

6 August 2020

Final report by the Complaints Commissioner**Complaint number FCA00754***The complaint*

1. On 6 June 2020 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. Your son complained on your behalf to the FCA, which summarised your complaint as follows:

Part One

You are unhappy that on 26 April 2000, the Investment Ombudsman decided that the complaint you submitted would be better resolved through taking legal action as it was more appropriate for the courts to consider the matter.

Part Two

You are unhappy that on 13 September 2000, the FSA's Complaints Commissioner did not uphold your complaint on the grounds that the Investment Ombudsman's decision to conclude that your complaint would be better resolved in court was an option available to him under 14.3 of the Ombudsman Memorandum.

To resolve your complaint, you would like to know whether the FSA's decision to uphold the Investment Ombudsman's position could be reviewed under the Transitional Complaints Scheme.

FCA00754

What the regulator decided

3. With regard to part one of your complaint, the FCA said the (in)actions of the Investment Ombudsman do not fall within the relevant functions of either the FCA or FSA. and therefore it would be unable to investigate this part of your complaint.
4. With regard to part two of your complaint, the FCA declined to investigate under the transitional scheme as it considered that the scheme was not put in place to revisit the FCA's historic actions or previous commissioners' decisions. The FCA also said that the matters you raise had been investigated by the then Complaints Commissioner in 2003 and that I had declined to reopen the matter in 2015.

Why you are unhappy with the regulator's decision

5. Your son wrote to me on your behalf to say that:
 - a. You have queried the FCA's position that the Transitional Scheme was not put in place to review the FCA's historical actions.
 - b. You feel that the matters you raise fall under the relevant functions of the FCA.
 - c. You point out that the Complaints Commissioner's decision in 2003 did not constitute an investigation as the Commissioner declined to investigate the complaint.
 - d. You do not feel that your complaint is out of time as you have corresponded with the FSA/FCA on these matters over a period of years.

My analysis

6. The background to your complaint is that you disagree with a decision made by the Investment Ombudsman in 2000 that your complaint would be better resolved in court. You consider that the Ombudsman delayed issuing a decision on your complaint and you do not understand how the Ombudsman reached that decision.
7. You complained about this to the FSA and the then Complaints Commissioner issued a decision to you on 13 September 2000 in which he did not uphold your complaint. He said that 'Whilst it is not for the FSA - or me - to judge whether the Investment Ombudsman was right to conclude that your case would be better resolved in court, there is no doubt that such a judgement is an option available to him under 14.3 of the Ombudsman Memorandum'.
8. You did not agree with this decision and have since raised the matter again with the FCA and the Commissioner. The Commissioner reviewed your representations in 2003 and concluded she could not assist you. You raised the matter again in 2014 and 2017 and I declined to reopen the investigation.
9. In your response to my preliminary report you challenge the basis on which earlier decisions were made, and disagree with the FCA's characterisation of your complaint. I am afraid that this does not alter my view. Your complaint relates to historical matters which have been repeatedly reviewed, and I can see no grounds for reopening the complaint.

My decision

10. I am sorry to disappoint you, but my decision not to reopen your complaint stands.

11. Your complaint has been dealt with under the rules of the Complaint Scheme in 2000, 2003, and 2015. While I recognise that you do not agree with the decisions which have been taken, I consider that those decisions were reasonable ones, and there are no new reasons for reviewing the complaint. It is twenty years since the original decision, and five years since I first declined to reopen the matter.

For the reasons above, I will not investigate your complaint.

Antony Townsend

Complaints Commissioner

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