instance, the portal informed you that you may be eligible for the requested loan, but did not subject you to further scrutiny or provide any warnings. You say that this indicates a system error, which Firm X is obliged to report to the FCA and/or irresponsible lending and which the FCA should act on but refuses to.
9. The FCA did not uphold your complaint on the basis that SME lending for loans over £25,000 is not a regulated activity and thus falls outside of its regulatory perimeter. You disagree with the FCA's decision, as you consider that the FCA has decided to leave this type of lending unsupervised.
10. I also understand that the FOS disclaimed jurisdiction over your complaint to it about Firm X's lending practices, on the basis that Firm X's lending activity is not supervised by the FCA. As such, you do not have recourse to redress via either of these authorities.
11. You allege that the FCA has created a situation where thousands of SME loan borrowers and guarantors, and their households, have no protection or redress against these lenders' unfair lending practices.
12. There are two key points which the FCA's decision letter dated 05 September 2025 has not explained. I address them in the following paragraphs.
13. The FCA does not have discretion to decide what sectors/activities it does and does not regulate. This is a decision that only Parliament can make and then legislate for. If Parliament decides that the FCA should regulate a certain activity or sector and passes laws to reflect this, then the FCA will introduce rules to govern how it will supervise such activity and sector. In this instance, Parliament

¹ I understand that LSB's Business Standards were a code of good practice which lenders could opt into. Until recently, the LSB – an independent organisation – oversaw compliance with these standards by lenders who had registered with the LSB. I understand that the LSB closed permanently on/around 31 October 2025.

has decided that SME lending for loans exceeding £25,000 is not regulated by the FCA (or any other financial services regulators). Article 60C of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (“the Order”) expressly carves out, from the scope of regulated credit activities, loans exceeding £25,000 which are wholly or predominantly for the purpose of the borrower’s business. As the FCA only has the powers which Parliament has conferred on it, it is not possible for the for the FCA to to supervise r lending to SMEs for loans exceeding £25,000 You have noted that, since the Order was made, inflation has significantly eroded the value of £25,000, such that it would equate to approximately £43,000 in today’s terms. You suggest that the FCA should consider petitioning or advising the Government to amend the legislation accordingly. You may offer your suggestion to the FCA for its consideration. While such a suggestion falls outside the scope of the Complaints Scheme, the FCA welcomes comments from interested members of the public which sometimes inform its ongoing work, but it may not be able to tell you what, if any action it takes as a result

14. In any event, as regards firm X, you have not provided evidence that Firm X’s loan portal actually has a system flaw or that it actually offered you a loan based on the information provided. Rather this is your interpretation and the evidence you have provided shows that you were deemed potentially eligible for a loan (as opposed to actually being offered one). As to whether Firm X was obliged to self-report this (see paragraph 8 above), I do not have evidence before me that a “major operational incident” which would trigger obligations on Firm X under the PSRs (such as to self-report “major operational incidents” under Regulation 99(1) has actually occurred. The FCA has informed me of its view that: (i) incident reporting under the PSRs applies to incidents impacting payment services and payment service users; and (ii) therefore, an issue which relates purely to an unregulated lending platform is very unlikely to warrant reporting to the FCA under Regulation 99(1).
15. Therefore, I **do not uphold** this element of your complaint.
16. While I am very sympathetic to your circumstances and more generally to SME borrowers and personal guarantors (and their financial associates) who find themselves without regulatory protection or redress, I cannot recommend that

the FCA bring within its perimeter SME lending for loans exceeding £25,000 (for the reasons set out above), because that is not within my remit or the FCA's. You may wish to contact your MP (if you have not already) to explain what has happened to you, share your concerns (particularly in the absence of the independent oversight previously offered by the LSB) and ask them if they would agree to bring these concerns before Parliament with a view to Parliament considering if it remains of the view that SME lending for loans exceeding £25,000 should not be regulated.

17. An alternative or additional route would be to make representations to HM Treasury to try to persuade it to prepare, and place before Parliament, a proposal to bring currently unregulated SME lending within the FCA's perimeter (particularly in the context of the LSB's closure, as mentioned above). I understand that you have already taken such steps by liaising with the Federation of Small Businesses (the "FSB", an organisation representing the interests of small businesses and the self-employed) and supporting the FSB's efforts to do this by bringing a super-complaint to the FCA and providing evidence to HM Treasury.

Element 2 (case 202500470): You allege that the FCA's household affordability rules (formulated in 2017) are not compatible with or have failed to integrate obligations related to data processing in the GDPR (which came into force in 2018). You consider that, had the rules expressly required or reminded firms to comply with their GDPR obligations (such as to obtain a data subject's consent, notify a data subject of intended processing of their data and to carry out a legitimate interest assessment), then financial associates of borrowers/personal guarantors would not find themselves in a position where their jointly-owned assets are put at risk without their knowledge or consent.

