

22 September 2021

**Final report by the Complaints Commissioner****Complaint number FCA001125***The complaint*

1. On 7 July 2021 you asked me to investigate a complaint about the FCA.

*What the complaint is about*

2. The FCA summarised your complaint as follows:

## Part One

You claim that during a telephone call on 6 May 2021, the supervisor you spoke to did not uphold the Data Protection Act 2018 or follow GDPR. You also allege the supervisor did not understand the facts or use common sense during the call.

## Part Two

You allege the FCA have failed to regulate [Firm X], and as a result [Firm X] has engaged in criminal activities including the theft of your property in 2003.

The remedy you are seeking is the return of your property.

## Other Issues

You have also sent emails relating to your disputes with [Firm Y and Firm Z]

*What the regulator decided*

3. The FCA did not uphold your complaint and advised you:

I have not found any evidence that the call on 6 May 2021 breached any of the DPA 2018 principles. Although the supervisor was not able

to help you on the call, this does not mean that she was not following the DPA principles.

I regret that we may be unable to investigate Part Two of your complaint under the Scheme. This is because paragraph 3.3 of the Scheme states complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. You can view the Scheme online at [www.fca.org.uk/your-fca/complaints-scheme](http://www.fca.org.uk/your-fca/complaints-scheme).

From your email of 6 May 2021 and correspondence with the FCA in September 2014, it appears you became aware of the circumstances in relation to your complaint in September 2014, over 12 months ago.

However, we can look at complaints after this 12-month time bar if you have reasonable grounds for the delay in complaining. If you do, please send me evidence of this as soon as possible; otherwise, I will not investigate your complaint under the Scheme.

You have also sent emails relating to your dispute with [Firm Y and Firm Z]. The Scheme is in place to deal with complaints about the exercise of or failure to exercise, any of the FCA's relevant functions.

It is not a relevant function of the FCA to investigate an individual complaint about a regulated firm or to intervene in individual complaints. It appears from the email correspondence that you have already made a complaint to [Firm Y and Firm Z]. If you are not happy with the response you receive from them, you should refer the complaint to the Financial Ombudsman Service.

If you wish to provide any information about [Firm Y and Firm Z], then I can pass it to the relevant team, so that it may be considered, although we would not be able to provide you with any updates on how it is used.

The sharing of confidential information given to us about firms is restricted by law under FSMA. The FCA and Prudential Regulation Authority (PRA) have "gateways" that allows disclosure of confidential

information to certain third parties in specific circumstances. Disclosure other than in accordance with these provisions is a criminal offence.

This means that due to FSMA, the FCA cannot give you information about any discussions with the firm because it would contravene Section 348 of FSMA and is a criminal offence. Also, any information that is not restricted by FSMA, may be restricted by the FCA's policy on sharing information. Under this policy, the FCA will not normally disclose whether it has, or has not, taken any action with the firm concerned.

Further information about this is available at:

<https://www.fca.org.uk/freedom-information/information-we-can-share/>

Financial Ombudsman Service

You have explained you are unhappy with the decision you have received from the Ombudsman and you are not in agreement with their use of the DPA 2018. I explained to you an Ombudsman's decision is final and the end of the matter as far as the Financial Ombudsman Service process is concerned. The Financial Ombudsman Service cannot look at the case again.

No Ombudsman, however senior, can overrule the decision of another ombudsman.

If the Financial Ombudsman Service reviews your case and you disagree with the Ombudsman's findings, you may wish to seek legal advice about the next steps that are available to you.

Please see here for details of how to complain about the Financial Ombudsman Service, <https://www.financial-ombudsman.org.uk/who-we-are/service-standards/service-complaints>

*My analysis*

4. You had your house repossessed in 2003 by [Firm X]. You complained to the FOS who did not investigate your complaint as it had been time barred. On 6 May 2021, you spoke to a supervisor at the FCA who you have stated did not uphold the DPA Act 2018 or follow GDPR.

5. You have also raised other issues with [Firm Y, Firm Z] and FOS.

6. Part One

I have listened to the call you had with the supervisor at the FCA and I have found no evidence the supervisor did not uphold the DPA Act 2018 or follow GDPR.

7. Part Two

As advised by the FCA, under the Complaints Scheme, paragraph 3.3 of the Scheme states complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. It is clear you were aware of the issues in 2014 and have not provided the FCA or my office with any reasonable grounds as to why there was a delay in complaining.

8. Other Issues

The FCA does have a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the financial industry through the setting of standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate individuals' complaints against the firms it regulates that is the role of the FOS.

That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates those in the context of considering whether or not regulatory action is justified, rather than whether or not the individual requires redress. Any action the FCA may or may not take as a result of the information you provided could not lead to redress for you personally.

I note you have made complaints directly to [Firm Y and Firm Z]. I echo what the FCA have said, if you are not happy with the response you receive from these

you should refer your complaints to the FOS. The FCA have also provided you with information on what to do if you are unhappy with a decision FOS makes.

*My decision*

9. I am sorry as I know that this decision will disappoint you but for the reasons set out above, I agree with the FCA's decision not to uphold your complaint.

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Complaints Commissioner

22 September 2021