

9 December 2015

Dear Complainant,

Complaint against the Financial Conduct Authority
Reference Number: FCA00107

Thank you for your email of 26 November 2015. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

As you can find full details of how I deal with complaints at www.fsc.gov.uk I do not intend to set them out fully below. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

We have now reviewed the FCA's records of your dealings with the regulator. My decision on your complaint is explained below.

Your complaint

You have a personal dispute with Firm A (now Firm B) over the terms of an equity release mortgage. You believe that Firm A did not have the correct permissions to sell you the equity release mortgage, and that you were misled when the mortgage was sold to you.

As a result of this, you believe the FCA is failing to regulate firms properly.

The FCA excluded your complaint on the grounds that it was an expression of dissatisfaction with the FCA's general policies, and because individual consumer complaints are a matter for the Financial Ombudsman Service (FOS), not the FCA. You have asked me to tell the FCA to investigate your complaint and take appropriate action against Firm A.

My position

I appreciate that you are dissatisfied with Firm A. However, the Complaints Scheme was created to allow those who are unhappy with the regulators' (in your case, the FCA's) conduct to challenge the regulator without incurring the significant expenses associated with the legal process and the courts. The scheme was not designed to allow consumers who are unhappy with the conduct of a regulated firm to challenge the conduct of that firm (that is the role of the Financial Ombudsman Service). Although I can understand you would like action to be taken against Firm A, this is not something I am able to do under the Complaints Scheme.

The FCA was correct to decline to investigate your complaint, since it falls outside the Scheme. If you have a dispute with a regulated firm, which Firm A is, you should approach the Financial Ombudsman Service with your complaint, or pursue the matter through the courts (although that would be at your own expense).

I now turn to your allegation that the FCA is failing to regulate Firm A properly. Whilst I appreciate that you are frustrated over your dispute with Firm A, the fact that you have not been able to settle the dispute to your satisfaction does not in itself mean that the FCA is not regulating Firm A properly. The FCA is responsible for monitoring the conduct of regulated firms and ensuring that they comply with the FCA's rules. The FCA is a risk-based regulator and has discretion about which issues and concerns it decides to pursue. Even where it decides to take any action because of the information which consumers have supplied, it is not able to provide any compensation or redress, and most of the actions it takes are confidential by law, so it is unlikely that you would receive any further information from it.


At this point there is little more I can add except to re-emphasise that the appropriate bodies to deal with your complaint are either the FOS or the Courts.

Conclusion

Although I understand that you are unhappy with the FCA's decision not to investigate your complaint, I believe it was correct to do so and, as a result, I am unable to help you under the Complaints Scheme.

I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner