

1 February 2021

**Final report by the Complaints Commissioner****Complaint number PRA00014***The complaint*

1. On 2 November 2020 you asked me to investigate a complaint against the PRA. You followed up your complaint with further representations on 4 January 2021.

*What the complaint is about*

2. The PRA Enforcement Decision Making Committee (EDMC) issued you with a Decision Notice which set out that the PRA had decided to impose a prohibition order on you. The PRA summarised your complaint as follows:

*Element One*

*You allege that as you were never a director of the Credit Union and therefore did not make board decisions, you should not have been mentioned in the PRA press release.*

*We believe this element of your complaint is an allegation of a “mistake” on the part of the PRA.*

*Element Two*

*You claim that the PRA has decided the outcome for the credit union in question prior to 2014 and were not constructive or helpful throughout the process that followed. You felt that the PRA had its ‘own game rules, without informing the players’. You also claim that you feel your Human Rights were not afforded in communications with the PRA.*

*We believe this element of your complaint is an allegation of “unprofessional behaviour” on the part of the PRA.*

### *Element Three*

*You claim that the press release issued by the PRA does not present all the facts, and that some facts have been misrepresented. You provided us with a list of incorrect or missing facts to review.*

*We believe this element of your complaint is an allegation of a “lack of integrity” on the part of the PRA.*

### *What the regulator decided*

3. The PRA said that under paragraph 3.6 of the Complaints Scheme, ‘ *The appropriate way to seek a remedy for the matters you have raised in your complaint would therefore in our view have been to refer them to the Upper Tribunal*’, and declined to investigate your complaint.

### *Why you are unhappy with the regulator’s decision*

4. You have pointed out to me that
  - a. You do not have the means to hire counsel to represent you at upper tribunal, therefore this was not an option for you.
  - b. You continue to believe the PRA were out of time to bring any action against you.
  - c. You believe your Human rights have been breached.
  - d. You feel the FCA ought to have provided you with guidance about obtaining director’s liability insurance which would have enabled you to cover the costs of your legal representatives.

### *Preliminary points (if any)*

5. You have raised concerns about a number of organisations, such as the insolvency practitioners dealing with the insolvency of a credit union you were involved with, the Insolvency Service, and the PRA. The complaint Scheme cannot review complaints against any other organisations apart from the regulators.

6. You have complained to me about the FCA. However, under the complaints scheme to which both the regulators and I both operate to, the FCA would usually be given an opportunity to review your complaint in the first instance. For this reason, I suggest that you send your complaint in 4 (d) above to the FCA Complaints Team. If you are not satisfied with the outcome, you can refer it to me for an independent review.

*My analysis*

7. I recognise that you have been through a very difficult time. However, the matters you raise in 4 (a-d) above are not ones that can be reviewed under the Complaints Scheme: I cannot interfere with decisions made by the EDMC.
8. The Complaints Scheme was established by Act of Parliament – the Financial Services Act 2012 – which sets out the broad areas which the Scheme covers. One of the things which the Scheme cannot do is interfere with individual regulatory decisions.
9. Only the courts can establish whether your human rights have been breached, or whether the PRA breached statute in taking action against you. The Scheme includes provisions under which the regulators or I may decide not to investigate, or to defer, a complaint. In this case I agree with the PRA that your complaint was best dealt with elsewhere, in particular, the Upper Tribunal. I appreciate you have said to me that you did not have financial means to progress your case there. You do not have to be legally represented to take the matter to tribunal and seeking independent advice without cost from several organisations such as the Citizens Advice Bureau to see what might be possible was an option open to you. I have sympathy for your position, but the matters you complain about cannot be considered under the Complaints Scheme, which is not a substitute for the courts.

*My decision*

I understand that you are unhappy with my decision, and you have provided me with many instances in your interaction with the PRA leading up to the Decision Notice where you believe '*the PRA have misused deliberately the FSMA rules and are in clear breach*' of the rules. I recognise you have been through a difficult time,

however, the matters you raise are not ones which can be reviewed under the Complaints Scheme for the reasons I give above.

Amerdeep Somal

Complaints Commissioner

1 February 2021