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

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Final report by the Complaints Commissioner

Complaint number 202600038

The complaint

1. As per your request, I have named you, William Watt, in this Final Report. On 01 May 2026, you submitted a complaint to my office about the FCA, which I have summarised below.

   Element One: You are unhappy that the FCA has not confirmed whether Firm X's conduct in refusing to consider new evidence in your insurance claim amounted to a breach of FCA rules and guidance. You say the FCA should provide a clear 'yes or no' answer and that it is relying on confidentiality restrictions, including Section 348 of the Financial Services and Markets Act 2000 ("**Section 348 FSMA**"), to avoid doing so.

   Outcome: Not upheld. The FCA does not confirm to consumers whether a firm has breached a particular rule. The FCA has explained the legal, policy and operational reasons for this approach, and I consider that explanation to be reasonable.

Background

2. You held a home buildings and contents insurance policy with Firm W (a regulated entity). When you made a claim on your policy for storm damage, you say Firm X (also a regulated entity) was responsible for handling the claim and declined it following an assessment by an unregulated third party appointed by Firm X. You submitted further evidence and asked Firm X to reconsider its decision to decline your claim, but you say it failed to do so.

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3. On 6 January 2026, you contacted the FCA regarding what you described as "*multi-layered insurance fraud*" involving Firm W, Firm X and the unregulated third party. You asked the FCA to consider the matter by reference to the FCA Handbook, including Principle 6 of the Principles for Businesses ("**PRIN**").

4. The FCA's Supervision Hub responded and advised you that the appropriate route was to raise the complaint with the firm and, if you remained dissatisfied, refer it to the Financial Ombudsman Service ("**FOS**"). It also outlined that the FCA expects firms to adhere to FCA rules, including the Insurance: Conduct of Business Sourcebook ("**ICOBS**"), in particular ICOBS 8.1, for fair claims handling.

5. You continued corresponding with the FCA as you had already pursued the available complaints processes with the involved firms. You asked it to intervene directly, wanted the firms involved to follow FCA guidance, and sought confirmation of whether Firm X's conduct breached FCA rules.

6. On 26 February 2026, after being dissatisfied with the responses you had received from the FCA's Supervision Hub, you requested escalation under the Complaints Scheme.

7. On 2 March 2026, the FCA's Complaints Team acknowledged the complaint, referred to in this report as "**Complaint One**". It told you the complaint had been passed to the Supervision Hub under paragraph 5.2 of the Complaints Scheme, because the Complaints Team considered the matter was best dealt with by the relevant FCA business area.

8. On 6 March 2026, the Supervision Hub issued a Decision Letter on Complaint One and did not uphold the complaint. You remained dissatisfied and asked the Complaints Team to review the matter. You also raised a further concern that Complaint One had not been investigated independently by a different department and that the Supervision Hub was, in effect, 'marking its own homework'.

9. On 9 March 2026, the Complaints Team acknowledged this further complaint, referred to in this report as "**Complaint Two**". Complaint Two included both the FCA's refusal to confirm whether Firm X had breached FCA rules and your

concern about how the Supervision Hub, or local area, had handled Complaint One.

10. On 27 April 2026, the FCA's Complaints Team issued its Decision Letter on Complaint Two, not upholding the complaint.

11. On 1 May 2026, you contacted my office about the FCA. The complaint referred to my office is framed primarily around the FCA's refusal to answer the breach question. You seek that answer as supporting evidence for your complaint against Firm X which is currently being considered by the FOS. This report therefore considers the complaint that has been referred to the Commissioner, rather than the broader issues originally raised with the FCA about the underlying insurance.

Preliminary Points:

12. In Complaint Two to the FCA, you also raised an issue about whether Complaint One had been reviewed independently, and whether the Supervision Hub was effectively 'marking its own homework'. I have kept this point in mind because it formed part of the complaint considered by the FCA. However, the complaint you submitted to my office does not appear to pursue that issue. It is framed around the FCA's refusal to confirm whether Firm X breached FCA rules and guidance. For that reason, this report does not investigate the independent review issue further and is limited to the complaint that has been referred to the Commissioner.

13. This Final Report takes into account the available evidence from you and the FCA, including the points raised in response to the Preliminary Report. I have addressed the issues I consider central to the complaint referred to me. That does not mean I have disregarded any other points raised, but my role is not to respond to every argument or question. It is to reach a fair and reasonable decision on the complaint, based on the evidence available.

Analysis

14. In your complaint, you say that the FCA should be able to advise you whether Firm X breached FCA rules and should provide a simple 'yes or no' answer before the matter is decided by the FOS. You say you are not asking the FCA to disclose what action it has taken, or may take, against Firm X, but only to

confirm whether there has been a breach. You consider that the FCA is relying on Section 348 FSMA to avoid answering that question. These are points that you have reiterated in your comments on the Preliminary Report.

15. On the FCA's contact page, available here, it says the FCA cannot provide advice or interpret its rules and cannot investigate individual complaints. As in your case, the FCA's Supervision Hub can signpost consumers to relevant FCA rules and outline the standards that the FCA expects financial firms to follow. The FCA did this in your case. However, there is a difference between signposting consumers to relevant rules and determining, in correspondence with a consumer, whether a particular firm has breached those rules. The Supervision Hub did outline the limits on the feedback it could provide in response to the information you supplied.

