

ISLE OF MAN OFFICE OF FAIR TRADING



Isle of Man Office of Fair Trading

ANNUAL REPORT

2022/23



Isle of Man
Government

Reiltys Ellan Vannin

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FOREWORD BY THE CHAIRMAN



Our small team has had another busy year. Our day to day work continues to ensure that a thorough consumer advice service is provided, business inspections continue and licensing regimes are administered. On top of that, we have had some significant and very time-consuming challenges, not least in being consumer champion for the customers of one of our major energy providers, which has recently experienced serious problems with its billing system.

We have a close working relationship with the Department of Environment Food and Agriculture, which provides support to the OFT and which is also 'sponsoring Department' in representing us at the Council of Ministers. It is often misunderstood however that the OFT remains an independent Board of Government. During the year, the Board has been considering how our independence may be more demonstrable. We have also engaged with ongoing work on the Regulatory Review Report which is considering how best to deliver regulatory functions across Government.

**John Wannenburg MHK
Chairman**

INTRODUCTION BY THE HEAD OF OFT

First of all, I would like to thank the staff and the Board for their support throughout 2022/23.

Secondly, I must highlight the fact that there are two major issues that over the next couple of years may impact on the OFT's ability to maintain its services. Hopefully, with mitigation, the impact will be less than critical.

The first issue is succession planning with the Chief Officer and Director about to be replaced and three very experienced senior officers due to retire before the end of 2024.

Deficient consumer protection legislation is the second major issue with limited drafting resources and post-Brexit developments in the UK potentially posing very significant hurdles.

The services currently provided by the OFT are very diverse and the staff continue to show remarkable resilience in maintaining them, however, it is inevitable that some big decisions will need to be made, for example, surrounding the structure of the OFT, to ensure that those services are maintained going forward.

Whilst some Key Performance Indicators have not been achieved due to the prioritising of resources, this report highlights how much the OFT continues to achieve with limited resources.

**John Peet
Head of OFT**

OFFICE OF FAIR TRADING BOARD

Policy within the OFT is agreed by a Board which is constituted under the Board of Consumer Affairs Act 1981 and receives much of its powers from the Consumer Protection Act 1991. The Board comprises:

- a Chairman, who is member of Tynwald;
- a Vice-Chairman, who is a member of Tynwald; and
- three persons, not being members of Tynwald, capable of representing consumers in relation to the functions of the Board.

Members for 2022/23 were:

Mr J C Wannenburgh MHK
Chairman

Mr S G Peters MHK
Vice Chairman

Dr M Maska Mr M Bathgate Mr L Wong

During 2022/23, there were 11 regular meetings of the Board. Costs associated with the Board were £26,605, which was slightly over budget. Minutes of the meetings of the Board are published on our website¹.

Members' attendance at Board meetings was as follows:

Name	Meetings		Attendance Rate
	Possible	Actual	
Mr J C Wannenburgh MHK	11	10	91%
Mr S G Peters MHK	11	11	100%
Dr M Maska	11	10	91%
Mr M Bathgate	11	10	91%
Mr L Wong	11	11	100%

¹ <https://www.gov.im/about-the-government/statutory-boards/isle-of-man-office-of-fair-trading/the-board/>

FINANCIAL SUMMARY

The year-end net financial position for 2022/23 was below allocated budget. Expenditure was under budget and income was also significantly under budget. In summary, figures were as follows:

	Budget	Actual	Difference
Gross Expenditure	£724,597	£616,864	£107,733
Budgeted Income	-£45,212	-£27,984	-£17,228
Net Expenditure	£769,809	£644,848	£124,961

The significant underspend of £124,961 was largely associated with vacant posts within the staffing structure.

Income was significantly under budget. Progress has been made towards updating fees for a range of our licences and services. In considering this, we have been very aware however that we don't want to place additional financial burden on business. Revised fees won't come online until the next reporting period, 2023/24. These increases will only represent a modest increase. Income budget overall could therefore usefully be reviewed, as there is no reasonable expectation of meeting the current budget figure.

STAFFING

The OFT has 13 staff dedicated to OFT duties, several of which work fewer than full-time (37 hpw) hours. This means that there is an actual full-time equivalent of 11 staff.

As indicated earlier in this report, succession planning is a significant priority, with several experienced staff expected to retire within the next 18 months.

A new Enforcement Officer was recruited during the year, our Trainee Trading Standards Officer continues to progress in her studies and other staff are gaining experience. Plans to replace the staff due to retire are also developing.

OVERALL PERFORMANCE AGAINST TARGETS

	Status	Comments
COVID-19		
React in a timely fashion to any urgent and/or unforeseen issues arising from the crisis.		This target has been cancelled.
CORPORATE GOVERNANCE AND FINANCIAL MANAGEMENT		
Ensure that appropriate systems are in place to manage risk within the OFT. Risk Register to be reviewed regularly and submitted for Board scrutiny quarterly.		Achieved.
Develop and agree a strategy which will achieve a staffing structure suitable to deliver the activities of the OFT to include succession planning, subject to financial constraints.		Ongoing dialogue with the Department of Environment, Food and Agriculture, which provides support to the OFT.
Achieve the agreed gross and net budget for each financial year.		Achieved.
Review all fees on the basis that service provision should be revenue-neutral. New fees to be in place by 31st March 2023.		The new fees are on course to be in place on 1 st August 2023.
Undertake the specified statutory duties for public bodies under the Climate Change Act 2021.		Meetings with the Climate Change team to be arranged to ascertain exactly what is expected of the OFT as a Statutory Board.
TRADING STANDARDS		
Monitor compliance with, and, if necessary, take proportionate enforcement action under trading standards legislation, including the administration of a number of licensing and registration regimes.		Achieved.
Provide specialist advice on trading standards matters.		Achieved.
Conduct a risk assessment of the Island's businesses, with visits being made to reinforce compliance at 100% of those identified as being 'high risk'.		A few outstanding visits. These will be carried out as a priority during the first few weeks of 2023/24.
Continue to actively target those who knowingly trade illegally or unfairly.		Achieved.
Undertake at least three projects to reinforce compliance with existing provisions and/or identify gaps in trading standards law.		1. Joint visits to shops selling vaping equipment with the police and Public Health.

		2. Joint visits to licensed premises with the police and Customs & excise.
Maintain the Manx Standards of weights and measures.		Achieved.
LEGISLATION/BREXIT		
Monitor legislative developments in other jurisdictions to assess the need for change to Manx legislation in the light of BREXIT.		Achieved.
Progress the Manx equivalent of the UK's General Product Safety Regulations 2005.		Not achieved due to the prioritisation of resources. To be taken forward to next year.
Progress the requisite secondary legislation under the Competition Act 2021.		The requisite secondary legislation is in the process of being drafted for a consultation.
Progress the Estate Agents (Amendment) Bill.		There has been limited progress and this must be prioritised in the coming months.
Progress the Business Protection from Misleading Marketing Regulations.		Not achieved due to the prioritisation of resources. To be taken forward to next year.
Progress a review of the legislation for which the OFT has responsibility, in particular the consumer safety and weights & measures provisions, to ensure that it is fit for purpose and proportionate.		Not achieved due to the prioritisation of resources. To be taken forward to next year.
Progress a review of the Manx consumer rights legislation to ensure that it is fit for purpose and proportionate.		Not achieved due to the prioritisation of resources. To be taken forward to next year.
CONSUMER ADVICE & DEBT COUNSELLING		
Provide appropriate advice and support to consumers experiencing problems with purchases of goods or services.		Achieved.
Provide intelligence to enable trading standards to target non-compliance with trading standards legislation.		Achieved.
Provide a confidential debt counselling service.		Achieved.
FINANCIAL SERVICES OMBUDSMAN SCHEME		
Provide a free alternative dispute resolution service for consumers with complaints about		Achieved.

defined financial services provided in or from the Island.		
Promote good complaint handling by the Island's finance industry so that its reputation is bolstered in the market place.		Achieved.
EQUALITY ACT 2017		
Assist individuals in resolving complaints concerning alleged contraventions of the Equality Act 2017 through conciliation as an alternative to the Tribunal or Courts.		Achieved.
COMPETITION & MARKETS		
When required to do so, undertake investigations under the Fair Trading Act 1996 into alleged anti-competitive practices and prices of major public concern, and when it is enacted, under the Competition Act 2021 into alleged anti-competitive practices or any market where it believes that the market is not functioning in the interests of consumers or the economy.		No formal investigations undertaken.
Monitor prices, trading practices, consumer issues and consumer concerns. Collect, review and, where appropriate, publish statistical data to inform the Board, the Council of Ministers and the public.		Achieved.
Continue to monitor and publish monthly and annually comparative pricing data for domestic heating, road fuels and online travel, identifying anomalies and concerns for further investigation.		Achieved.

