

27 June 2019

**Final report by the Complaints Commissioner****Complaint number FCA00593***The complaint*

1. On 14 May 2019 you complained to me about the FCA's rejection of your complaint about its oversight of the Financial Ombudsman Service (FOS).

*What the complaint is about*

2. In its decision letter, the FCA described the main element of your complaint as follows:

*You are unhappy with the conduct of the Financial Ombudsman Service and their handling of your complaint. You feel that they showed favouritism towards the firm being complained about and that they lacked the expertise to make a judgement on your complaint.*

*What the regulator decided*

3. The FCA did not uphold your complaint. It said that, because your complaint was about the actions or inactions of the FOS rather than the FCA, it was excluded from the Complaints Scheme. Although the FCA had an oversight role for the FOS, to ensure that it was able to carry out its alternative dispute resolution functions effectively, the FCA was not an appeals body for the FOS, and complaints about the quality of the FOS's service should be dealt with by the FOS's Independent Assessor.
4. The FCA did, however, apologise for the fact that a letter from the Chief Executive had been posted to you rather than emailed (as you had requested), that a follow-up letter from you had not been answered, and that the complaint response had been delayed. It offered you £50 to recognise these shortcomings. (As the FCA has already apologised for this, and you have accepted the payment, the issue of delays is not included further in my investigation.)

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

5. You consider the FOS Board has failed to discharge its obligations in relation to your complaint and that the FCA Board, in the light of its oversight responsibilities, has also failed to do so.

*My analysis*

6. Your complaint arises from an inspection of your gas boiler which your gas supplier (with whom you had an insurance contract) undertook. The inspection resulted in a finding that your boiler was 'at risk'. You challenged this. The matter was referred to the FOS, which initially decided that your complaint was not an FOS matter. The matter was then referred to another dispute resolution service (which in your view was better qualified to consider what was a technical engineering issue rather than a financial one), but your complaint was referred back to the FOS. The FOS decided that it could take your complaint on and went on to reject it, on the grounds that your gas supplier had offered a reinspection of your boiler by a Safety Assurance Engineer and that, if that reinspection found that the original inspection had been in error, it would rectify the matter.
7. You complained to the FOS's Independent Assessor (IA), but the IA did not uphold your complaint.
8. In April 2018 you complained to the Chief Executive of the FCA, and in May 2018 he responded to you explaining the limitations of the FCA's oversight role but reporting that the FOS had said that it would be willing to consider any new evidence. In November 2018, you complained to the FCA under this Scheme.
9. The core of your complaint is that the FOS was originally correct to say that it did not have jurisdiction in relation to your complaint; that it was improper of the FOS to reconsider the matter and take the complaint on; and in the light of the FOS's improper decision to take on your complaint and what you see as the lack of true independence of the FOS's IA, the FCA has a duty to intervene.
10. I have looked carefully at the material which you and the FCA have sent to me, including the representations you made about my preliminary report. I understand your frustration about what has happened, and I recognise that this issue has caused you considerable inconvenience in pursuing your complaint,

but I am afraid that I do not agree with you that the FCA has failed in its duties.

This is because:

- a. This matter is principally a complaint about the FOS, and for that reason the FCA was entitled to exclude it from this Complaints Scheme;
- b. While I recognise that you would have preferred your complaint about your gas supplier to have been dealt with by an alternative organisation, it does not appear to me that the FOS was manifestly wrong to reconsider and take on your complaint. Additionally, you have been told that the FOS would consider any new material you have;
- c. It is clear that the FOS looked at your complaint carefully, and that it reached a considered view that the gas supplier's proposal for a reinspection was a reasonable one;
- d. It is clear that the FCA's Chief Executive took some care to look at your correspondence, and sent a constructive reply (although that reply did not reach you initially);
- e. The FCA's Complaints Team also looked at your complaint thoroughly;
- f. The fact that there has been a dispute about the FOS's jurisdiction in a single complaint would not, in my view, amount to grounds for the FCA to interfere in the FOS's operational independence. Any further points you have should be directed to the FOS, or the FOS's Independent Assessor.

*My decision*

11. I am sorry to send you a disappointing reply, but for the reasons I have given, I do not uphold your complaint.

Antony Townsend

Complaints Commissioner

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