

22 December 2021

Final report by the Complaints Commissioner**Complaint number FCA001495***The complaint*

1. On 11 November 2021 you asked me to investigate a complaint against the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

Part One

My understanding of your complaint is that you recently received your invoice from the FCA for your annual fees, and your annual fee has increased. You are unhappy with the amount the fee has increased which you feel is unfair.

Part Two

My understanding of the second part of your complaint is that you feel the FCA is taking no action in respect of car dealerships that are refusing to invoice external finance companies and therefore make the customer take the dealer offer via their own lender at higher interest rates, leaving the customer with no option to obtain comparison quotes from other sources.

You provide the name of one firm that you say is acting in this way and ask when the FCA will be investigating them.

What the regulator decided

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

Part One

Paragraph 3.4(c) of the [Scheme](#) explains that this type of complaint is excluded from the Scheme. This is because your complaint relates to the performance of the regulators' legislative functions as defined in the Financial Services Act 2012 (including making rules and issuing codes and general guidance).

Although I have not investigated your complaint formally under the Scheme, I have liaised with the area of the FCA most closely connected to your complaint in order to provide you with a response to the matters raised.

The FCA is funded entirely through fees from the firms it regulates and receives no government grants or other subsidies. We set fees to recover costs and not to influence policy.

The minimum fees for consumer credit activities have fallen behind our other minimum fees and so the shortfall is being picked up by other firms. That is why, as we explained in our April 2021 [Consultation Paper](#), we have started to realign them with the fees paid by other firms in the 'A' fee blocks.¹ Our aim is to merge consumer credit with the minimum fee for 'A' blocks so that firms which have additional credit-related permissions, including IFAs, pay only one minimum fee. The consumer credit revenue was originally kept separate to target recovery of the costs of setting up the consumer credit regulatory regime when it was transferred to the FCA in 2014. Those costs have now been recovered and so there is no longer a need to maintain the distinction.

Part Two

Unfortunately, paragraph 3.5 of the Scheme, provides that we will not investigate complaints which amount to no more than dissatisfaction with the FCA's general policies or with the exercise of, or failure to exercise, discretion where no unreasonable, unprofessional or other misconduct is alleged. You can view the Scheme online at www.fca.org.uk/your-fca/complaints-scheme.

In this case, you are unhappy with the FCA's general approach in relation to this particular sector, as you feel the FCA's approach is inadequate.

Although I have not investigated your complaint formally under the Scheme, I have liaised with the area of the FCA most closely connected to your complaint in order to provide you with a response to the matters raised.

Under the current rules, motor dealers can decide which lenders to engage with in a commercial relationship. Some motor dealers may only have arrangements in place with one lender, and some will have arrangements with several lenders, often referred to as the dealer's "panel" of lenders. There is currently no requirement for motor dealers to have arrangements in place with all lenders in the market.

Arrangements between the motor dealer and the lender can be complex because the dealer has to arrange for ownership to be passed to the lender, rather than the borrower where the vehicle is to be purchased through a Hire Purchase Agreement, and there may be further terms to agree, for instance which party undertakes ongoing servicing and repairs.

If a borrower wants to purchase a specific car from a dealer, which will only deal with a panel of lenders, none of which the borrower wants to use, the borrower can purchase the vehicle through use of a personal loan rather than hire purchase.

The part of the FCA responsible for the supervision of this sector have been passed your concerns and are grateful for them. We will consider the points that you have raised when undertaking the FCA's assessment of the market. The FCA is committed to making sure that competition in the motor finance market delivers in the interests of consumers and will bear your comments in mind during our continued work on this sector.

Whilst the information you have passed regarding a particular firm has been passed onto the relevant part of the FCA, we will not be able to comment on what action, if any, is taken further to it.

Why you are unhappy with the regulator's decision

4. You have asked me to review the FCA's decision.

My analysis

5. Part One:

You feel the increase in your FCA annual fee is unfair and the FCA are taking advantage of you as the FCA has no-one to answer to. Your complaint relates to the FCA's legislative functions, so the information the FCA Complaints Investigator gave you was correct. Your complaint falls outside the Complaints Scheme and for those reasons I am unable to investigate your matter for you.

Whilst I realise you are unhappy with this response, I am pleased to see that the FCA Complaints Investigator, nonetheless, liaised with the relevant teams within the FCA and provided you with information on why and how the fees are calculated.

Part Two

You are unhappy motor dealers are refusing to invoice third party lenders and thereby forcing customers to take the funding offered by the dealer, which in most cases is higher than that offered through an independent broker.

The FCA was also right to say part two of your complaint was excluded and would not be investigated under the Scheme. This is because, paragraph 3.5 of the Scheme, details that we will not investigate complaints which amount to no more than dissatisfaction with the FCA's general policies or with the exercise of, or failure to exercise, discretion where no unreasonable, unprofessional or other misconduct is alleged.

Although the FCA excluded your complaint, I was pleased to note the FCA have passed your comments to the relevant department who will consider the points you have raised when undertaking the FCA's assessment of the market. I also welcome the information the FCA provided you around the complex issues that can occur when motor dealerships use lenders and the suggestion of the

alternative option of consumers using a personal loan to finance their vehicle purchase.

My decision

6. I realise you will be disappointed with my decision but for the reasons outlined above I am unable to uphold your complaint.

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Complaints Commissioner

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