KEY	
Target Achieved	
Target Partly Achieved or Achieved Late	
Target Not Achieved or Not Achievable	
Target Cancelled or Transferred to another Agency	

OFT ACTIVITIES TRADING STANDARDS

In 2022-2023, following the end of the Covid 19 pandemic, the work of the Trading Standards Section returned to something like normal. Staff turnover has however increased pressure on remaining staff to undertake planned works while recruitment and training has taken place.

The target for inspection of 100% of premises identified as 'high risk' this year fell short as not all petrol forecourt inspections were done (10 out of 19 were visited).

We test and inspect weighing and measuring equipment in operation across the Island. Like last year, all weighbridges, oil tankers and supermarket checkout scales were tested at least once during the course of the year and any errors corrected. We also responded to any complaints of short measure.

Additionally, we have tested a sample of petrol pumps at forecourts to ensure motorists get what they paid for (50% of retail sites visited). Optics and beer glasses in public houses have also been checked. We have altered legislation requiring certain spirits to be served in 25ml quantities. This has required a change in measuring equipment used and as a consequence, we carried out additional educational visits to ensure the change went smoothly. We have also visited producers and checked packing lines to ensure average weight controls are being adhered to.

A visit to any premises will also include compliance checks with other legislation enforced. This will include general pricing checks, consideration of advertising materials, and the safety of any consumer goods.

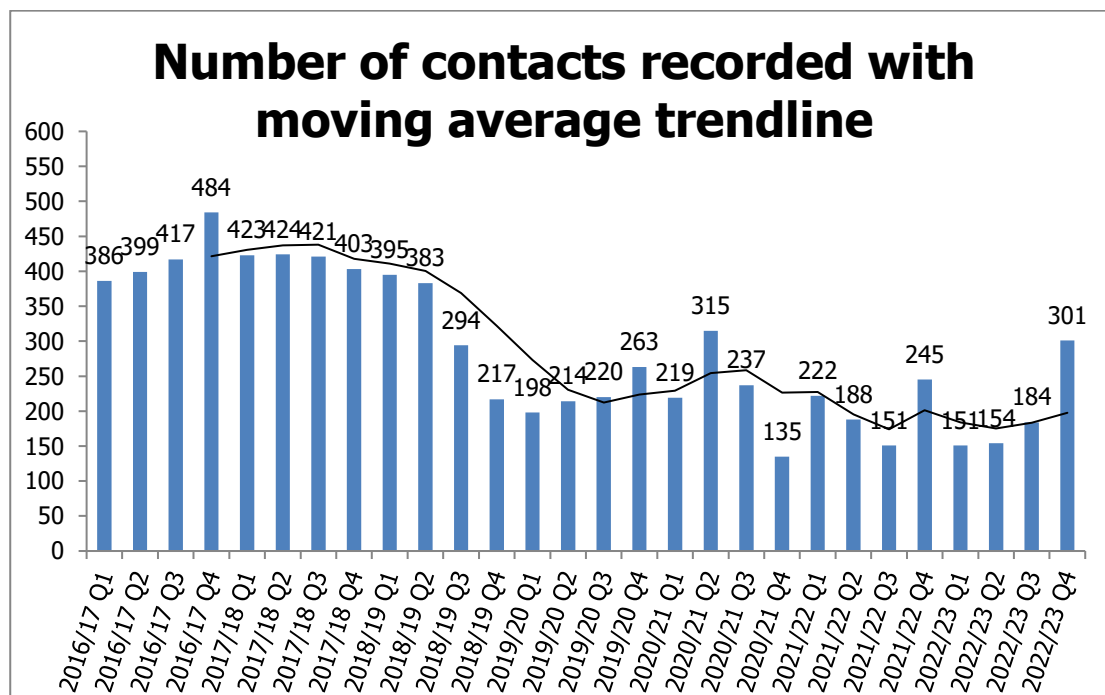
Our work on product safety this year has largely focussed on new entrants to the cosmetic sector seeking advice on testing and labelling. This is especially important for producers wishing to export their products outside the Island. We have also undertaken visits to all those selling fireworks whom we licence. Storage facilities were checked and we ensured that products sold were genuine and had all relevant safety information attached.

