

14 October 2020

Final report by the Complaints Commissioner**Complaint number FCA00808***The complaint*

1. You complained to me on 6 August about the Financial Conduct Authority's (FCA's) response to your complaint.

What the complaint is about

2. In its decision letter, the FCA described your complaint as follows:

Your complaint relates to Credit Reference Agencies (CRAs). You believe that:

- *CRAs do not follow the FCA's rules;*
- *the Financial Ombudsman Service and FCA have not enforced the law to ensure that CRAs adhere to the rules;*
- *there is a flaw with the current system with the reporting by CRAs because consent is not sought from the data subject before information is reported in the public domain;*
- *inaccurate data is being reported; and*
- *it takes longer than 28 days to correct data or resolve disputes.*

You have said that your complaint specifically relates to issues that you have known about since 2017.

What the regulator decided

3. The FCA decided not to investigate your complaint. It said that this was because:
 - a. It was not a function of the FCA to investigate complaints about CRAs or to deal with issues of data protection, and your complaint therefore fell outside the Scheme;

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- b. You had known about the matter for three years – under the Scheme, complaints should usually be brought within 12 months;
- c. Complaints about the Financial Ombudsman Service (FOS) are excluded from this Scheme.

Why you are unhappy with the regulator's decision

- 4. In your letter to me, you say that CRAs are directly regulated by the FCA, that the Information Commissioner's Office (ICO) has told you that complaints about the way in which CRAs are applying data protection legislation should be directed to the FCA, and that the FCA regulations could be amended to avoid these problems.

My analysis

- 5. I was sorry to hear about the problems which you had encountered.
- 6. In its decision letter, the FCA gave you several reasons for not investigating your complaint (see paragraph 3 above). Taking them in turn, I think it was right for the FCA to say that it was not its function to investigate individual complaints about CRAs, since that is the function of the FOS. The FCA does not resolve individuals' complaints. However, as was explained to you, the FCA does consider information about the organisations which it regulates, to see whether it needs to take any regulatory action. I can confirm from the FCA's records that the information which you supplied was referred to the relevant department in the FCA although, for reasons of confidentiality, I cannot say what, if anything, was done with that information.
- 7. I do not think that the FCA was right to say that it does not deal with issues of data protection. While the principal responsibility for enforcing the data protection legislation rests with the ICO, the FCA clearly does have responsibilities if one of the firms which it regulates is breaching data protection law. In its response to my preliminary report, the FCA has accepted this.
- 8. The FCA was right to say that your complaint fell outside the usual 12-month time limit. It was also right to say that complaints about the FOS are excluded from this Complaints Scheme (the FOS has its own Independent Assessor to consider complaints against it).

9. In your response to my preliminary report, you make the point that there are continuing matters being considered by the FOS and the courts. You also raise concerns about the FOS's handling of complaints relating to data protection. I am afraid that, for the reasons given above, I cannot consider these matters under this Scheme.
10. Finally, although the FCA did not mention this, complaints about rules and regulations are excluded from this Scheme.
11. Taking all these points into account, I agree with the FCA's decision not to investigate your complaint.
12. Although, for those reasons, I have not formally investigated your complaint, that does not mean that your concerns and suggestions should be ignored. You have raised a legitimate concern about the handling of personal data between lenders and CRAs, and you have made the point to me that your principal concern is not about the particular matter which has affected you, but more generally about the operation of the system.
13. As I have already explained, the information which you sent has been referred to the relevant department in the FCA. The FCA has also drawn my attention to the fact that it is undertaking a Credit Information Market Study (although publication of this study has been delayed by the Covid pandemic). You can find further details of this study at <https://www.fca.org.uk/publications/market-studies/ms19-1-credit-information-market-study>, and it may be that that is the best means by which your concerns can be addressed.

My decision

14. I am sorry to disappoint you, but for the reasons I have given I do not propose to investigate your complaint.

Antony Townsend
Complaints Commissioner
14 October 2020