18. You complained to the FCA that its rules for lenders on the use of household data when assessing creditworthiness had seemingly not been updated to reflect or be compatible with the GDPR and that the FCA was failing to enforce data protection compliance by the lenders. The FCA did not uphold your complaint because (i) it does not agree that this rules mandate firms to act in a manner that is not GDPR-compliant, (ii) it considers that the onus is on firms to ensure they comply with GDPR, and (iii) it does not consider that the

information you provided merits a further review by it of these rules or introduction of supplementary guidance and (iv) It is the ICO, and not the FCA which monitors adherence to GDPR rules.

19. You informed the OCC that you would like the FCA and the ICO to discuss the introduction (by one or both of them) of specific guidelines to lenders that they must notify financial associates of personal guarantors for unregulated SME loans before processing the financial associates' personal data to assess the guarantors' creditworthiness.
20. I consider that this part of your complaint to the FCA is excluded as it pertains to:
 - a. the FCA's making of rules and guidance, which are excluded from the Complaints Scheme under paragraph 2.9(c); and
21. For these reasons, as well as because I do not have any powers of investigation or recommendation over the ICO, Element 2 of your complaint has been **excluded** from my investigation. In response to my preliminary report, you refer to a recent decision of the ICO which stated: "If you wish to pursue your complaint further or you are seeking personal redress/compensation for the way an organisation has dealt with your personal information, you will need to pursue this independently through the courts or with an industry's own ombudsman or regulatory body." You submit that it follows from this that GDPR issues are no longer enforced solely by the ICO, but are instead being operationalised through FCA-defined frameworks. I do not agree that this conclusion follows. The ICO's statement distinguishes between regulatory enforcement of data protection legislation and the pursuit of individual redress. The ICO remains the statutory regulator responsible for monitoring and enforcing compliance with data protection law. The fact that an individual may seek compensation through the courts or, where applicable, through an ombudsman scheme does not transfer regulatory responsibility for GDPR compliance from the ICO to the FCA or the FOS.
22. While the following paragraphs are not findings, I share them in case helpful as clarification.

23. Where a lender obtains personal data about an individual indirectly, including via credit reference agency searches, UK GDPR requires the lender to provide Article 14 information to that individual within one month of obtaining the data, unless an exemption applies. Whether or not a lender has complied with such obligations is a matter for the ICO, rather than the FCA. This is because Parliament has delegated different responsibilities to different public bodies and expects that anyone subject to these bodies' jurisdictions will read the different legal frameworks together to ascertain the obligations with which they need to comply. In this instance, Parliament intends for the FCA to supervise regulated lending, for the regulated lenders to read the FCA's rules together with UK data protection law and carry out their lending in a manner that complies with each, and for the ICO to enforce breaches of UK data protection obligations by regulated lenders (as well as by unregulated lenders) where complainants refer potential breaches to the ICO.
24. You have said that Firm X did not provide any notification to you. I do not have information as to whether Firm X relies on any exemption contained in the GDPR.² You have sent me a copy of the personal guarantee and I have seen that the terms and conditions of the personal guarantee agreement stated to the persons signing it (i.e. the guarantor, but not their financial associates) that: (i) that Firm X may search their financial associates' credit information and link the information to the guarantor's records to make decisions about advancing credit; and (ii) "You must be sure You have Your financial associate's agreement to disclose their information for Us to use in the manner described herein." If you consider that Firm X has breached its UK GDPR obligations when processing your data, then this is something the ICO could investigate. I understand that you have already taken appropriate steps by making a complaint about Firm X to the ICO.
25. I have also seen that you have liaised with the ICO about questions of interpretation regarding its current guidance on lenders' ability to make use of financial associates' personal data and are dissatisfied with the broad approach

² My understanding is that such assessments are typically carried out by firms such as lenders in respect of a class or classes of data subjects prior to engaging in the activity, rather than in respect of each individual data subject.

the ICO takes to interpretation. However, I am unable to comment on the actions of the ICO.

Other matters

Point 1: You consider that the FCA has continuously mischaracterised your complaint about SME lending sector as being about a specific firm or firms. By doing so, it has avoided addressing its responsibilities in respect of SME lending.

26. I have seen that the FCA Complaints Team has, in its decision letter dated 16 July 2025: (i) upheld the aspect of your complaint which pertained to the FCA Supervision Hub treating your concerns about the FCA's household affordability rules as firm-specific complaints and referring you to the FOS; and (ii) apologised for this.
27. You have asserted that, despite this apology, the FCA has continued to treat your concerns as firm-specific, such as by providing you with information about a credit broker in the same decision letter. I do not agree that this reflects a further instance of the FCA mischaracterising your complaint as pertaining just to Firm X and the credit broker. Rather the FCA was trying to be helpful by offering clarificatory information in respect of a point you had made to the FCA about soft searches conducted on you as a financial associate of an SME loan applicant. I do not consider the FCA to have acted unreasonably by doing so.

