

19 January 2017

Dear Complainant

Complaint against the Financial Conduct Authority
Reference Number: FCA00254

Thank you for your email of 28th November 2016 about your complaint against the Financial Conduct Authority (FCA).

What we have done since receiving your complaint

I have reviewed all the information you and the regulator have provided us with, including the recordings of the two telephone calls you held with the Customer Contact Centre on 26th September 2016. My decision on your complaint is explained below. In reaching my final decision, I have carefully considered the points you made in your email of 29th December 2016, in which you responded to my preliminary decision.

Your complaint

The FCA summarised your complaint as follows:

Element One

You are unhappy with the information you received from the Customer Contact Centre (CCC) in relation to how your self-invested personal pension (SIPP) provider was charging fees. You feel the information you were provided was unreliable and did not initially answer your query.

I believe this element of your complaint is an allegation of a lack of care on the part of the FCA.

Element Two

You are unhappy with how your complaint was handled by the CCC. You feel the actions of the CCC were effectively suppressing your efforts to make a complaint.

I believe this element of your complaint is an allegation of unprofessional behaviour on the part of the FCA.

The FCA upheld the first element of your complaint on the grounds that, when you telephoned the FCA to inquire about whether a SIPP provider could deduct fees from taxed and/or untaxed income, you were not referred to the HMRC as you should have been. They did not uphold

element two of your complaint, on the grounds that the call associates were trying their best to deal with your query and, when it became apparent that you remained dissatisfied, they promptly referred the matter to the FCA Complaints Team.

In addition to these matters, you have also complained to me that the decision letter of the FCA's Complaints Team has not resolved the confusion. You write:

I called with a simple question as I had concern over potential wrong-doing by a SIPP provider in that it is allowing administration fees to be paid from untaxed income. I thought [sic] FCA might be able to help but accept fully that not every query can be answered by the FCA. When that is the case then it needs to act reliably by saying so. There is nothing wrong in sign-posting someone to the right agency. Instead of responding reliably by sign-posting me to HMRC - or even just saying it could not help - I received a response that that answer is a commercial decision.

I still do not know what makes that response reliable and whether it is for HMRC to decide whilst at the same time it is within the gift of the provider to make a commercial judgement.

You are also concerned that the FCA, in rejecting element two of your complaint, has not acknowledged poor complaint handling. You write:

I do not know how keeping someone on hold for c 3 minutes, not calling them back right away when disconnected, waiting for a couple of days before doing so and then not having someone ready to take the call is regarded as not inhibiting the making of a complaint.

My findings

Having considered your complaint carefully, and listened to the two telephone calls which you made to the CCC, my findings are as follows.

I am satisfied that the two call associates were courteous during the two telephone calls, and were trying to help you. However, as the FCA has already accepted, during the first telephone call you should have been referred to the HMRC since it should have become clear to the associate during the call that your query was focused upon taxation issues, not FCA rules. The answers you were given in the first telephone call were general ones about the discretion of providers in their charging arrangements: they were correct, but were not relevant to the question of compliance with taxation rules.

You have drawn my attention to the fact that, in addition to having been given the wrong information, one of your calls was inadvertently disconnected, and there was a delay in getting back to you. I agree with you that this was not ideal. However, the FCA did rectify the matter, and I am satisfied that there was no attempt to prevent you from complaining, for the reasons given by the FCA.

You say that you are still unclear "whether it is for HMRC to decide whilst at the same time it is within the gift of the provider to make a commercial judgement". I agree that the FCA's letter could have been clearer: the intended meaning is that, while the *general* arrangements for charging are for the provider to decide (within the general rules set by the FCA), decisions on the compliance arrangements in relation to taxation are a solely a matter for HMRC.

Conclusion

The FCA undertook a thorough investigation into your complaint, and upheld one element of it. I do not see any evidence that it tried to prevent you from complaining. Although I understand your frustration that it took you longer than it should have done to receive a simple answer to a simple question, and while I recognise your concern that the matter could have been handled better, I consider that the FCA addressed your complaint conscientiously, and do not consider that any payment or other further action is justified.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend'.

Antony Townsend
Complaints Commissioner