

30 April 2020

Final report by the Complaints Commissioner**Complaint number FCA00680***The complaint*

1. On 2 December 2019 you asked me to review the outcome of a complaint which you had made to the FCA. I produced a preliminary report on 16 December for your comments, but you asked me to defer finalising it while you waited for the results of a Freedom of Information request which you had made to the FCA.

What the complaint is about

2. This is the third complaint which you have made. All of them arise from problems which you have encountered as a result of advice you received on a defined benefit pension scheme transfer. The FCA described your current complaint as follows:

Part One

You are requesting that the FCA consider a redress scheme for consumers who received unsuitable defined benefit transfer advice, based on a speech made by Megan Butler. You have requested that your complaint against 'the business' concerning your direct benefit pension transfer to be re-opened. You also stated that you escalated your complaints against 'the business' to the Financial Ombudsman Service.

Part Two

You have alleged that the FCA was biased towards 'the business' and has failed to take action against 'the business' following your report of 'the business' breaching the DISP 1.6 Complaints time limit rules.

To resolve your complaint, you would like an investigation into 'the business' that breached the DISP 1.6 rules and, "[for the] FCA RULES APPLIED TO COMPENSATE THE CONSUMER FOR THREE YEARS FOR RULES BREACHED."

What the regulator decided

3. The FCA decided that both parts of your complaint were excluded from the Scheme. This was on the basis that they were matters which had already been dealt with in your earlier two complaints.
4. The FCA did, however, tell you that it was continuing to explore redress arrangements for people who had received unsuitable advice on defined benefit pension transfers, and that the concerns which you had raised about the particular firm with which you had dealt had been referred to the relevant part of the FCA to consider.
5. The FCA also repeated a point, made in relation to the earlier complaints, that it could not interfere in decisions of the Financial Ombudsman Service (FOS).

Why you are unhappy with the regulator's decision

6. I can summarise your main concerns about the FCA's decision in this way:
 - a. The FCA has used the limitations of this Complaints Scheme to prevent you from taking action against one of its regulated firms;
 - b. The FCA has not addressed your complaint about what you see as its failure to do what Megan Butler's speech indicated;
 - c. The FCA has not addressed your assertion that it should be using powers under s138d of the Financial Services and Markets Act 2000 to assist you with your case against the firm which provided you with advice;
 - d. You will have to incur the costs of bringing court action because the FCA has failed to enforce its own rules

Preliminary points

7. In my view, some of these points have already been dealt with in your earlier complaints, but I shall address each of them.

My analysis

8. The heart of your complaint is that you believe that the FCA has a duty to assist you with your claim against an investment adviser. While I sympathise with the difficult position in which you find yourself, I am afraid that that is simply not the case. As has been explained before, it is the FOS, not the FCA, which deals with

individual complaints against regulated firms. The FCA cannot intervene in that. Nor is it right to say that the FCA has prevented you from taking action (although I recognise that taking action may be difficult and expensive).

9. The FCA's role is to consider information about potential risks to consumers, and then decide what action may be needed. Some of that action will be confidential, particularly in the initial stages. Any actions which it takes will be to address risks posed by firms or individuals to consumers generally: its role is not to intervene in individual cases.
10. The FCA has explained to you the continuing action which it is taking to deal with the problems caused by poor advice on defined benefit transfers. The speech by Megan Butler, to which you refer in your complaint, set out some of the measures which the FCA *might* take if necessary. I know that you remain very dissatisfied that the FCA has not taken the actions raised in Megan Butler's speech. There is a legitimate debate to be had about whether the FCA has gone far enough or fast enough in its actions, but that is not a matter for me; and, as I understand it, the FCA is keeping the matter under review.
11. You have alleged that the FCA is biased towards the firms it regulates, because those firms give the FCA its income. I see no evidence of that.

My decision

12. I am sorry to disappoint you, but for the reasons I have given, I cannot uphold your complaint.

Antony Townsend
Complaints Commissioner
30 April 2020