

Our ref: L0659

14<sup>th</sup> September 2006

Dear Complainants

Thank you for your letter of 4<sup>th</sup> July 2006, which details the elements of your complaint against the Financial Services Authority (FSA). This letter sets out my final decision on the complaints you have raised.

### The Complaint

In your letter you have complained that as a result of following an FSA fact-sheet you have missed out on compensation on an endowment you have which previously supported your mortgage. After reading the fact-sheet you sold your house by using proceeds from that and other assets. This paid off your mortgage debt. You then received the determination from the Financial Services Compensation Scheme (FSCS) which awarded you £200 on the basis that compensation could only be awarded for the period where the mortgage was supported by the endowment. The re-projection letter you had initially received projected a shortfall in the endowment of £12,000. It appears that you believe that if you had not taken the actions you did with regard to paying off your mortgage you would have received the majority if not all of the £12,000 shortfall by means of compensation. This is the loss which you are claiming from the FSA.

### The FSA Position

The FSA has stated in its decision letter of 26<sup>th</sup> June 2006 that the purpose of the fact-sheet; “Was not to advise consumers on what action they should take in the light of their particular circumstances but to offer some general possibilities to address their shortfall”.

Based on this position the FSA has not upheld your complaint.

### My Position

There are a number of issues in your complaint that need to be addressed before I provide you with my decision.

- 1) You have not demonstrated any *actual* loss in your complaint. You have stated that there had been a *prospective* loss of £12,000 on your mortgage endowment. It is quite possible that this loss may not have occurred if the endowment had performed well in the remaining term of the mortgage. Furthermore the amount of compensation you may have received would have been less than £12,000 as it would have been calculated to be notionally added to your current endowment and had the remaining term then to grow to meet the £12,000 shortfall (the payment would have

been paid to you direct for you then to invest). Obviously the longer the period between receiving the re-projection letter and the end of the mortgage term the smaller the compensation amount would have been.

- 2) By paying off your mortgages early you have reduced the amount of interest you would have had to pay on the outstanding loan. This has saved you money. Furthermore by taking this action you have increased your disposable income. It would be wise to save some if not all of this added disposable income as this would allow you to build back up the savings you had gathered for retirement (and used to pay off the mortgage).
- 3) You have not demonstrated that what the FSA had said about paying off the debt early was in anyway fundamentally incorrect. It seems reasonable to me to suggest paying off a mortgage debt early, and thus reduce the overall cost of having to service that debt. It is likely that the interest rate on the mortgage debt was probably higher than the interest rate gained on the savings you used to pay off the mortgage.
- 4) You have stated in your letter to me that the FSA is incorrect to say that its fact-sheet did not constitute advice to them. The term advice in this context means tailor-made professional advice supplied to you by an advisor who had based a recommendation on your specific individual circumstances. This fact-sheet was a mass produced letter which apart from the addressee details were the same for all members of the public who received it. It was therefore generic in its import.
- 5) It should be remembered that within the letter there were clear warnings to seek such individually tailored advice. You have tried to discount this warning by stating that your trust in independent advice has been broken and hence no option but to follow what you term as 'FSA advice'. Just because one advisor may have provided you with advice which did not fully suit your needs does not mean that any adviser you took advice from in the future would similarly provide you with what may have turned out to be unsuitable advice. In my opinion a 'reasonable person' would have gathered information on the subject, then approached a number of advisers to see what was the consensus of opinion was and at that stage then made an informed decision.
- 6) Clearly the FSA was not responsible for the original sale of the endowment. Similarly by taking the actions you have without taking individually tailored advice from an advisor you have assumed full responsibility for the decisions you have taken.

## Conclusion

As you have not been able to show that you have suffered any actual loss nor demonstrate that the FSA's comments in its fact-sheet were incorrect I cannot uphold your complaint. Even if you had been able to demonstrate both of these things your complaint would still fail on the basis that the fact-sheet warned you to take advice if you were not sure which option to take. By ignoring this warning you chose to assume full responsibility for the actions you have taken.

I am sorry that you find yourself in your position, in that, by taking a proactive stance on the information provided in the fact-sheet, you now feel that you have missed out on compensation from the Financial Services Compensation Scheme (FSCS). You are not the first to find yourself in this situation and I can sympathise because you are no doubt aware of people in similar situations who have not been so pro-active in solving the same issue and therefore have received some form of compensation. Notwithstanding this apparent anomaly, it does not mean that the FSA has done anything wrong in issuing the fact-sheet to you and consequently is in no way liable to you.

Yours sincerely

Sir Anthony Holland  
Complaints Commissioner