

19th July 2016

Dear Complainant,

Complaint against the Financial Conduct Authority
Reference Number: FCA00197

Thank you for your email. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

You can find full details of how I deal with complaints at www.fsc.gov.uk.

What we have done since receiving your complaint

We have now reviewed all the records you and the regulator have sent us. My decision on your complaint is explained below.

Your complaint

You believe Bank S has deleted personal information it held about you, and in doing so has breached the Data Protection Act (DPA) and FCA regulations which require regulated firms to protect customer files from illegal or accidental deletion.

You complained to the FCA and asked it to intervene in resolving the issue with Bank S. The FCA reviewed your complaint and did not uphold it.

My position

I appreciate that you are dissatisfied with Bank S. However, this Complaints Scheme was created to allow those who are unhappy with the regulators' (in your case, the FCA's) conduct to challenge the regulator without incurring the significant expenses associated with the legal process and the courts. The scheme was not designed to allow consumers who are unhappy with the conduct of a regulated firm to challenge the conduct of that firm (that is the role of the Financial Ombudsman Service (FOS)). Although I can understand you would like action to be taken against Bank S, this is not something I am able to do under the Complaints Scheme.

The FCA was correct not to uphold your complaint. The FCA has already informed you that it does not deal with individual complaints against firms. I understand you have already approached the FOS who advised you they cannot investigate DPA Breaches as these fall outside its remit. I understand you are now in touch with the Information Commissioner's Office which is the correct course of action for the matters you raise.

Although the FCA concluded that it could not uphold your complaint, it has provided you with information about its role, which is to monitor the conduct of regulated firms and ensure that they comply with the FCA's rules overall. However, it does not deal with individual complaints. The FCA is a risk-based regulator and has discretion over which issues and concerns it decides to pursue. If it did decide to take any further action because of the information which you have supplied, it would not be able to provide you with any compensation or redress, and most of the actions it takes are confidential, so it is unlikely that you would receive any further information from the FCA.

Conclusion

Although I understand that you are unhappy with the FCA's response to your complaint, in my view, the FCA's response was reasonable, and they have provided you with an adequate explanation of the way in which they deal with such issues. I have sympathy with your circumstances, but am unable to help you further under the Complaints Scheme.

I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner