



Complaints Commissioner

On 27 March 2003, the Complaints Commissioner issued a final report on complaint GE-L0059 to the complainant and the Financial Services Authority. The introduction and summary to that report is published below.

FINAL REPORT ON COMPLAINT GE-L0059

1. Introduction and Summary

- 1.1 This is the Final Report of an investigation by the Complaints Commissioner of complaint reference number GE-L0059 against the FSA. The complaint falls to be considered under the Main Scheme. A Preliminary Report was sent to the complainant and to the FSA on 3 March 2003 and 15 working days were given for submissions to be made to the Commissioner thereon. Submissions were received from the FSA, but not from the complainant. The comments made in this submission have been carefully considered by the Commissioner in preparing this Final Report.
- 1.2 The complaint concerns the FSA's handling of an enquiry about the procedures and methodology adopted by Equitable Life in calculating transfer values.
- 1.3 This complaint concerns five matters as follows.
 - (a) The complainant complains that the FSA failed to provide him with details of the methodology adopted by Equitable Life for calculating transfer values.
 - (b) The complainant complains about the way in which his request for details of the methodology was handled and about the advice he received.
 - (c) The complainant has expressed dissatisfaction with the FSA's failure to assist him in respect of his dealings with Equitable Life and concerning his complaint about Equitable Life to the Financial Ombudsman Service.
 - (d) The complainant complains that he was given incorrect advice about how to make a complaint against the FSA.
 - (e) The complainant is looking for independent verification of the FSA's account of events and their explanations of decisions.
- 1.4 In respect of the first matter, the Commissioner has made the following findings.
 - (a) It appears from the information provided by the complainant that the Financial Ombudsman Service (FOS) told him that the FSA could provide him with information about the methodology. Unfortunately, this advice from FOS was incorrect. The FSA is not able to provide details of the terms and

conditions attached to a product provided by a firm; this is a matter that the customer has himself to take up with the firm in question.

- (b) At the time of the complainant's enquiry, however, the FSA had a specially trained, dedicated Equitable Life Helpline to help customers with queries. They were able to provide standard information about the calculation of transfer values, which was sufficient to provide a planning assumption but not to calculate actual values exactly. They thus did not have the information to enable them to answer the complainant's specific query with certainty, nor was it their responsibility to do so. It was a matter for Equitable Life.
- (c) Because of the pressure on Equitable Life's administrative systems at that time, Equitable Life was not always able to provide timely responses to customer queries or complaints. The FSA supervision team thus had to make a judgment as to whether or not to provide a customer who had come to them with an Equitable Life-related problem with a specific contact at Equitable Life itself. Against this background, the decision was made by the FSA to provide an Equitable Life contact in response to an enquiry made to them only in exceptional circumstances, for example where it appeared that a glaring error had been made; where there was something manifestly unusual about the case; or where the enquiry might set a precedent or had a wider supervision angle. The complainant presented as an Equitable Life policy-holder who was unhappy that the value of his policy was less than he had expected. His enquiry did not appear to meet these criteria, and the FSA therefore did not give him a named contact to pursue at Equitable Life, other than the Compliance Officer.
- (d) The Commissioner finds that, with regard to this element of the complaint, the FSA did what they could. Both their general approach to handling Equitable Life-related queries, and its particular application in the case of the complainant, were reasonable. This element of the complaint is therefore not made out.

1.5 In respect of the second matter, the Commissioner has made the following findings.

- (a) The complainant is unhappy that, in his initial telephone conversations with the FSA, he was given the impression that the FSA would be able to provide him with an answer to his methodological query yet in the written reply he received he was told that they could not.
- (b) Overall, the Commissioner finds that there was no intention on the part of the FSA to mislead the complainant by suggesting that they could answer his precise question when they could not. But this element of the complaint is made out insofar as the FSA took seventeen days to give a reply to the complainant that they should have known would be most unlikely to satisfy him. Further, it was confusing for him to be left with the impression by one part of the FSA that they were unlikely to correspond with him further, whilst another part was continuing to correspond with him about his complaint against the FSA. However, the Commissioner notes that, in a letter to the complainant, the FSA offered the complainant a general apology for any inconvenience caused in the handling of his enquiry.

