

16 February 2022

**Final report by the Complaints Commissioner****Complaint number FCA001515***The complaint*

1. On 15 November 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 are having problems in speaking to someone from the FCA on the interpretation of regulatory guidance, specifically clauses 6.3 and 6.4; ICOBS 6 of the FCA Handbook.

You have four policies dated from 2000 to 2019 which do not cover critical illness that you suffered from in 2020, which is captured as standard insurance cover on policies sold from 2019 and beyond.

You believe that regulatory guidance clearly infers that the responsibility for mid-term updates lies with the insurance company, contrary to the advice you have received, stating the responsibility lies with the Consumer or appointed IFA.

However, the insurance industry's position is the policy in place is never updated, they simply update policies sold to new customers only. You believe this to be contrary to clause 6.4, which you believe insurance firms offering long term pure protection policies are ignoring by providing no update to existing customers. Updates are only on new policies sold.

You are wanting guidance on what clauses 6.3 and 6.4 mean, which you believe is financially harming customers such as yourself.

*What the regulator decided*

3. The FCA excluded your complaint, they advised you:

Under paragraph 3.4(c) of the Scheme, excluded from the Scheme are complaints in relation to the performance of the regulators' legislative functions as defined in the 2012 Act (legislative functions including rule making). In your complaint, you say that you are having "I have a real problem understanding what clauses 6.3 and 6.4 mean". Complaints about the wording of our rules are caught by paragraph 3.4(c) of the Scheme and are excluded.

In your complaint you also call for, as part of the FCA's response to your complaint, an explanation regarding clauses 6.3 and 6.4 of ICOBS 6, of the FCA's Handbook. In order for a complaint to be considered under the Scheme, the complaint must be about the way in which the regulators have acted or omitted to act, including complaints alleging mistakes or lack of care, unreasonable delay, unprofessional behaviour, bias, and lack of integrity. It is beyond the scope of the Scheme to offer an opinion on how the FCA's rules should be interpreted. You can read more about the Scheme here - [Complaints Scheme](#).

For these reasons, I am unable to investigate your complaint.

Although I have not been able to investigate 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.

You are concerned that your critical illness policies have not been updated to reflect the same level of cover as the insurer currently offers to new customers. Our rules require insurers to clearly inform their customers of any mid-term changes they make to their policies. This includes providing them with information on changes to the benefits and exclusions of the policy. However, these rules only apply if the insurer opts to make mid-term changes to the policy. It is common practice for insurers to review and make changes to the policies they

offer to new customers. Our rules do not oblige firms to apply those changes retrospectively to policies already in-force; especially as these changes may result in more limited cover being provided.

*Why you are unhappy with the regulator's decision*

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

*My analysis*

5. You contacted the FCA to get interpretation of regulatory guidance as you are unhappy you have not been able to claim on your critical illness policies due to existing policy holders holding products that are out of date.
6. You have further clarified that 'I believe existing customers have the right to receive updates advising of better products available, for equal or similar premiums'.
7. Whilst I sympathise with your situation, the complaints investigator at the FCA was right to say your complaint is excluded from the Complaints Scheme, as a result I am unable to investigate your complaint.
8. Although your complaint is excluded from the Complaints Scheme, I am pleased to see the FCA have provided you with information on what the FCA rules cover. The FCA has explained to you that new policies for new customers may not be always 'better' as sometimes changes may mean more limited cover is provided. Firms are not automatically required to notify existing customers when they make changes to policies for new customers. I appreciate you would like to be notified by your insurer when this happens, but that is not something I can look into under the Scheme for the reasons given above.
9. In response to my preliminary report, you have said I have missed the point you are making, you have provided different guidance you would like me to look at and advised:

All insurers should publicise latest updates for existing customers to be made aware and have opportunity to update if they so wish.

As I have already stated above, whilst I sympathise with your situation, it does not change the fact that your complaint is excluded from the complaints scheme, so I am unable to investigate the complaint points you have raised.

*My decision*

10. For the reasons set out above, I consider your complaint excluded from the Scheme.

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Complaints Commissioner

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