We fell short of our target for tobacco visits this year (due to an experienced member of the team retiring which impacted resourcing for this task), with 17 out of a target of 30 visits completed. The inspections make sure the products are being displayed correctly and that adequate checks are being carried out by retailers to prevent products being sold to those underage. We will seek to surpass the target next year to make up for the shortfall. We did carry out some related visits looking at the sale of vapes and introducing age and point of sale restrictions. 18 visits were undertaken in conjunction with Public Health and the Police. Even though legislation has yet to be passed, those visited agreed on a voluntary basis to limit sales to those over 18.

Trading Standards also deals with complaints about traders that may have a criminal element (e.g. building works, car sales, and non-resident traders). We use our enforcement policy to make sure matters receive a measured and effective response.

OFT ACTIVITIES CONSUMER ADVICE

In total, 790 contacts (i.e. complaints, enquiries and reports concerning consumer issues) were recorded for the year. Comparisons with previous years are shown in the chart below:



There has been a small decrease in complaint numbers this year from those seen in 2021/22 (803 down to 790). Post-pandemic we expected a return to normal service levels; however the cost of living crisis has potentially stopped consumers spending and consequently impacted the number of transactions/contracts entered into. We believe fewer contracts result in fewer disputes and therefore fewer contacts with us.

From the table, it can be seen that complaint numbers were down in the first two quarters but then rose sharply. The primary reason for this was problems in the new billing system installed by one of our energy suppliers. This resulted in a large number of complaints ranging in complexity and subject matter. Failure to produce bills, incorrect billing and overcharging were just some of the reasons given. The OFT undertook to collate complaints and communicate them to the company. Further checks were made to ensure matters were put right. Close to 90% success rate has been achieved, with any outstanding matters being pursued.

The table below identifies, in descending order, the most significance areas of concern based on the number of contacts recorded:

Subject Matter	Number of Contacts Recorded	% of total
Gas	282	35.7
Home Maintenance	97	12.3
Tenancy	57	7.2
Second-hand Cars	54	6.8
Food & Drink	18	2.2
Mobile Phones Inc. Services.	15	1.9

This year, top-ranking categories have changed, with “Scams” and “Repairs to Second Hand Cars” being replaced by “Food & Drink” and “Mobile Phone complaints”. There is no identifiable reason for this trend.

The information collected by our small team of Consumer Advisors continues to provide the Trading Standards Service with vital intelligence which enables informed decisions to be made concerning enforcement action.

We continue to raise awareness of consumer rights and concerns through media releases. Presentations to various community groups have also recommenced after the interruption caused by the pandemic.

OFT ACTIVITIES DEBT COUNSELLING

With the cost of living crisis impacting so many, the service is vital in letting some people see a way out of debt.

Considerable efforts have been made this year to advertise the service and make it more accessible.

Posters and advertising material have been distributed around the Island. We continue to be involved with the Western Wellbeing Partnership and provide a weekly drop-in clinic at the Peel Medical Centre, Derby Road, Peel, as well as attending pre-arranged appointments at various locations around the Island. We attend the Northern Network Partnership's monthly meetings in Ramsey to support that group with information and resources. In addition, we supported a number of events promoting services available to interested groups and organisations, including local authorities, charities, schools and corporate bodies. We have received positive feedback from these works.

The report below provides details of the numbers of clients using the service.

Figures should not by any means be interpreted as a measure of the indebtedness of residents of the Isle of Man. They merely reflect the profiles and circumstances of those people who have chosen to make use of the Service.

There may be minor differences in the way the statistics are produced, as a new software package was introduced in 2018. Differences are considered insignificant.

In the context of this report, "debt" includes priority and non-priority debts.

"Priority debts" are those where non-payment can result in clients losing their liberty, homes, essential services or essential goods. Examples of priority debts include fines, mortgages, debts owed to utility providers, and income tax.

2022/23 Summary:-

- The Debt Counselling Service helped a total of 235 people in the last year. This figure is made up from enquiries, new clients and returning existing clients.
- 29 new clients used the Service to create their financial statements and deal directly with creditors on their behalf (14 fewer than last year).
- A further 54 contacts were received where help was provided to enable individuals to address their own issues. The support given is tailored to the individual's needs and ranges from providing a copy of our self help guide, to more detailed one to one counselling. This help may be very basic - perhaps supplying our self help guide, or may be more detailed one to one support. (23 more than last year)
- On average, 38 existing clients have returned to make use of the service in each quarter. This demonstrates the resource required to service our existing book of business. Whilst number are slightly down on last year, we play a significant role for the clients we support. (33 fewer than last year). However human resourcing

has been limited because of recruitment, training and sickness and this has undoubtedly impacted significantly on the ability to process contacts from existing clients.

