

13 August 2020

Final report by the Complaints Commissioner

Complaint number FCA00753

The complaint

1. On 4 June 2020 you asked me to investigate a complaint against the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

You believe that the FCA has failed to protect the public with regards to its supervision of the firm X and firm Y. You are also unhappy with the guidance provided to you by the FCA's Supervision Hub.

You are unhappy that firm X was able to mis-sell you a PPI policy after the FSA (now FCA) had punished the firm in 2005 relating to breaches of Principles 2 and 3 of the FSA's Principles for Business and Rule 3.1.1 of the Senior Management Arrangements, Systems and Controls (SYSC) module of the FSA Handbook. You have questioned how the FSA allowed the firm to continue to provide PPI.

What the regulator decided

3. The FCA decided not to investigate your complaint because paragraph 3.3 of the Scheme states that complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. The FCA said you had been aware of the issues for over 12 months.
4. It offered you an ex gratia payment of £50 for the delay in sending you a decision.

Why you are unhappy with the regulator's decision

5. You say that when you first approached the FCA in 2017, the FCA told you that you should direct your complaint to the Financial Ombudsman Service (FOS),

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but this organisation – after a long delay - in turn told you that you had to refer your complaint to the FCA. In addition, you wish to know how firm X was able to sell you PPI when it was in runoff.

My analysis

6. You contacted the FCA's then Customer Contact Centre (CCC) on 15 May 2017 to say that you had been sold a PPI policy by firm X after they had been fined by the FCA and put into run-off. You were advised by the FCA that if you felt you had been mis-sold a PPI policy you needed to approach the Financial Ombudsman Service.
7. You told the CCC that you also wanted to complain to the FCA, and on the same day you spoke to an FCA Complaints Team member to discuss this matter. After the call, you were sent the following email from the FCA Complaints Team on 15 May 2017:

Thank you for your time today.

My understanding is that you were provided PPI through [firm X] in 2004. You stated that you have since discovered that the firm was placed into 'immediate run-off' in late 2003 following discussions with the FSA. You have questioned how the FSA allowed the firm to continue to provide PPI.

As discussed, can you reply to this email with any supporting documentation you have on hand. It is also important for us to understand why you are making the complaint now, although this occurred in 2003/2004. This will help us discern whether we can investigate your complaint further.

Please do not hesitate to contact us if you have any questions.

8. You do not seem to have replied to this email. Your next contact with the FCA was in October 2019, two years later, to raise the same complaint.
9. The remedy you are now seeking is for the FCA to refund you the 'original payment plus any interest accrued. Plus [firm X] to be punished more'.
10. I should start by saying that the CCC were not wrong to refer you to the FOS. This Complaints Scheme is concerned with the actions or inactions of the FCA. It is not a redress service for individual consumer complaints. The Financial Services and Markets Act 2000 explicitly provides for a consumer redress

service separated from the FCA, so the FCA would not offer you the kind of redress you were seeking.

11. That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates those in the context of considering whether or not regulatory action is justified, rather than whether or not the individual requires redress. Any action the FCA may or may not take as a result of the information you provide could not lead to redress for you personally.
12. You referred your individual case to the FOS, which is the correct course of action if you were seeking compensation for mis-sold PPI.
13. You also referred your concerns to the FCA Complaints Team in 2017, but did not send in any supporting evidence as requested, nor did you explain why you were complaining so long after the events. Therefore, I agree with the FCA that your complaint is out of time. The matters you raise refer to events that occurred in 2004 and concern a firm that has not existed for a number of years; and it is over three years since you were invited to send further material.
14. You have told me the FOS has referred you back to the FCA on certain points of your complaint.. I asked you to send me a copy of the FOS decision letter if you felt it relevant to my consideration of your complaint, but you did not do so, therefore I am unable to review this further.

My decision

15. For the reasons I have given, although I recognise the considerable trouble which you have experienced, I agree with the FCA that your complaint is out of time.
16. I welcome the FCA's decision to award you an ex gratia payment of £50 for the delay in dealing with your complaint.

Antony Townsend
Complaints Commissioner
13 August 2020