

21 October 2021

Final report by the Complaints Commissioner**Complaint number FCA001364**

1. On 1 August 2021, you complained to me about the FCA's investigation of your complaint. I have carefully reviewed the information that you and the FCA have provided to me. My preliminary report was issued on 22 September 2021 and both you and the FCA have had the opportunity to comment.

The complaint

2. The FCA summarised your complaint as follows:

You claim the FCA has provided you with poor service as you asked for information and were instead sent to other organisations such as the Financial Ombudsman Service and Citizens Advice. You needed information relating to the calculation of mortgage arrears payments to give to the Financial Ombudsman Service. You believe that because the FCA did not provide you with this information that you lost your case.

The remedy you are seeking is for the FCA to check the bank calculations on your mortgage payments since 2013, and to punish the bank. You would also like the FCA to educate the Financial Ombudsman Service.

What the regulator decided

3. In its decision letter dated 22 July 2021, the FCA set out that it did not uphold your complaint. It considered that its Supervision Hub provided as much information as they were able to. It acknowledged that the information provided may not have been very helpful to you but it believed that you were seeking a resolution to an issue which is outside the remit of the FCA.

FCA001364

4. It set out that it believed you should continue to engage with the Financial Ombudsman Service (the FOS) as it thought that it would be more likely to provide you with a resolution.

Why you are unhappy with the regulator's decision

5. In your complaint to me dated 1 August 2021, you said that you are dissatisfied with the FCA's response that it could not answer your 'one very simple question' about the FCA guidance which you directed them to. You said that the investigator from the FOS and you were waiting for the FCA's response which you felt would have allowed you to resolve your complaint about your mortgage provider, Bank X. You think the FCA are responsible for your losses

Preliminary points

6. The Complaints Scheme is concerned with the actions or inactions of the FCA. It cannot deal with complaints against banks, nor is it a redress service for individual consumer complaints. The Financial Services and Markets Act 2000 (FSMA) explicitly provides for a consumer redress service separated from the FCA.
7. 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.
8. 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.
9. It is also important for me to highlight, matters which are excluded from the Scheme which I am unable to investigate. Section 3.4(d) of the Complaints Scheme provides that complaints about the actions or inactions, of the Financial Ombudsman Service, The Financial Services Compensation Scheme or the Money Advice Service are excluded from the scheme.

My analysis

10. Firstly, I want to set out that I am sorry that this matter has clearly been very frustrating and upsetting for you.
11. Having reviewed your complaint and the FCA file, I note that the FCA set out a very detailed timeline of its correspondence with you in its decision letter dated 22 July 2021, so I do not think it is necessary to set this out again.
12. I will briefly set out my understanding of the background to your complaint, being that in 2013 you had a car accident and as a result you fell into arrears with your mortgage payments to Bank X. You felt that Bank X incorrectly calculated your fixed rate mortgage interest, and that Bank X was also incorrectly adding the interest from the arrears to your monthly mortgage payments. You sought assistance from the FOS and referred to FCA Guidance case study GC16/6 'John's Story' to support your claim. You set out that FOS asked you for more details about the arrear's calculation and about the FCA guidance case study, so you contacted the FCA to help you with the calculations and to help provide an explanation of the guidance case study to the FOS. The FCA's Supervision Hub did not provide you with the answers to your questions nor did it check the bank calculations on your mortgage from 2013 onwards.
13. Having reviewed the information available to me and your responses to my preliminary report dated 22 September 2021 and 4 and 14 October 2021, I consider that the question you raised with the FCA's Supervision Hub and that you have continued to raise in your emails to me, were and continue to be specific to your situation with Bank X and the FOS. Whilst part of the FCA's role is to answer questions from consumers, these are answers to general enquiries and cannot be about specific individual matters or specific individual banks or firms. The FCA set out clearly in its email to you dated 28 May 2021 what queries it can assist with and those which it is unable to assist with. It specifically set out that it is not able to 'answer research requests' or 'define FCA terms in the FCA Handbook' or 'interpret rules or confirm how FCA apply rules to specific scenarios and whether a firm is adhering to these rules'.
14. The reason for this is, as set out in the preliminary points, the FCA does not look at individual consumer complaints. The consumer redress service must be

separated from the FCA under the FSMA and individual complaints about banks fall under the remit of the FOS not the FCA. This helps to ensure the impartiality of both the FCA and the FOS in their respective roles.

15. Consequently, I think it was appropriate that the FCA did not directly answer your question, as it was specific to your situation. From my review of the information available to me I can see the FCA did take the time to provide general answers around the topic of your question and in relation to the FCA's case study you were using in your discussions with the FOS, whilst not commenting on your specific case. It also provided you with details about the role of the FCA and FOS and provided an overview of what they could assist consumers with.
16. I also consider that it was appropriate that the FCA did not respond to the query that it appears the FOS investigator suggested you should ask the FCA in an email dated 3 June 2021. Had the FCA provided you an answer to this question it would have been acting outside the remit of its powers. The suggestion from the FOS investigator that you should ask a direct question of the FCA, specific to your situation was misplaced and as a result you have been passed from pillar to post, which was avoidable.
17. I note that the FCA set out in its decision letter to you that it believed that the FOS and Citizens Advice were the best organisations to assist you with your issues going forward. You have set out that you feel that you are in a vicious circle being sent back to FOS. I understand you have already approached the FOS about your complaint about Bank X and I am sorry that you have not been able to advance your complaint with the FOS at this point in time, but that is not the fault of the FCA, and the Complaints Scheme is not an alternative to FOS.
18. I note that in your email to me dated 14 October 2021, you questioned what you could do about the FOS because you feel they are giving wrong advice to customers and you also wanted to raise the poor customer service you experienced. As set out in the preliminary points, the Complaints Scheme is not able to consider complaints about the actions or inactions of other organisations such as the FOS, but I understand that you have raised a complaint with an Independent Assessor about the FOS handling of your matter. If following the

decisions of the Independent Assessor and/or the FOS, you are still unhappy you might wish to seek your own independent legal advice, which you will have to pay for, to explore what options might be available to you.

My decision

19. I realise you may be disappointed with my decision, and I am sorry, but due to the reasons outlined above the FCA was right not to uphold your complaint.

Amerdeep Somal

Complaints Commissioner

21 October 2021

