

25 September 2019

Final report by the Complaints Commissioner**Complaint number FCA00637***The complaint*

1. On 14 August 2019 you asked me to review a complaint about the FCA.

What the complaint is about

2. You were in the process of transferring your defined benefit pension to a personal pension in 2017 when the FCA engaged with the firm (firm X) who were advising you. As a result, the firm ceased advising on defined benefit pension transfers and your transfer did not go through. Your pension remained within the defined benefit scheme. You subsequently found another regulated adviser and transferred to a personal pension.
3. The FCA summarised your complaint as follows:

Part One

You have said that regulatory checks on financial advisers were carried out on an ad hoc basis due to press coverage concerns, not periodically. You believe the FCA should have acted sooner.

Part Two

You called the FCA's Customer Contact Centre (CCC) on 21 December 2017 for advice about how to complete your pension transfer. You have said that you were "fobbed off" when you were told to contact The Pensions Regulator or the Money Advice Service.

Part Three

You believe the Financial Services Register (the Register) was inaccurate in providing the level of permission held by [firm X] and similar companies in relation to pension transfers.

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Part Four

You are unhappy with the length of time it has taken for the Complaints Team to issue a determination on your complaint.

What the regulator decided

4. The FCA did not uphold Part One, Two and Three of your complaint. It upheld part Four, apologised, and offered you £200 as a goodwill gesture for the delays.

Why you are unhappy with the regulator's decision

5. You do not accept the FCA reasons for not upholding Parts One and Three of your complaint, and with respect to Part Four you think £200 is a 'derisory offer' given the length of the delays.

My analysis

Part One

6. In response to your complaint that the FCA should have acted sooner, the FCA pointed you to its published approach to supervision. It also said it had engaged in work with the firm but could not give you details due to confidentiality restrictions. You were not satisfied with this answer, and continue to think that the FCA's supervision of firm X and its adviser was lacking. Your reason for this is that the FCA acted on intelligence it had received about the firm rather than undertaking 'planned reviews'.
7. The FCA's decision letter sets out a number of ways through which it monitors a firm. Acting on intelligence it receives about a firm is one of them. Having studied the FCA's records, I am satisfied that the FCA's overall supervision of firm X was reasonable. Like the FCA, I am required to respect confidentiality. This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be

frustrating for complainants, but it is better that I am able to see the confidential material.

Part Three:

8. The FCA explained to you that the Supervision team acted promptly on receipt of intelligence received on 20 November 2017 and engaged with the firm. This engagement resulted in the firm agreeing to cease defined benefit transfers (such as yours) on 15 December 2017, and removing the firm's necessary permission for defined benefit transfers on 16 May 2018.
9. You believe the FCA should have suspended the permissions of the firm and updated the register on 20 November 2017, the date the FCA received intelligence and began engaging with the firm.

10. The FCA's response to you was

we don't usually make public the fact that the FCA is investigating a firm or individual. This is partly to protect the effectiveness of any investigation, as publicity might encourage people to destroy or hide evidence, and partly because announcing an FCA investigation can damage reputations of potentially innocent parties or firms that are able to rectify issues we have identified. It's important to note that just because the FCA is investigating a firm, it does not necessarily mean that the firm will be found to have breached our rules'.

11. I appreciate you disagree with the FCA's policy above, but my view is that the FCA's position on the matter is reasonable, and that it acted promptly when concerns were drawn to its attention.

Part Four:

12. The FCA almost 20 months to investigate your complaint. It apologised for this, and offered you an ex gratia payment of £200. You feel this is derisory.
13. I understand your frustration about the delay. Yours is far from the only recent complaint which has suffered from delays in the FCA. Your complaint was a relatively straightforward one, and the length of time it took for you to receive a decision is inexcusable. This is a matter which I have discussed with the FCA on several occasions, and it has now increased the resources of its Complaints

Team, which should help to reduce the risk of these kinds of unacceptable delays. I welcome the fact the FCA has offered you an ex gratia payment for the delay, and I consider that the amount is reasonable.

14. You have also complained to me about what you now feel was poor advice you received from firm X and your concern about its effect on you long term. This is not a complaint you made to the FCA, and is really about the actions of the firm. You have said that you found another firm who advised you and completed the transfer. It seems to me that if you are unhappy with the transfer, this is a matter which you need to take up with the latter firm, or the Financial Ombudsman Service.

My decision

15. For the reasons given above, I do not uphold Parts One and Three of your complaint. There may be other avenues you can pursue if you think you were given poor advice by the firm who did ultimately advise and complete your transfer. I suggest you contact the Financial Ombudsman Service to see what these options are.
16. The FCA upheld Part Four of your complaint. I agree with this, and consider it appropriate that it offered you a £200 ex gratia payment.

Antony Townsend
Complaints Commissioner
25 September 2019