

Guidance for customers considering making a complaint to the Financial Supervision Commission (“the Commission”) about a licenceholder or former licenceholder

This is guidance to customers who are considering making a complaint about the way their business has been handled by an organisation which is licensed by the Commission (“a licenceholder”).

The Commission will only investigate a complaint if it gives rise to material regulatory issues. Such issues might include a breach (of the Financial Services Act 2008, the Financial Services Rule Book, the Collective Investment Schemes Act 2008 or AML/CFT legislation) or a matter which raises doubts about the fitness and propriety of the licenceholder or its managers.

The Isle of Man has a framework in place to address consumer issues.

The Commission is only one part of the overall structure of regulation of business on the Island. Its powers in respect of complaints are limited and other routes might prove a better match to your objectives in pursuing your complaint.

This guidance sets out the options which may be available and is designed to help you to make an informed choice between them.

The Commission cannot make or recommend financial awards; complainants who are seeking financial compensation should consider the other options open to them.

The options available include:

- A Financial Services Ombudsman Scheme, which addresses customer disputes, for private individuals, in most of the industry (the Ombudsman Scheme does not cover company services or trust services);
- The small claims procedure, which can make awards up to a ceiling of £10,000; and
- The Courts, whose powers include resolving any legal disputes and in this context are particularly relevant for matters of contract law, trust law and company law.

The following pages take you through each of these options in turn:

- Financial Services Ombudsman Scheme
- Small claims
- Legal advice and the courts
- The Commission
- The Insurance and Pensions Authority
- The Police
- Whistleblowing

Complain to the licenceholder

Your first step should normally be to complain to the licenceholder.

If you have a complaint about the products or services provided by a licenceholder, you should normally raise the complaint directly with that business first. (In exceptional circumstances such as suspected theft or fraud a customer might go directly to the Police).

The licenceholder should deal with enquiries or complaints thoroughly. Be clear about how you would like the provider to resolve your complaint. Complaining first to the licenceholder allows it an opportunity to put things right.

We require a licenceholder to:

- have procedures in place for the handling of customer complaints;
- make the procedures available to customers on request;
- include references to the Financial Services Ombudsman scheme within the procedures (where the scheme applies);
- keep a register of complaints;
- investigate a complaint thoroughly within 12 weeks; and
- notify the complainant of the outcome of the investigation.

We would suggest that you put the complaint in writing and keep a copy. This helps the licenceholder to be clear about the complaint and hopefully to resolve it. It also helps later if you are not satisfied with the response that you receive.

The Financial Services Ombudsman Scheme

The Ombudsman Scheme can make awards of compensation but does not cover every type of business.

In January 2002 the Isle of Man Government established the Financial Services Ombudsman Scheme, to review eligible complaints made by private individuals that have not been resolved satisfactorily with a financial services business.

You should consider applying to the Ombudsman Scheme if:

- You are a private individual or a personal trustee (the scheme is not open to companies and corporate trustees);
- You are complaining about insurance, investments, banking, mortgages, credit, pensions or other financial advice (but not usually about company or trust services);
- You have been through the licenceholder's complaints process and are still dissatisfied;
- You think that you have suffered a loss or financial disadvantage and are seeking financial compensation.

The Ombudsman can consider a complaint where a financial service has been provided in or from the Isle of Man regardless of where the customer lives. However, this does not include bank accounts held and regulated in other jurisdictions but administered in the Isle of Man.

Awards are binding on both parties, unless either party appeals to the High Court on a point of law.

Details on the Financial Services Ombudsman Scheme can be found at: <http://www.gov.im/oft/ombudsman/welcome.xml>.

The Financial Services Ombudsman Scheme	
Address:	Government Buildings Lord Street Douglas Isle of Man IM1 1LE
Telephone:	+44 (0)1624 686500
Email Address:	ombudsman@iomoft.gov.im

Small claims procedure

The small claims procedure can make awards of up to £10,000.

The small claims procedure is a court process which provides a simple and informal way of resolving disputes. It is particularly suitable if you are in a commercial dispute where the disputed amount is less than £10,000.

You should be able to pursue your claim without the need for an advocate.

For further information, please contact the Courts at the address below or see the information and forms available at the following Web address:

<http://www.courts.im/courtprocedures/claims/smallclaims/>

Isle of Man Courts of Justice	
Address:	Deemsters Walk Bucks Road Douglas IM1 3AR
Telephone:	+44(0) 1624 685265
Email Address:	admin@courts.im

Legal advice and the courts

Legal advice is available from Manx Advocates.

In a serious unresolved dispute, a customer might decide to take legal advice. This may be necessary if you have an unresolved dispute about an alleged breach of trust law or company law. Only a court can determine whether a trustee has acted in breach of trust and only a court can decide whether there has been a breach of company law, for example in respect of shareholders' rights.