1.6 In respect of the third matter, the Commissioner has made the following findings.

- (a) As stated above, the Commissioner is satisfied that the FSA's decision not to provide the complainant with a named contact at Equitable Life other than the Compliance Officer was, in the circumstances, reasonable. The Commissioner notes, however, that as part of their Stage 1 investigation into the complainant's complaint against the FSA, the FSA did contact the Compliance Officer of Equitable Life in order that the complainant might get a swift response from him. The complainant was clearly dissatisfied with the service and responses he received from Equitable Life's Compliance Officer. This is regrettable. It is not, however, a matter over which the FSA has a locus (unless they were to consider that the matter gives rise to wider concerns or suggests a failure to comply with regulatory requirements, which do not apply in this case.) It is thus not a matter that falls within the Commissioner's jurisdiction. It is for Equitable Life and, if they cannot resolve it, for FOS.
- (b) It also appears that FOS may have given the complainant advice about the help the FSA might be able to give him that was incorrect. Again, this is not a matter for the FSA or, therefore, one that falls within the Commissioner's jurisdiction. The Commissioner notes, however, that there may have been lack of clarity on the part of FOS as to what information the FSA could offer enquirers wishing to discuss Equitable-related problems at that time. She further notes that, since the period covered by this complaint, managers of the FSA and FOS Helplines have met and regularly exchange information generally about queries that each can and cannot help with and to develop joint positions. The FSA Helpline manager has also met the helpline managers for FSCS, OPAS and National Debtline to do the same. The Commissioner feels that this improved co-ordination will be of general help to consumers and will lead, overall, to a better level of service.

1.7 In respect of the fourth matter, the Commissioner has made the following findings.

- (a) The complainant was given incorrect advice by the FSA's Helpline on 6 March 2002. He was told by the Helpline that that if he wanted to complain about the FSA he should write to the Complaints Commissioner. He was given the wrong address for the Complaints Commissioner and left with the incorrect impression that the Commissioner was part of the FSA and located at the FSA offices. The correct procedure would have been for the complainant to be referred to the FSA Company Secretariat. This element of the complaint is therefore made out. However, the Commissioner notes that the FSA offered an apology to the complainant in their letter of 20 May for giving this incorrect advice.

- 1.8 In respect of the fifth matter, the Commissioner has made the following findings.
- (a) The Commissioner reports in this document on her investigation into the matters complained of by the complainant. Her investigation has not revealed any new material facts not taken into account by the FSA Company Secretariat in reporting on their Stage 1 investigation.
- 1.9 In the light of these findings the Complaints Commissioner recommends as follows:
- (a) The FSA lacks arrangements to enable one part of the FSA dealing with a particular individual to check easily whether another part of the FSA is also in communication with that same individual and, if so, what stage that correspondence has reached. This is particularly important when the Company Secretariat may be dealing with a complaint and another part of the FSA is dealing with the complainant on a separate and/or related matter. The FSA should consider introducing procedures to improve communication and liaison between different departments in this regard and, in particular, consider adopting a 'customer management' system to be used by all departments that make direct contact with customers, including the Helpline, the Correspondence Unit and Company Secretariat complaints staff.
 - (b) The Company Secretariat staff with responsibility for the Complaints Scheme should work with the management of the Consumer Division to ensure that all staff dealing directly with enquiries are aware of the procedures for referring complaints to the Company Secretariat and understand the role of the Complaints Commissioner.
- 1.10 The Commissioner understands that the FSA is now addressing, and in some respects has already addressed, the matters highlighted in paragraphs 1.9(a) and (b) above.