

3 March 2021

Final report by the Complaints Commissioner**Complaint number FCA00881***The complaint*

On 31 December 2020 you asked me to review a complaint about the FCA. What the complaint is about

1. The FCA summarised your complaint as follows:

You are complaining that the Financial Conduct Authority (FCA) and the Financial Ombudsman Service (FOS) have failed to ensure that customers are treated fairly and put in the financial position they would have been in but for business errors and mis-selling of Payment Protection Insurance (PPI). You are complaining that the FCA as a Competent Authority has not correctly applied European Law. You have set out your concerns and allegations in Twenty-One parts.

2. The 21 allegations and concerns I can summarise are related to how firms, the FOS and FCA deal with PPI matters.

What the regulator decided

3. The FCA did not uphold some of your complaints. The FCA did not consider the other parts of your complaint under the Scheme. The FCA did however, acknowledge the delays caused with your complaint and offered you an ex-gratia payment of £100.00.

Why you are unhappy with the regulator's decision

4. Element 1

You believe the FCA's decision to omit several issues of your complaint were dismissive, unreasonable and unprofessional. You also feel the £100 offered by the FCA for the delay in concluding your investigation was grossly inadequate.

5. Element 2

You do not believe the FCA have acted with integrity when dealing with customer complaints against it as a regulatory body and have not got to the root cause of the complaint.

6. Element 3

The main thrusts of your complaint are that the FCA and by extension FOS have continually operated bias, which firstly favours business interests and secondly was detrimental to customer complaints. You raised an example of this being final notices and businesses qualifying for a discount if they resolve the breach. To your knowledge there have been no comprehensive regulatory or enforcement reviews of whether businesses have complied with the resolution agreed in final notices and how customer interests have been served by the businesses.

7. Element 4

The FCA and the FOS have failed to ensure that financially vulnerable customers are treated with additional consideration. You have confirmed you have informed businesses of your financial problems and despite your communication they have failed to treat you fairly by refusing to exercise the forbearance when you fell behind with payments. Nor did the businesses communicate clearly and fairly the consequence when accounts and policies were terminated. This is despite many of the businesses being fined by the FCA for unfair treatment of customers and poor complaint handling, procedures, resolution and redress.

8. Element 5

You request we review the way the FCA and by extension the FOS, have carried out or failed to carry out their roles under the Financial Services Act 2012.

Preliminary points

9. The FCA does have 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 as that is the role of the FOS.
10. I can only look at the actions (or the inactions) of the FCA as part of my investigation. Complaints about the FOS are excluded from the Complaints Scheme.

My analysis

11. Even though your complaint has been referred to me out of time, I will address your key concerns regardless.

Element 1

12. You feel the FCA has not addressed all of the issues within your complaint, however you have not stated which points have been omitted. If you set these out I will review this further.
13. I am aware of the serious delays which are occurring in the FCA's handling of complaints. Yours is not the only delayed FCA complaint case. The previous Commissioner drew attention to the FCA's delays in his published annual report, laid before Parliament in July 2020. Both the previous Commissioner and I have been given details of the steps the FCA is taking - principally a significant increase in the number of investigators, to deal with the problem. I continue to monitor the issue. The FCA has upheld your complaint in respect of the delay, which I agree with, and offered you an ex gratia payment of £100 which I welcome.

Elements 2 and 3

14. You have expressed concern the FCA favours business interest over consumer protection. One of the FCA statutory objectives is consumer protection. The FCA is accountable to Parliament via the Treasury with respect to its statutory objectives. More information can be found here: <https://www.fca.org.uk/about/reporting-treasury-parliament>. The FCA has also

provided the following information : *The FCA is subject to a range of broad oversight mechanisms such as but not limited to: the need to publicly consult on new rules and guidance; the need to consult on the impact of our work with four independent statutory panels, which represent the interests of consumers and practitioners, including smaller regulated firms and financial market participants; the Regulatory Decisions Committee, which takes certain decisions on behalf of the FCA relating to enforcement and supervisory actions, as well as applications by firms for authorisation and by individuals for approval; the Upper Tribunal to which those directly affected by our regulatory decisions can refer their case; and the National Audit Office.*

15. You have general concerns about the integrity of the system because of alleged failings by the FCA. In so far as your general misgiving about the FCA is concerned, I hope the information provided above assures you that there is broad oversight of the FCA to ensure the integrity of the system.

Elements 4 and 5

16. The FCA was right to say they were not investigating these elements. This is because they relate to your personal dispute with financial services providers. However, the FCA gave you what seems to me to have been a full and helpful explanation of the measures it is taking to protect vulnerable customers.
17. There is no evidence that the FCA has not complied with the Financial Services Act 2012.
18. As detailed above your complaint relating to the FOS is excluded from the Complaints Scheme but you have the option of approaching the Financial Ombudsman Service directly.

My decision

19. Whilst your complaint is out of time, I have addressed your main concerns.
20. I find that the FCA investigated your complaint correctly and provided you with the right outcome. I therefore cannot uphold your complaint.

Amerdeep Somal
Complaints Commissioner

FCA00881

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