

10 May 2021

**Final report by the Complaints Commissioner****Complaint number FCA00891***The complaint*

1. On 5 February 2021 you complained to me about the FCA's investigation of your complaint.

*What the complaint is about*

2. In its decision letter to you dated 4 February 2021 the FCA described your complaint as follows:

My understanding of your complaint is you are trying to transfer one of your pensions so that you can consolidate all your pensions. As the pension, you are trying to transfer has a value over £30,000, you need to take advice. You went to an IFA to acquire advice but was told they cannot provide advice due to FCA rules. You feel it's unfair that you are required to take expensive advice, whether or not you accept the advice.

By way of remedy you request a reversal of the rules which require you to take advice.

*What the regulator decided*

3. The FCA did not formally investigate your complaint under the Complaints Scheme. The FCA explained that as part of your complaint related to legislation enacted by Parliament, it was not something that it could investigate under the Scheme because it was not considered one of the FCA's relevant functions.
4. The FCA added that paragraph 3.4 (c) of the Scheme sets out that a complaint about the performance of the regulators' legislative functions (including making rules) is excluded from the Scheme.

5. Even though the FCA did not formally investigate your complaint it additionally provided you with information in relation to pension legislation and the FCA's work.

*Why you are unhappy with the regulator's decision*

6. In your correspondence with my office you made the following complaint to me:
  - The FCA's response to you advised you to speak with your MP which you feel was a generic response.
  - You have asked for a change in the legislation, but you disagree with what the FCA have said to you and want to take it further.
  - You have applied for a pension transfer which you have done correctly from your end, but the legislation has been prohibitive and you were offered twice the amount.

*Preliminary points (if any)*

7. It is important for me to highlight, matters which are excluded from the Scheme which I am unable to investigate.
8. Section 3.4 (c) of the Complaints Scheme provides:

Exclusions to the Scheme

3.4 Excluded from the Scheme are complaints:

- c) in relation to the performance of the regulators' legislative functions as defined in the 2012 Act;

*My analysis*

9. In your complaint you have stated that you have asked for a change in the legislation and the legislation has been prohibitive in relation to your pension transfer. Under the Scheme I am unable to investigate issues connected to the FCA's legislative functions. Your complaint is about the FCA's legislative functions and asking for a change in the legislation. As such I will not be able to investigate your complaint under the Complaints Scheme.
10. Your comments surrounding the generic response of the Complaints Investigator advising you to speak with your local MP I am unable to agree with. I would like

to say the decision letter shows that despite not being able to investigate your complaint, the Complaints Investigator went one step further to provide you with meaningful advice and helpful information that may assist you.

11. I am pleased to see that the FCA Complaints Investigator provided you with a catalogue of additional information and resources for you to review which included various websites, videos and guidance articles. I would suggest that you refer to the FCA decision letter which lists various resources, specifically contacting The Pensions Advisory Service which offers free and impartial guidance as the FCA has suggested.

*My decision*

12. I am sorry but due to the reasons outlined above your complaint is excluded under the Complaints Scheme and I will not be able to investigate your complaint. The FCA was right to exclude your complaint due to the nature of your complaint pertaining to its legislative functions, which cannot be investigated under the Complaints Scheme.

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Complaints Commissioner

10 May 2021