

28 June 2021

Final report by the Complaints Commissioner**Complaint number FCA00907***The complaint*

1. The FCA summarised your complaint as follows:

You are unhappy with the response you have received from the FCA Executive Casework team regarding your matter. In your complaint, you mention that the response you have received has nothing to do with your initial enquiry to the FCA and you would like an update regarding the legal challenge brought against the Financial Ombudsman Services by an accident management company, and how the FCA and Financial Ombudsman service have progressed in this matter.

What the regulator decided

2. The FCA did not uphold your complaint.

Why you are unhappy with the regulator's decision

3. You have said to me that:

I would like you to take my complaint with FCA, they clearly haven't read my case at all, I email FCA because I had complaint with financial ombudsmen, and a manager at financial ombudsmen, told me that there was a legal issue with financial ombudsmen and FCA, no explanation on what this legal issue was, so I got in contact with FCA wanted to know what was this legal issue was, and x supervisor, who also clearly didn't read my enquiries, x told me to go back to third party, which it's nothing to do with the third party insurance, one call insurance has now dissolved commercial legal back in 2019.

My analysis

4. Your complaint is in relation to repair work carried out on your car. You complained to the Financial Ombudsman Service (FOS) who advised they were unable to respond to your complaint whilst a legal issue was being resolved. The FOS have since written to you advising they will not be reviewing your complaint as it considers it out of scope.
5. 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).
6. That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates for the purpose of considering whether or not regulatory action is justified, rather than whether or not the individual requires redress.
7. The FCA have explained the legal issue was not between the FCA and FOS. I appreciate it was frustrating having to wait for this to be resolved and not knowing the content of the legal issue. As explained to you by the FCA the legal issue related to a challenge made against the FOS as to whether they had the jurisdiction to review complaints such as yours, which is why they couldn't respond to you until this had been resolved. The issue related to whether accident management companies fall within the FCA's regulatory perimeter, and therefore also the Financial Ombudsman Service's jurisdiction. The FCA also informed you that 'Claims Management Companies undertaking accident management work come under claims management regulation only if they are involved in seeking out, identifying and referring 'personal injury' claims, and not if they solely undertake vehicle recovery, vehicle storage, credit hire or vehicle repair.
8. As your complaint is regarding the repair work to your car which does not fall into the remit of the Complaints Scheme, both the FCA and my office are unable to assist you with your complaint.
9. It is the decision of the FOS as to whether they accept a complaint.

Although your complaint is excluded from the Scheme, I invite the FCA to consider whether or not there is a lacuna in the legislation which needs to be addressed.

My decision

10. I note you are disappointed with my findings but my decision has not changed, I am unable to uphold your complaint for the reasons I have confirmed above.

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Complaints Commissioner

28 June 2021