16. My role is not to decide whether Firm X breached FCA rules or the FCA's Principles. As set out above, my role is to consider whether the FCA acted reasonably in how it handled your request and complaint. Against that background, I have considered whether it was reasonable for the FCA not to provide the firm-specific answer you were seeking.

17. I understand why you draw a distinction between asking the FCA to disclose any regulatory action and asking it simply to confirm whether Firm X breached FCA rules. However, even an answer in that form would amount to a firm-specific regulatory determination. A statement from the FCA that Firm X had breached FCA rules would be a finding against the firm. A statement that it had not breached FCA rules could also be understood as the FCA having fully assessed and cleared the firm. Either answer would therefore go beyond general guidance about the FCA's rules.

18. The FCA does not generally provide determinations to consumers on whether a particular firm has breached FCA rules. I have liaised with the FCA on this, and it has outlined several reasons for this approach. I consider those reasons in more detail below.

19. First, the FCA's role is not to intervene in or resolve individual disputes between firms and consumers. Parliament has designated the FOS the statutory role of resolving individual complaints between regulated firms and their customers. My

role is also different. I am not conducting a regulatory investigation into Firm X or determining the underlying insurance dispute. I am considering whether the FCA's handling of your request and complaint was reasonable under the Complaints Scheme.

20. That does not mean the FCA cannot consider information arising from individual complaints. It can do so in the context of its regulatory functions, including deciding whether supervisory or enforcement action may be justified. However, that is different from resolving the individual dispute or providing a definitive answer for use in that dispute, or making a finding for the purposes of your complaint to the FOS. The route for resolving your individual complaint against the firm is the FOS, not the FCA or my office. It is very unlikely that any action the FCA may or may not take as a result of the information you provided would usually provide redress to you personally.

21. The FCA was entitled to pass on the information you provided to the relevant supervisory team for consideration in line with its processes. That is consistent with the FCA's role as a regulator. The fact that the FCA has not confirmed what action, if any, it has taken does not mean it ignored the information you provided or failed to act as a regulator.

22. Second, a firm-specific breach determination would require the FCA to consider all relevant information and follow an appropriate regulatory process. It would be unfair for the FCA to state that a firm had breached its rules without engaging with the firm through the appropriate process and providing it with a fair opportunity to respond. Equally, an answer of "no" could wrongly suggest that the FCA had fully assessed the matter and cleared the firm of any breach.

23. A firm-specific breach determination would therefore need to be reached through the FCA's regulatory processes, rather than through correspondence with a consumer about an individual dispute. This is consistent with the FCA's policy on sharing information here, which explains that the FCA does not publicly say whether it is or is not investigating a firm. The FCA explains that this protects the effectiveness of any investigation and avoids unfairly damaging the reputation of firms or individuals involved.

24. Confidentiality and disclosure restrictions are also relevant. Section 348 FSMA restricts the disclosure of confidential information received by the FCA while carrying out its functions. I do not consider Section 348 FSMA to be the only reason for the FCA's position, but it is part of the wider legal and policy framework within which the FCA must operate when considering firm-specific information.

25. Finally, the correspondence in this case was primarily with the FCA's Supervision Hub. The Supervision Hub can explain the FCA's general expectations, signpost consumers to relevant rules, and pass information to the relevant supervisory areas. However, as the FCA has explained, Supervision Hub staff are not responsible for providing final determinations on whether a firm is in breach of the FCA's rules. That is another reason why it was reasonable for the FCA not to answer the question in the form you wanted.

26. For those reasons, I consider the FCA was entitled to decline to provide a simple 'yes or no' answer on whether Firm X had breached FCA rules. That conclusion is not a finding that Firm X did or did not comply with FCA rules, ICOBS, the Consumer Duty or the FCA's Principles. It is a finding about the reasonableness of the FCA's handling of your request. The FCA's position was not based solely on Section 348 FSMA. It reflected the FCA's role as regulator rather than resolver of individual disputes, the need for an appropriate process before making a firm-specific breach determination, confidentiality and disclosure restrictions, and the function of the Supervision Hub.

27. You have also made allegations of bias against the FCA and say it is protecting financial firms by relying on Section 348 FSMA. I do not agree that the FCA's refusal to answer your question in the way you wanted shows bias towards Firm X or financial firms generally. The FCA has explained that its approach applies more generally to firm-specific regulatory information and is based on its role, processes, confidentiality obligations and policy considerations. Section 348 FSMA is an important restriction, and breach of it can be a criminal offence, but it is not the sole basis for the FCA's position. There are also other confidentiality policies relevant to your complaint. I have not seen evidence that the FCA was biased in how it handled your complaint.

