

04 June 2021

**Preliminary report by the Complaints Commissioner****Complaint number FCA00922***The complaint*

On 14 April 2021 you asked me to review a complaint about the FCA.

*What the complaint is about*

1. The FCA summarised your complaint in 2020 as follows:

My understanding of your complaint is that you're unhappy that the FCA does not have rules in place for insurance companies to follow when they offer to settle consumers' long-term income protection payments by replacing them with a cash sum as full settlement.

*What the regulator decided*

2. The FCA told you, that because your complaint was about the performance of the regulators' legislative functions as defined in the Financial Services Act 2012 (including making rules and issuing codes and general guidance), this type of complaint is excluded from the Scheme.
3. Whilst the complaint is excluded from the Scheme, the FCA did offer further information:

"Our Insurance Conduct of Business Sourcebook (ICOBS) rules for insurance claims handling are set out in ICOBS 8. Your complaint is about the lack of rules and guidance relating to claims handling for income protection insurance products. Based on the information you have provided these products would be covered by these ICOBS rules. These include requirements for insurers to handle claims promptly and fairly, as well as provide reasonable guidance to help policyholders make a claim and settle claims promptly once settlement terms are agreed. These rules cover when firms offer to replace long term

payments with a cash sum as settlement. In this area we have not seen the evidence to justify the need for additional, detailed rules.

Our regulation is outcome-focused based on a combination of the Principles, other high-level rules and, where necessary, detailed rules and guidance. The rules are contained in the FCA's Handbook, which sets out rules for regulated firms to which they must adhere. At a high-level firms must treat customers fairly and pay due regard to the information needs of customers and communicate with them in a way which is clear, fair and not misleading.

If you have concerns about conduct of specific insurers in this area then please provide us with details and we can look to share the information with the relevant firm(s) supervision team."

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

4. You have said to me that:
5. "First the FCA had told me on 26 March 2021 that it had allocated my complaint to a complaints investigator, who would write to me again within four weeks with either a summary of the complaint or a decision. But then on 30 March 2021 it told me it had changed its mind. Also, its email today (14 April 2021) had errors and was poorly explained."
6. "My email of 18 March 2021 was to complain that the FCA does not have sufficient regulation in place to protect Income Protection consumers from a specific issue. The FCA had responded to my related complaint last year in February 2020, setting out the high-level rules of its regulation system, and it claimed that these rules were sufficient to deal with the Income Protection issue at hand. But information provided recently by the Financial Ombudsman Service in February / March 2021 shows in fact that these rules clearly are not sufficient. I therefore raised this as a fresh complaint with the FCA. But it has refused to answer it."

*My analysis*

7. Whilst your complaint referral is out of time, I have reviewed it.

8. The FCA acknowledged your complaint in March 2021, however later after further review realised your complaint had already been investigated. I understand why you would be unhappy as you thought your complaint was going to be reviewed, however, the FCA apologised in a follow up email and explained they had already investigated your complaint in 2020.
9. I agree with the FCA, your complaint does not fall into the remit of the Scheme and whilst I note you have since taken your complaint to the Financial Ombudsman Service (FOS), it's decision does not alter the fact your complaint is excluded from the Scheme. However, I can see the FCA have forwarded the details you provided about a firm (X) in your email of March 2021 to the FCA Supervision Hub as intelligence.
10. Although your complaint is excluded under the Scheme, the FCA has provided you with further information about the matters you raise and noted your concerns. I agree this was a reasonable approach.
11. You have subsequently raised further concerns around the handling of your complaint by the FCA Complaints Team, in particular poor communication on its part. However, this is not a complaint which the FCA has investigated. Under the Complaints Scheme the FCA normally do their own investigation first, as that is usually the best way of resolving matters (see <http://frccommissioner.org.uk/complaints-scheme/> for further details). For that reason, I suggest that you send your complaint to the FCA. Once the FCA has completed its review, if you are not satisfied with the FCA's decision, you can ask me for an independent investigation.

*My decision*

12. 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  
04 June 2021