- The cumulative debt (both secured and unsecured) that was owed by all new clients, was £361,315.
- The average debt (both secured and unsecured) owed by each new client was £12,455.
- Personal Loans, Credit Card, Catalogue Debts, Court Fines and Mobile Phone Bills made up the biggest percentage of the debt.

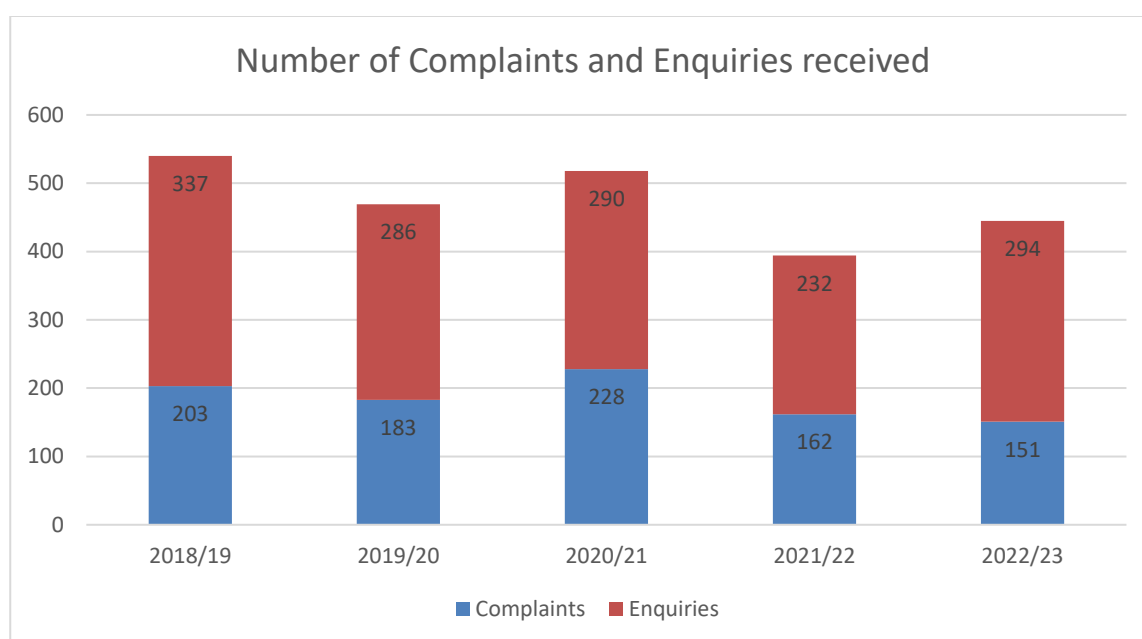
Anyone experiencing debt problems should be encouraged to contact the service, which is completely confidential.

OFT ACTIVITIES

FINANCIAL SERVICES OMBUDSMAN SCHEME

Overall, the Financial Services Ombudsman Scheme received a total of 445 contacts made up of 151 complaint forms received and 294 enquiries during the year. The overall total represents an increase of 51 more contacts compared to the previous year. However, as the breakdown shows, case officers dealt with 62 more enquiries and 11 fewer complaint forms were received than in 2021/22.