You can find Manx Advocates through the Isle of Man Law Society: at www.iomlawsociety.co.im

Isle of Man Law Society	
Address:	27 Hope Street Douglas IM1 1AR
Telephone:	+44 (0)1624 662910
Email Address:	mailto:enquiries@iomlawsociety.co.im

The Commission

- ***The Commission is primarily concerned with regulatory compliance and the integrity, solvency and competence of its licenceholders and persons connected with them. It will only examine a complaint where it appears to give rise to a material issue in respect of these matters;***
- ***The Commission cannot decide a matter which is properly determined by the Court, such as a matter of trust law, company law or the law of contract;***
- ***If you are pursuing a legal remedy, you should not stop this course of action merely because you have also complained to the Commission;***
- ***The Commission cannot make or recommend financial awards.***

A complaint might draw attention to shortcomings in a licenceholder such as inadequate systems or a lack of competence of its directors, managers or employees. Our rules require licenceholders to keep a register of complaints and we inspect these registers.

All complaints received by the Commission are recorded for supervisory purposes, with a summary of the outcome. A report is given to the Board of the Commission on a regular basis.

You should consider informing the Commission if:

- You are a customer of a business that is, or has been, licensed by the Commission. Here is a link to the [register of licenceholders](#) and the [register of former licenceholders](#);
- You have been through the licenceholder's complaints procedure and are still dissatisfied; and
- You can provide evidence of malpractice or lack of competence in the handling of your affairs by the licenceholder.

The Commission will not ordinarily look into complaints which relate only to the cost of services, commercial decisions or investment performance.

Where a point of law is to be decided by the Court, the Commission may decide to await the finding of the Court before deciding whether to pursue the matter further. Only the Courts can interpret the law, including company law, trust law and contract law. An attempt by us to do so could merely delay and confuse the proper resolution of the issue.

If you complain to the Commission, please:

- Put your complaint in writing;
- Give your name, and how we may contact you;
- Give full details of the nature of your complaint;
- Send a copy of supporting evidence; and
- Give us your authority to disclose your complaint to the licenceholder.

Financial Supervision Commission	
Address:	Head of Supervision PO Box 58 Finch Hill House Bucks Road Douglas IM99 1DT
Telephone:	+44 (0)1624 689300
Email Address:	fsc@gov.im

How the Commission responds complaints

Within a week of receipt we will either give a substantive reply or a timescale for a substantive reply.

We will consider whether the complaint appears to raise a material regulatory issue that we can pursue with the licenceholder. For example, when looking at administrative errors, we might look at frequency of errors and quality of controls rather than the outcome in a single instance.

Complaints are treated as confidential, but we would need to tell the licenceholder why we are looking into a matter and possibly send material to the licenceholder for reply. Hence we will need your authority to release your details. If the complaint is relevant to a licenceholder's regulatory obligations, we will raise it with the licenceholder and ask the licenceholder to respond. This could take the form of a response to you, with a copy to the Commission.

We will review the response in order to see whether the licenceholder has dealt with your complaint properly in accordance with its own complaints procedures; and whether it appears that the licenceholder has complied with the Financial Services Act 2008 the Financial Services Rule Book and other relevant regulatory requirements. If, having considered the complaint and the response, the Commission has concerns about the conduct of the licenceholder, we will pursue these issues directly with the licenceholder.

The Financial Services Act 2008 makes communications between the Commission and its licenceholders confidential, but we will inform you when the complaint has been fully investigated. We are usually unable to inform a complainant of the details of an investigation, because of statutory confidentiality. If we take regulatory action against the licenceholder or its management, you will be informed if the outcome is made public.

Complaints briefing

If we are unable to pursue your complaint further we will inform you of that fact and advise that we have closed the file relating to the complaint.

Insurance and Pensions Authority

Insurance and Pensions Business in the Island is regulated by the Insurance and Pensions Authority (“the IPA”). The IPA’s website includes [a list of IPA regulated entities](#).

Insurance and Pensions Authority	
Address:	Head of Supervision 4th Floor HSBC House Ridgeway Street Douglas IM1 1ER
Telephone:	+44 (0)1624 646000
Email Address:	ipa@gov.im

Complaints to the Police

Complaints to the Police should be addressed to your local Police force. If you live in the Island, this is the Financial Crime Unit.

IOM Constabulary Financial Crime Unit	
Address:	Officer in Charge PO Box 51 Finch Hill House Bucks Road Douglas IM99 2TD
Telephone:	+44 (0)1624 686000
Email Address:	fcu@gov.im

Whistleblowing

The Isle of Man has provisions under the Employment Act 2006 to protect whistleblowers. A [guide to whistleblowing](#) from the Department of Economic Development specifically cites disclosures to the FSC on the operation of licenceholders by workers who are concerned about wrongdoing or failures, as disclosures that would be protected.