28. In your comments on the Preliminary Report, you maintained that the FCA's refusal to confirm whether Firm X breached FCA rules showed that it had "sided with Firm X". I do not agree. The FCA's refusal to provide that confirmation does not mean that it failed to consider the information you provided about Firm X's conduct. As explained above, the FCA was entitled to log that information and make it available to the relevant supervisory teams to consider in line with its usual regulatory processes. Any action the FCA may decide to take as a result would not necessarily be disclosed to you or made public.

29. I therefore do not consider the FCA's decision not to provide confirmation to be evidence that it ignored your concerns or sided with Firm X. The information you provided was referred for supervisory consideration in accordance with the FCA's usual processes. Whether that leads to regulatory action is a matter for the FCA and may not be disclosed to you. In those circumstances, I consider the FCA's handling of the information to have been reasonable and consistent with its regulatory responsibilities.

30. You have also raised that the FCA incorrectly asked you to take legal advice on the matters you raised and on confidentiality law. Having reviewed the correspondence you referred to, I can see that the FCA said this in the context of explaining the scope of the Complaints process. The Complaints handler explained that their role was to investigate complaints about the FCA, not to interpret law, and that if you required legal advice you should seek independent advice. By this time, the FCA's Supervision Hub and the Complaints Team had explained the avenues available to you, including the FOS or seeking legal advice if you did not wish to pursue a complaint with the FOS. I do not consider the FCA's response unreasonable.

31. For the reasons above, I consider the FCA's explanation and approach were reasonable. It was reasonable for the FCA to decline to confirm whether Firm X had breached FCA rules because that would have amounted to a firm-specific regulatory determination requiring an appropriate process. The FCA also had to take account of confidentiality and disclosure restrictions and the limits of the Supervision Hub's role. This report does not decide the underlying insurance dispute or whether Firm X breached any FCA requirements. It considers only

whether the FCA acted reasonably in its handling of your request and complaint. I therefore do not uphold this element of your complaint.

Other matters:

32. You have also raised a concern about other public bodies advising consumers to quote FCA rules to firms. You say this is unhelpful where, in your view, firms do not follow those rules and the FCA does not take action to require compliance. The FCA is not responsible for advice provided by other public bodies. My role is to consider whether the FCA acted reasonably in relation to the complaint referred to me. I cannot comment further on advice provided by other bodies or third parties, as that is outside the scope of the Complaints Scheme.

33. You have explained that, although you were reluctant to do so, you have referred the matter to the FOS as advised. You would like the FCA to provide a response on whether Firm X breached FCA rules so that the FOS can take that into account when considering your complaint. However, the FOS is operationally independent of the FCA. The FCA does not intervene in individual FOS decisions or direct the FOS on how to decide a complaint. How the FOS interprets the relevant rules and regulations is a matter for the FOS. The FOS is also not limited to applying rules and regulations; it decides complaints by reference to what it considers fair and reasonable in the circumstances. This means that FOS can uphold complaints even if there is not a breach of the FCA's rules and can also decide not to uphold a complaint despite a breach in line with the fair and reasonable test. Therefore, it currently has broad discretion in how it determines complaints.

34. Finally, in response to the Preliminary Report, you have said that you do not wish to continue with your FOS complaint if the FCA will not confirm whether or not Firm X has committed a regulatory breach. You consider that the FOS is not operationally independent of the FCA, and that it is a biased organisation which protects financial firms, and will 'side with Firm X'.

35. I do not accept this characterisation. Parliament established the FOS under the Financial Services and Markets Act 2000 ("**FSMA**") as a separate and independent body from the FCA. The FOS decides individual disputes between

consumers and firms by reference to what it considers fair and reasonable, while the FCA is responsible for regulation and supervision. The FCA cannot intervene in, direct, or influence how FOS decides an individual complaint.

36. Parliament delineated the roles of the FOS and the FCA and required complaints to be decided by an independent body which acts objectively. Therefore, it would not be appropriate for the FCA to intervene in individual cases at the FOS and make directions to the FOS on how it should apply the relevant rules in the circumstances.

37. For completeness, the Financial Services and Markets Bill proposes a new referral mechanism between the FOS and the FCA. Under the proposed mechanism, the FOS would be required to seek the FCA's view where it considers that an FCA rule is ambiguous or that an issue may have wider implications for the financial services industry. Consumers and firms would be able to ask the FOS to make a referral, but it would be for the FOS to decide whether the statutory criteria were met. Although these proposed reforms do not affect the complaint you have already referred to the FOS or the complaint considered in this report, they recognise that there may be circumstances in which the FCA's interpretation of its rules would assist the FOS.

38. Additionally, the proposed reforms also include an adaptation to the fair and reasonable test to ensure that, where firms have met their obligations under FCA rules, they must be found to have acted fairly and reasonably by the FOS. This means where a firm can demonstrate it has not breached the FCA's rules, the FOS would not be able to uphold the complaint which aligns the fair and reasonable test with the regulatory obligations of firms.

39. Complaints solely about the FOS fall outside the Complaints Scheme under paragraph 2.9(d). I am therefore unable to consider your allegations of bias against the FOS, and this report makes no finding on them. If you decide not to pursue your complaint with the FOS, you may wish to seek legal advice about any other remedies available in relation to your individual dispute with Firm X.

The Complaints Commissioner

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