

The FCA published its response to the Commissioner's Final Report into its oversight of Premier FX Limited (PFX) on 18 December 2023. Does it mean I will receive compensation from the FCA?

The FCA has declined to offer any compensatory ex gratia payments to PFX eligible complainants, other than for delays in complaint handling. The Commissioner did not agree with the FCA's reasons for this decision. She recommended the FCA offer an ex gratia payment to the 33 complainants she accepted under the Complaints Scheme.

The FCA published its response to the Commissioner's final report on 18 December 2023:

The FCA has not accepted the Commissioner's recommendation. The Commissioner's recommendations are not legally binding on the FCA. It has said that it considers that it is not appropriate to make ex gratia compensatory payments for the complaints it received about PFX, other than for delays in complaint handling.

This means the FCA will not offer complainants an ex gratia compensatory payment for its regulatory failings in its oversight of PFX.

Unfortunately, the Commissioner can do no more for complainants under the Scheme. Complainants who are not satisfied with the FCA's response to the Commissioner's Final Report, may wish to seek their own independent legal advice at their own cost to explore what other avenues may be available to them. The Commissioner cannot provide any further advice or information about this.

If I am unhappy with the Commissioner's Final Report on Premier FX Limited (PFX) what are my next options?

The role of the Complaints Commissioner, under the Scheme, is to provide an independent view on findings into complaints made to her about the Regulators.

A complainant who wishes to challenge the Commissioner's decision can apply to the High Court (at their own expense) to seek leave to apply for a Judicial Review of the Commissioner's decision. The Court itself must give leave before it considers whether or not there should be a Judicial Review of the decision. An application for leave to apply for Judicial Review must be made to the Administrative Court Office at the Royal Courts of Justice in London or at the District Registry of the High Court in either Birmingham, Cardiff, Leeds or Manchester promptly and in any event, within three months of the date of the Commissioner's Final Report. A complainant who wishes to consider doing this may wish to seek their own legal advice (which will be at their own cost) before approaching the High Court, since complex legal issues may arise.

Why has it taken this long to finalise the Commissioner's Final Report?

We are sorry it has also taken a considerable amount of time for the Commissioner to issue a Final Report. This has been a complex and thorough investigation with voluminous material to review.

The delay was due to the Commissioners continued work to develop thinking on ex gratia payments and liaison with the FCA. We thank everyone for their ongoing patience and understanding.

I am an existing complainant, but I would like to provide some new information and evidence for the Commissioner to investigate.

Under the Complaints Scheme to which the Commissioner and the Regulators operate to, it is preferable that the Regulator conducts its own review in the first instance as that is usually the best way to resolve matters. Please provide any new evidence to the FCA in the first instance for its review.

Is there any obligation by the FCA to implement the Commissioner's recommendations?

Where the Commissioner has made recommendations, the Regulator can accept or reject the Commissioner's recommendations in its response to her final report. The Commissioner's recommendations are not legally binding.

What powers does the Complaints Commissioner have?

Pursuant to Section 87 of the Financial Services Act 2012, the Commissioner has the power to make recommendations where the Commissioner thinks it appropriate. In such a scenario where the Commissioner has made a recommendation, the Regulator must respond to the Commissioner's report and inform the Commissioner and the complainant of the steps which it proposes to take in response to the report. For ease of reference the legislation to which this applies can be located here specifically Section 87 (5) and (6) of the Act: [Financial Services Act 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2012/21/section/87)

The Commissioner also issues an annual report to the financial Regulators and HM Treasury. HM Treasury also lay the report and any response to it before Parliament. In this annual report the Commissioner can highlight areas of concern such as certain recommendations and criticisms of the financial Regulators. The annual report would also include the following:

- a) information concerning any general trends emerging from the investigations undertaken during the reporting period;
- b) any recommendations which the investigator considers appropriate as to the steps a regulator should take in response to such trends;
- c) a review of the effectiveness during the reporting period of the procedures (both formal and informal) of each regulator for handling and resolving complaints which have been investigated by the investigator during the reporting period;
- d) an assessment of the extent to which those procedures were accessible and fair, including where appropriate an assessment for different categories of complainant; and

e) any recommendations about how those procedures, or the way in which they are operated, could be improved.

Where the Commissioner has made recommendations, the Regulator can accept or reject the Commissioner's recommendations in its response.

I still have questions you have not answered above.

We anticipate being very busy after the publication of the FCA's response to the Commissioner's Final Report. Our preferred method of communication is by email. You may also leave a message with our outsourced Reception bureau. We will return calls and emails within 72 hours.