

14 December 2021

Final report by the Complaints Commissioner**Complaint number FCA001432***The complaint*

1. On 27 September 2021 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

My understanding of your complaint is that you were served with a Restraint Order by the FCA, which allowed for a living allowance of £350 per week. You claim that the FCA did not allow you to withdraw your living allowance, which required you to make an application to the Crown Court in May 2019. You infer that the Court granted the application and ordered the FCA to allow you to withdraw your living allowance and to make back payments.

You claim that due to the above, the FCA were in breach of the Restraint Order which you conveyed “Numerous times” via email to them but were told to raise a complaint. This has caused you and your family financial hardship and has meant you have had to borrow money to pay for bills and food.

As a remedy, you are requesting compensation due to the alleged breach and a written apology.

What the regulator decided

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

Unfortunately, I am unable to investigate your complaint as it is excluded under Paragraph 3.6 of the Scheme.

This is because the FCA will not investigate a complaint under the Scheme which they reasonably consider could have been, or would be, more appropriately dealt with in another way (for example by referring the matter to the Upper Tribunal or by the institution of other legal proceedings).

In our response to your complaint under case reference: 205755828, you raised a similar allegation which is prescribed below:

“You are unhappy that and allege that someone from the FCA illegally restricted your bank account, causing financial hardship. (complaints form submitted 30 April 2019).”

You were advised in that decision letter that this allegation would be more appropriately dealt with by the Courts. As I understand, in 2018, you via your solicitors, made a request to increase your living allowance from £350 per week to £1,000 per week. The FCA did not consent to this. One of the reasons for this included that when your house was searched on 1 August 2018, £6000 in cash was found at the address. Neither you nor your solicitors provided confirmation that this sum was paid into a restrained account and therefore the FCA would not consent to further funds being released until such confirmation was provided. No such confirmation was forthcoming. It was at the suggestion of the FCA that the matter be listed for the Court to adjudicate. A hearing was listed on 2 May 2019 and an order was made by the Court. Furthermore, your matter was recently listed again at a hearing on 8 September 2021, where the terms of your Restraint Order were reconsidered.

As such, it is my view that this matter is appropriately being dealt with by the Courts and our consideration would not be reasonable in this case.

Why you are unhappy with the regulator's decision

4. You are not happy with the FCA decision and have asked me for an independent review.

My analysis

5. The FCA was right to say your complaint was excluded and would not be investigated under the Scheme. The FCA explained to you:

This is because the FCA will not investigate a complaint under the Scheme which they reasonably consider could have been, or would be, more appropriately dealt with in another way (for example by referring the matter to the Upper Tribunal or by the institution of other legal proceedings).

6. Although the FCA excluded your complaint, I note it was at the FCA's suggestion the matter was listed with the Court when you requested an increase in your living allowance, so the Court could adjudicate, and a hearing took place in May 2018.
7. The matter was again listed in court in September 2021 where the Restraint Order was reconsidered, this demonstrates the matter is being dealt with appropriately.

My decision

8. I realise you may be disappointed with my decision report, but for the reasons outlined above, I cannot uphold your complaint.

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Complaints Commissioner

14 December 2021