

4 September 2018

Final report by the Complaints Commissioner**Complaint number FCA00493***The complaint*

1. On 26 August 2018 you asked me to review your complaint against the FCA.

What the complaint is about

2. You have an open case at the Financial Ombudsman Service (FOS) against bank X. You believe that bank X has provided the FOS with fraudulent mortgage documents and that the FOS is colluding with bank X against you.
3. You want the FCA to review the alleged fraudulent documents provided by bank X as well as your evidence, and to investigate the alleged collusion between the FOS and bank X against you. You also want the FOS to be prosecuted.

What the regulator decided

4. The FCA wrote to you on 24 August 2018 to say that your concerns had been passed to the relevant areas within the FCA but that as the FOS is operationally independent of the FCA, it is not able to intervene in individual complaints. The FCA also explained to you that due to confidentiality restrictions, it would not be able to tell you what action, if any, it takes in response to the information you provided.

Why you are unhappy with the regulator's decision

5. You say the FCA has a statutory objective to protect consumers and it ought to take action against bank X and the FOS.

Preliminary points

6. My role, as Complaints Commissioner, is to provide an independent assessment of complaints against the Financial Conduct Authority (and the other financial services regulators). Under the rules of the Complaints Scheme, I am unable to

deal with complaints about the actions, or inactions, of the Financial Ombudsman Service (FOS).

My analysis

7. The background to your complaint is that you have an open case at the FOS about a PPI insurance policy you say you were mis-sold by bank X. You believe bank X is providing forged documents to the FOS to support its claim that it has no record of your having a PPI policy, and you say you have evidence to prove this. From the emails you have sent me, I can see that you raised these concerns with the FOS and it has invited you to provide your evidence so that it can be considered by an Ombudsman. You have decided not to provide your evidence to the FOS. Instead, you wish to provide your evidence to the FCA and to me so that we can review the material.
8. The FCA has already explained to you that the FOS is operationally independent from the FCA, which means the FCA cannot intervene in the decisions it makes in individual cases.
9. You have asked about the FCA's oversight of the FOS and refer to a report I issued at <http://frccommissioner.org.uk/wp-content/uploads/FCA00283-FD-1704061.pdf>, as you feel this report shows the FCA 'can intervene' with the FOS.
10. The report explains that the FCA has an oversight function with respect to the FOS, but this does not include intervening in individual cases.
11. If you are not satisfied with the outcome of your FOS case or do not wish to continue your case with the FOS, your only option would be court proceedings. You might need to take legal advice if you wish to pursue your case through the courts.
12. You have also referred your allegations of fraud to the Serious Fraud Office. You have also asked me to assist you by reporting your case to the SFO or Action Fraud. My role as Commissioner is to review the actions or inactions of the FCA only: I do not have the FCA's regulatory powers. You have already reported your allegations to the SFO, and you will need to liaise with them about the progression of your case.

13. The FCA does have a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the financial industry through the setting of standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate individuals' complaints against the firms it regulates: that is the role of the FOS.
14. That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates those in the context of considering whether or not regulatory action is justified, rather than whether or not the individual requires redress. Any action the FCA may or may not take as a result of the information you provided could not lead to redress for you personally.
15. The FCA does not generally provide feedback on what action has been taken in response to the information that it receives. This is because section 348 (s.348) of the Financial Services & Markets Act 2000 (FSMA) classes some information the FCA holds about firms as confidential and places restrictions on how that information is dealt with. In addition to this, any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals, who also have legal protections. Under this policy, the FCA will not normally disclose the fact of continuing action without the agreement of the firm concerned. As a result, there is no general right for members of the public to know the outcome of reports that they make.
16. However, having studied the FCA's records I can say that I am satisfied that the FCA has not ignored the information which you have provided, and is giving it proper consideration. Unfortunately, I cannot say any more than that, and I recognise that that will be frustrating for you.

My decision

17. I am afraid that the FCA and I are unable to intervene in your case with the FOS.
18. In my view, the letter you received from the FCA set out the position correctly, and gave some useful advice on what you might do. I am satisfied that the FCA has dealt with your concerns correctly.
19. I recognise that this response will not help you to pursue your concerns but, as I have explained above, I think that those concerns need to be pursued with the

SFO and, you consider it necessary, through the courts. You are free to share this report with anyone else, if you wish.

Antony Townsend
Complaints Commissioner
4 September 2018