Point 2: You consider that the FCA engages in “regulatory buck-passing” to the ICO in relation to the practice of lenders accessing household affordability data when assessing the creditworthiness of an SME and financial associates.

28. You have informed me that:
- a. you conducted a test of the FCA's logic that enforcement of lenders' compliance with data protection obligations is a matter for the ICO, by submitting a complaint about another lender's advertising to the ASA;
 - b. the ASA referred your complaint to the FCA as it pertained to financial matters; and
 - c. you consider the FCA's receipt of referrals from the ASA to be contradictory to its position that it does not have jurisdiction to enforce

regulated firms' compliance with their data protection obligations in their carrying out of regulated lending. You say "My complaint pointed to an apparent asymmetry in how "regulatory independence" is defined in respect of the ASA and the ICO, and in the manner in which these independent regulators interact with the FCA" You also want me to confirm "whether the FCA is content for the ICO to comment on matters of creditworthiness, while the FCA itself declines to engage with GDPR-related issues that directly affect financial outcomes. This reflects a further asymmetry identified in my complaint"

29. I note though that this relates to financial promotions, which has not been the subject of the points previously considered by the FCA as part of its investigation of the complaint you submitted to it.
30. As I explained above, it is not within my remit to investigate or scrutinise the actions and/or law relating to the ICO or the ASA. In any event, my understanding is that you have not previously put this point before the FCA Complaints Team to investigate. It is not clear from the information you provided to what extent any of your allegations are eligible under the Complaints Scheme. However, under the Complaints Scheme, it is standard practice for the regulator to review a complaint before the OCC does. Should you wish to do so, please submit your complaint to the FCA Complaints Team in the first instance, and should you remain unhappy with the FCA's treatment of it, then you can refer the complaint to me.

Point 3: The FCA's decision letter unhelpfully directed you to the FSB's super-complaint, which does not assist you because the FCA primarily investigated loans below £25,000 in response to the super-complaint and you consider that the FCA's response is academically flawed.

31. I do not consider that the FCA was unreasonable in offering information about what actions it was taking in the regulated lending sector in response to your request for the FCA to clarify how it investigates systemic failures by regulated firms. This was not presented as a finding or an answer to your complaint, it was additional information which the FCA thought you may find useful.

32. I note the points you have shared as to why you consider the FCA's response to the FSB's super-complaint to be academically flawed. As the FCA's investigation of the super-complaint and outcome does not apply to SME loans exceeding £25,000, you are not directly affected by it and this aspect is not eligible for investigation under the Complaints Scheme. Accordingly, I have not investigated this point. I note you would like me to list all of your points, however, in the circumstances, I do not consider it appropriate to set out submissions on a matter which has not been investigated in this report.. However, should you wish to share your comments with the FCA you are free to do so. The FCA welcomes comments from interested members of the public which sometimes inform its ongoing work, but it may not be able to tell you what, if any action it takes as a result.

Conclusion

33. I have not upheld Element 1 of your complaint and have not investigated Element 2 on the basis that it is excluded from investigation under the Complaints Scheme. I provide the following information in case helpful.
34. I understand that you would like for a regulatory regime and associated protections to apply to SME lending for loans exceeding £25,000, such as/comparable to the FCA's rules for currently regulated lending. I also understand that the LSB used to provide Business Standards and oversight of the lenders who had registered with it, but the LSB closed permanently on/around 31 October 2025.
35. HM Treasury held a call for evidence in May 2025, led by Gareth Thomas MP and Emma Reynolds MP, which sought views and evidence about the SME lending market (including businesses' experiences of seeking loans). At the time of this call for evidence, the LSB was still in operation, so HM Treasury may not have received evidence which addressed the effect on SMEs of losing independent oversight of lenders. You may wish to contact HM Treasury, such as by using the contact information provided on the webpage for the [call for evidence](#) (notwithstanding that the call for evidence has since closed) or by using the contact information provided on its [webpage](#).

36. As I have set out above, the most appropriate bodies with whom to escalate your concerns are Parliament (such as by first contacting your local MP) and the ICO. I note that you have already taken some steps towards this.
37. I appreciate that this is not the decision you were hoping to receive. I want to reiterate that I am very sympathetic to your circumstances which gave rise to your complaints to the FCA and OCC.
38. However, the FCA is not responsible for deciding what does and does not fall within its remit, and it cannot take steps that are inconsistent with Parliament's intention as legislated. I note you accept this but you have said you retain the right to disagree with this and you have provided various arguments as to why you disagree, however, the fact is that the FCA's remit is established by the Financial Services and Markets Act 2000 (FSMA), as amended by the Financial Services Act 2012. I note you will be contacting HMT on matters connected to this.

The Complaints Commissioner

Complaints Commissioner

18 February 2026