

26 July 2019

Final report by the Complaints Commissioner**Complaint number FCA00587***The complaint*

1. You complained about the service you received from the FCA's Complaints Team.

What the complaint is about

2. You asked for the FCA's assistance in taking action against a regulated firm, Firm X, which you allege stole your clients, and you are not satisfied with the way the Complaints Team dealt with the information you provided and its lack of direct intervention in your complaint against the firm.

What the regulator decided

3. The FCA decided that while there were some delays due to the number of complaints the team was dealing with at the time, the Investigator went over and above in trying to assist you. The FCA explained that it is not within the remit of the Complaints Team or the FCA to intervene in what are ultimately commercial disputes or individual complaints. The FCA did not uphold your complaint.

Why you are unhappy with the regulator's decision

4. In your view the FCA has shown a complete lack of interest in "bullying and fraud" and the "outright theft" of your old clients by Firm X, and it should have done something to assist you in resolving this complaint.

Preliminary points

5. You complained once before about the FCA "fobbing you off" in relation to this issue, and the matter was referred to me as you were not satisfied with the FCA's response. I issued my final report on this complaint on 2 February 2017

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which can be read here: <http://frccommissioner.org.uk/wp-content/uploads/FCA00270-Final-Decision-2-2-17.pdf>

6. You raised your concerns with the FCA again in January 2019 and in the course of that correspondence a member of the Complaints Team agreed to receive information from you and forward it to the relevant areas as you did not wish to go through the Consumer Contact Centre (CCC).

My analysis

7. I can see from the records that while there may have been some delays in acknowledging your correspondence, the Complaints Team Investigator you spoke to in early 2019 forwarded the information you provided to the relevant team within the FCA, and he took steps to ensure it was considered appropriately from a regulatory point of view. This was also done when you first provided information to the FCA about the same firm in 2016.
8. The FCA explained to you in its responses dated 3 January 2017 and 30 April 2019 that it welcomes information from members of the public, which is then considered by the relevant supervisory areas as appropriate, but it cannot provide feedback on how it deals with this information or intervene in an individual or commercial dispute between consumers and firms or two regulated firms.
9. Furthermore, you were informed that if your complaint about Firm X is in relation to a contractual dispute, it may not be eligible to be considered by the Financial Ombudsman Service (FOS) as such matters do not fall within the category of complaints the FOS has jurisdiction to consider.
10. I appreciate that this is a difficult situation for you, and you have stated on a number of occasions that you do not have the means to commence legal proceedings against a large firm such as Firm X. However, the remit of the FCA, the FOS and my office is set out in legislation and none of these organisations is able to provide assistance which would require it to act outside of its remit.
11. You seem to accept yourself that what you are complaining about is a legal question, as you state in your email to the FCA, dated 30 April 2019, “...*seen [sic] to be not important enough for your supervision team to even raise 1 letter*

*of concern that a sole traders clients were subsumed by a large ifa firm who had **no legal rights** to keep them”.*

12. The fact that you state you are not able to afford legal advice does not mean that the FCA or my office can choose to act outside of our remit and try to adjudicate matters that are a question of contract law. That is the role of the Courts. Your view is that the FCA ought to write to firm X and ask them to resolve your complaint. However, for the reasons given above I do not agree that this is something the FCA can do under the complaints scheme.
13. If you believe that a crime, such as fraud, has taken place, you should report this to the police.

My decision

14. I recognise that you feel very strongly about the issues which you have raised. However, for the reasons set out above, while I understand that this is disappointing for you, I am unable to uphold your complaint against the FCA.

Antony Townsend
Complaints Commissioner
26 July 2019