

17 May 2021

## Final report by the Complaints Commissioner

### Complaint number FCA00897

#### *The complaint*

1. On 3 March 2021 you asked me to investigate a complaint about the FCA. I have carefully reviewed the information sent to me by you and the FCA. My preliminary report was issued on 6 May 2021 and both you and the FCA have commented on it.

#### *What the complaint is about*

2. On 12 October 2020, you complained to the FCA about:
  - a. the accuracy of its guidance on mortgage 'payment holidays' announced as part of the government's response to the coronavirus pandemic. You said that you had been directly affected by this because you relied on the guidance to take out a payment holiday that you did not need. This has caused you to incur additional interest and has also had an adverse impact on your new mortgage applications;
  - b. the FCA's approach to announcing new measures and its failure to extend interest free overdraft facilities for a further 3 months.

#### *What the regulator decided*

3. The FCA wrote to you on 4 February 2021 and said that it was not able to investigate the second part of your complaint because it related to the regulator's 'legislative functions' and was excluded from the Complaints Scheme (paragraph 3.4.c). However, the FCA's letter gave you some further background information and in your email of 5 February 2021 you accepted this outcome.
4. The FCA's Decision Letter of 22 February 2021 did not uphold the first part of your complaint on the basis that the guidance the FCA published was not

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incorrect or incomplete and that lending decisions are commercial matters for firms.

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

5. You are dissatisfied with the FCA's response to the first part of your complaint and have asked me to conduct 'a thorough and impartial review'.

*Preliminary points*

6. You also made a complaint to your bank, which was partly upheld. You have told me that you decided not to pursue this complaint to the Financial Services Ombudsman (FOS), which is the organisation set up to consider individual complaints about a firm.

*My analysis*

7. The FCA published guidance for firms on mortgages and coronavirus on 20 March 2020: <https://www.fca.org.uk/firms/mortgages-coronavirus-guidance-firms>. I am satisfied that this guidance makes clear that it applies solely to the exceptional circumstances of COVID-19. The statement: 'There should be no negative impact on the customer's credit file because of the payment holiday' must be understood in this context.
8. The guidance was updated in June and November 2020. In your comments on my preliminary report you have asked me and the FCA to 'categorically confirm in writing that Martin Lewis' TV show had nothing to do with FCA suddenly publishing revised guidelines on mortgage payment holiday as soon as Martin Lewis exposed the flaws in the guidelines around mid 2020?'. The FCA has told me that the guidance was issued under its emergency powers as finalised guidance. It then sought comments on draft updates before finalising updated guidance to extend payment deferrals in June 2020, and subsequently in November 2020.
9. The FCA's internal files show an awareness that some consumers had understood government and industry statements to mean that their access to credit would be unaffected. This was never the case but in view of this misunderstanding the FCA took steps to make the position even clearer in its

later communications. However, this does not mean that the initial guidance was incorrect or incomplete.

10. I am also satisfied that decisions about your own borrowing are matters between you and your bank (subject to your right to complain to the FOS) and not for the FCA. As such this aspect of your complaint does not fall to be considered under this Complaints Scheme.

*My decision*

11. I have not upheld your complaint for the reasons given. I appreciate that you may be disappointed by this outcome but I hope you will understand how I have reached it.

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Complaints Commissioner

17 May 2021