

10 August 2020

Final report by the Complaints Commissioner**Complaint number FCA00771***The complaint*

1. On 8 May 2020 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

Your complaint relates to ISA investments held by your Granddaughter and the firms these investments are held by. I understand you have raised complaints with the firms, and these are now being considered by the Financial Ombudsman Service.

Your complaint about the FCA appears to be that it doesn't consider the type of complaint you have.

What the regulator decided

3. The FCA did not uphold your complaint and explained the different roles of the FOS and the FCA. It explained that the information you have provided about the firms has been passed to its Supervision team, but you may not be told what action, if any, is taken due to confidentiality restrictions.

Why you are unhappy with the regulator's decision

4. You referred your complaint to me and raised what you refer to as a time factor, which you explained in a letter dated 2 February 2020 to the FCA as follows:

The problem with the existing rules are that before the FCA will consider taking action the following actions must be taken:

- a. *Complain to the company*
- b. *Complain to the Financial Ombudsman (who have a sever lack of staff)*

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c. Complain and take action in the courts.

My analysis

5. You complained to the FCA on 2 January 2020, outlining your problems with the transfer of trust accounts between two firms. You wanted the FCA to change its internal rules to enable it to complaints about malpractice in administration 'where timing of action is important'. You clarified this point in a letter you sent to the FCA on 2 February 2020 (details above).
6. I will start by saying that whether or not the FCA takes action against a firm is not dependent on any other actions such as the ones you describe above. The FCA can, if it chooses, take action against a firm even if consumers have outstanding cases against the firm in the FOS or in the courts.
7. The FCA has a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the financial industry through the setting of standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate individuals' complaints against the firms it regulates: that is the role of the FOS.
8. This Complaints Scheme is concerned with the actions or inactions of the FCA. It cannot deal with complaints against banks, individual firms or against the Financial Ombudsman Service (FOS), nor is it 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.
9. 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 provided could not lead to redress for you personally.
10. The fact that a firm may have done something which justifies redress does not automatically mean that regulatory action is justified – that would depend upon the scale of the problem, and the risk of recurrence.

11. Based on the information I have seen in this case, I am satisfied that the FCA's Supervision Team has been passed the information you provided. However, due to confidentiality restrictions, neither the FCA nor I can disclose to you what action, if any, is taken.
12. You have referred your individual case to the FOS, which is the correct course of action.
13. In your response to my preliminary report, you say (amongst other things) that the FCA is a subsidiary of the Bank of England. It is not – it is an entirely separate organisation.

My decision

14. I am afraid that I cannot uphold your complaint. The FCA was right to say that your complaint was really about the system established by Parliament, which provides a clear separation between the Bank of England, the FOS's and FCA's functions, and therefore cannot be considered under this Scheme.

Antony Townsend
Complaints Commissioner
10 August 2020