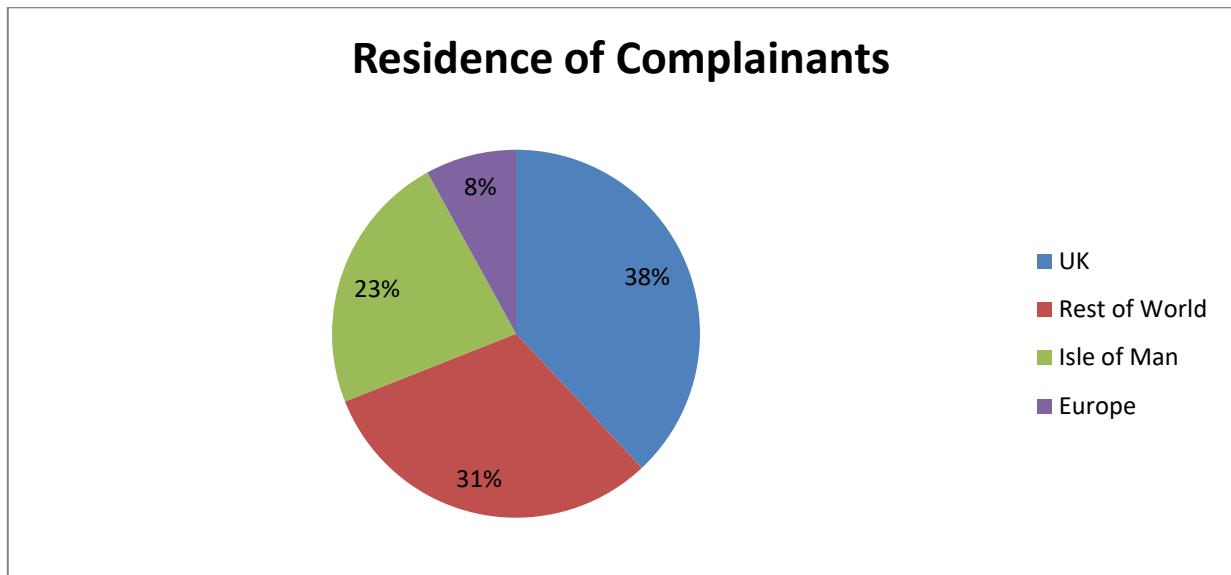
A 'complaint' is recorded when the Scheme receives a complaint form and the matter is investigated. In the case of an 'enquiry', a completed complaint form is not received, but some discussion may take place with the client regarding their concerns and further communication may be necessary.



The banking life insurance and sectors continue to attract the most numbers of complaints to the Scheme. In 2022/23, these two provider types together represented 92% of the total complaints received as detailed in the table below.

Type of provider complained about	2022/23	
	No	%
Bank/Building Society	70	47.0
Life Insurance	67	45.0
Insurance Intermediaries	8	5.0
Investment Adviser	2	1.0
General Insurance	2	1.0
Not within definition of a financial service	1	0.5
Moneylenders	1	0.5
Total	151	

Consideration of the country of residence of complainants gives an indication of the global nature of the financial industry on the Isle of Man. Whilst complaints from Isle of Man residents represented 23% of the total complaints received during the 2022/22 year, 38% of complaints received were from UK residents and 8% were received from European countries. The spread of the remaining 31% is worldwide, with complaints being received from the Middle East, as well America and Asia.



The role of the OFT is to mediate between the parties to a financial dispute, with a view to bringing about a settlement. By engaging with parties directly, it is possible to achieve a timely and satisfactory resolution. When mediation does not resolve a dispute, a complaint is referred to an Adjudicator. This is a more formal process, where submissions are considered and a legally-binding determination is issued to both parties.

As the majority of complaints are resolved through mediation, the numbers of complaints referred to an Adjudicator are low. During 2022/23, two cases were referred to adjudicators for determination. When finalised, a summary of the Adjudicator's decisions in each case are shared on the FSOS section of the OFT [website](#) along with previous determinations.

The Scheme's annual report for the year 2021/22 was published in July 2022 and can also be found on the OFT website [here](#). A full report on the activities of the Scheme during 2022/23 year will be published in July 2023.

OFT ACTIVITIES

EQUALITY ACT 2017

The Isle of Man Equality Act 2017 seeks to provide a legal framework which protects individuals from discrimination in both the workplace and the provision of goods and services. The Act protects individuals from discrimination on the basis of possessing a 'protected characteristic'.

The protected characteristics are:

- Gender reassignment
- Marriage & Civil Partnership
- Race
- Religion
- Sex
- Sexual Orientation
- Pregnancy & Maternity
- Age
- Disability

Where a person feels they have been discriminated against in relation to the provision of goods and services, they can contact the OFT whose officers can advise what the law is so that the individual can determine if they think they may have a claim under the Equality Act. The OFT offers help and advice on equality issues arising in goods and services, public functions, associations and premises on the Isle of Man.

Ultimately, a complaint can be referred to the [Employment and Equality Tribunal](#) but, if both parties agree, the OFT may conciliate in specific circumstances. Please note, however, that proceedings on a claim must be brought to the Tribunal within six months of the act to which a claim relates. This time limit is not suspended by ongoing conciliation.

During 2022/23, the OFT received 20 complaints where it was claimed that there had been discrimination in regards to the following protected characteristics:

Disability	12 complaints
Age	3 complaints
Race	2 complaints
Marriage	1 complaint

A further two complaints were made in regards to discrimination in the workplace and these individuals were referred to the Manx Industrial Relations Service (MIRs).

