

20 December 2019

Final report by the Complaints Commissioner**Complaint number FCA00651***The complaint*

1. On 20 September 2019 you complained to me about the FCA's responses to your complaints.

What the complaint is about

2. You are one of many people who have experienced difficulties with Interest Rate Hedging Products (IRHPs), which were sold by the banks. You have complained several times to the FCA, and you have asked me to review all of your complaints.
3. Your original complaint, made in 2016, was that the FCA had failed to ensure that the banks involved in IRHP mis-selling had accepted responsibility for the problems which they had caused, had failed to ensure that banks accepted responsibility for the actions of their business support divisions, and had failed to ensure that the banks provided appropriate redress to people in situations such as yours.
4. The second complaint arose from a telephone call you made to the FCA in August 2019. The FCA described this complaint as follows:

Part One

You contacted the Complaints Helpline to discuss your longstanding complaint relating to IRHP (reference number [XXXXXXXX]). You allege that the Complaints Team do not have the appropriate resources in place to deal with this matter. This was in response to being informed that the Complaints Team has one member of staff dedicated to dealing with this matter (who was out of the office at the time of your call).

Part Two

You claim that the member of staff you spoke with on the Complaints Helpline deflected your call on three separate times of asking to be transferred to your

case investigator. You believe this was an attempt to try to get you off the phone.

Part Three

You allege that the Manager who took over the call refused to log your complaint and by suggesting you need to speak to another member of the Complaints Team to take down further details of your complaint, you feel this was also an attempt to deflect the call.

Part Four

During your call, you frequently mentioned the poor quality of the line, describing it like speaking to someone who is under water. You state that the FCA receives millions of pounds but yet has a phone line that sounds like it is "drowning".

What the regulator decided

5. In relation to the first complaint (see paragraph 3), the FCA decided to defer consideration of part of the complaint. This was because of an impending court case and, following that, because the FCA has set up an independent investigation into its handling of its regulation of Interest Rate Hedging Products. It did not uphold the other parts of your complaint, on the grounds that the FCA had taken appropriate steps to ensure that the banks accepted responsibility for IRHP, and for the actions of their business support divisions.
6. In relation to the second complaint (paragraph 5), the FCA decided:
 - a. Part One should not be upheld. The FCA had decided to have one investigator dealing with IRHP complaints, given the complexity of the issue. While it was unfortunate that that investigator was out of the office on the day you telephoned, that did not mean that the FCA had not properly resourced the area;
 - b. Part Two should not be upheld. The FCA's view was that the member of staff had given you proper advice, and had not inappropriately attempted to 'deflect' you;
 - c. Part Three should not be upheld. In the FCA's view, the manager had made a genuine attempt to understand your complaint, and his decision to pass the matter to a member of his staff to complete the administrative logging of the complaint was not unreasonable;

- d. The FCA was not able to reach a decision on Part Four of your complaint. Checks had not shown any fault with the FCA's hardware, so it was not possible to determine whether or not the poor quality on the line was caused by internal FCA problems or external problems with the network.

Why you are unhappy with the regulator's decision

7. In your email to me, requesting me to look at all three complaints, you say:

The delay [in approaching the Office of the Complaints Commissioner] was due to being misled by the FCA, you [I think you mean the FCA] gained my trust and constantly let me down. You [I think you mean the FCA] do not address the issues or complaints directly, but off record play down the situation and reassure that the matter is being looked at without appropriate timescale.

My analysis

8. At the heart of your complaints is frustration that, more than three years after you submitted your complaint about the FCA's supervision of IRHPs, your complaint remains deferred and unresolved. Your frustration is wholly understandable.
9. Because your main complaint has not yet been considered by the FCA, I am not considering it at this stage (although, when the FCA has issued you with a decision on it, you will have the right to approach me if you remain dissatisfied). What I am looking at here is:
 - a. The FCA's decision to continue to defer one element of your original complaint;
 - b. The FCA's decisions in 2017 on the remainder of your original complaint;
 - c. The FCA's decision on your recent complaint.
10. Starting with the decision to defer part of your original complaint, the FCA's rationale is that the current independent investigation into the FSA's (and subsequently the FCA's) implementation and oversight of the IRHP Redress Scheme is likely to inform decisions on the complaints that you, and others, have made.

11. Although I am concerned about the length of time which it has taken the FCA to reach this point, I consider that the FCA's rationale is correct. Under the Complaints Scheme, the FCA is entitled to defer complaints, and I consider that there is a good case for saying that the results of the independent investigation may be relevant to deciding the outcome of your complaint. For that reason, while I urge the FCA to ensure that as soon as the independent investigation is completed your complaint is dealt with promptly, I agree with the FCA that continued deferral of that element of your complaint is appropriate.
12. On the remaining elements of your original complaint, in 2017 you were given clear advice that if you were unhappy with the FCA's decision you should refer the complaint to me. Although you say that the reason for the delay in referring the matter was that you were misled by the FCA, I am afraid that I do not accept that. You could have complained to me at the time. The complaint is well beyond the three-month time limit, and I do not think that there is a sufficient reason to consider it now. For that reason, I will not review those elements of your complaint. In any event, it seems to me that you will have the opportunity to raise at least some of these matters again when a decision is made on your deferred complaint.
13. Finally, in relation to the recent complaint, I have listened carefully to the telephone call which led to it. While your frustration was understandable, I consider that the FCA staff were professional and tried to be helpful. The advice you were given was correct. In particular, the reasons which the FCA has given for its approach, summarised in paragraph 6 above, seem to me to be reasonable. Finally, as the FCA has said, the issue of the quality of the telephone line – which it looked into – is not one which can be resolved.

My decision

14. In your response to my preliminary report – which set out the points above – you have expressed your dissatisfaction, suggested that my conclusions are biased towards the FCA, and said that I have not taken into account that fact that the delays are more than a matter of frustration.
15. I understand that the long delays in resolving this matter are a serious matter for you and, as I have made clear above, I have urged the FCA to complete it as

soon as possible. However, it does not change the conclusions which I have reached very carefully, for the reasons I have set out.

16. I am afraid, therefore, that I cannot uphold your complaint.

Antony Townsend
Complaints Commissioner
20 December 2019