Two of the complaints were received after the complainants made formal complaints to the Employment and Equality Tribunal which referred the individuals to the OFT under section 104 of the Equality Act with a view to the OFT providing a conciliation service.

OFT ACTIVITIES

REGISTRATION OF MONEYLENDERS

The OFT is required under the Moneylenders Act 1991 to maintain a register of persons carrying on a business of lending money to individuals in the Island.

The various activities which would make up 'carrying on a business' include amongst other activities; the formulation of policy on the lending of money, the marketing of the lenders services, the processing of applications for loans (including the decision on whether to grant or refuse an application), the entering into of contracts for loans and the collection of repayments.

At 31st March 2022 there were a total of 34 businesses registered with the OFT as moneylenders under the Act. During 2022/23, two new moneylenders were added to the register. One offers loans to individuals and the second arranges peer to peer lending. Eight moneylenders withdrew their registrations as those lending businesses had ceased trading. This resulted in a total of 28 moneylenders being registered with the OFT at 1st April 2023.

OFT ACTIVITIES

COMPETITION AND MARKETS

Competition law in the Isle of Man is currently governed by Part 2 of the Fair Trading Act 1996 but is scheduled to be replaced by the Competition Act 2021. The Act was given Royal Assent in October 2021 and work is being undertaken to produce the requisite secondary legislation. This will include details as to how investigations and merger reviews will be conducted. Once this work has been completed, the secondary legislation will go to consultation later in 2023. Once agreed and an Appointed Day Order been granted, the IOM competition legislation will be brought in line with UK and EU standards. This will also make it clear that the Government will be subject to competition legislation.

Domestic heating comparisons have been produced on a monthly basis and published on the [OFT website](#). Changes have been made to the publication during the year. Additional information has been produced which illustrates the annual bills for customers using the different types of fuels, based on the latest tariffs. This allows consumers to compare the costs of alternative fuels for home heating.

Road fuel prices have also been [published](#) on a monthly basis. Over the course of 2022/23, wholesale prices have significantly increased due to the recent conflict in Eastern Europe. Retail prices for petrol, diesel and domestic heating oil hit record highs. Towards the end of 2022, supply pressure eased and retail prices started to decline. The OFT has been engaging with local road fuel suppliers to ensure profits generated in the local sector are reasonable and not excessive.

The OFT also continues to collect, compile and publish on the [OFT website](#) cost of travel data for both airlines and sea travel on a monthly basis. The publication highlights the differences in price when buying tickets 6 months, 3 months, 6 weeks and 1 week prior to the date of departure.

SUMMARY OF OFT ACTIVITIES

Trading Standards	<p>Consumer Protection including:</p> <ul style="list-style-type: none"> • Weights and measures (including maintenance of the Manx Standards) • Safety of consumer goods (e.g. toys, electrical goods, furniture and furnishings) • Rogue traders • Age-restricted sales • Timeshare • Cinematograph exhibitions • Shop opening hours • Price marking • Intellectual property • Tobacco advertising • Trade Descriptions • Auctions • Unsolicited goods & services • Misleading prices • Misleading advertisements <p>Registration:</p> <ul style="list-style-type: none"> • Estate Agents • Architects • Suppliers of video recordings <p>Licensing:</p> <ul style="list-style-type: none"> • Non-resident traders • Chapmen • Dangerous goods (safe storage of fireworks on retail premises) • Dangerous goods (safe storage of petrol)
Consumer Advice & Debt Counselling	<p>Consumer Advice Debt Counselling Consumer education</p>
Ombudsman (Financial) Services	<p>Financial Services Ombudsman Scheme:</p> <ul style="list-style-type: none"> • Mediation of cases • Adjudication of cases by Adjudicators (independent of the Office) <p>Advise and assist individuals in resolving complaints concerning alleged contraventions of the Equality Act 2017</p> <p>Registration of moneylenders</p>
Competition & Markets	<p>Investigations under the Fair Trading Act 1996 into alleged anti-competitive practices and prices of major public concern</p> <p>Monitor prices, trading practices, consumer issues and consumer concerns</p>
Board & Office Support Services	<p>Services to the Board</p> <p>Corporate governance</p> <p>Financial management</p> <p>Business planning</p> <p>Administration</p> <p>Legislation</p>