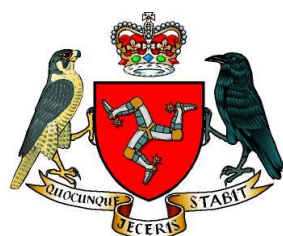


**Isle of Man Office of Fair Trading**

**FINANCIAL SERVICES  
OMBUDSMAN SCHEME**

**ANNUAL REPORT  
2015/16**



**Isle of Man  
Government**

*Reiltys Ellan Vannin*

**VERSION 1.0**



# **Financial Services Ombudsman Scheme Report at 31<sup>st</sup> March 2016**

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## 1. Introduction

Welcome to the annual review of the Financial Services Ombudsman Scheme ('the Scheme') which covers the period from 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016.

The Scheme, which is currently free to both consumers and financial providers, is managed by and operates out of the Isle of Man Office of Fair Trading (OFT). It is established under Schedule 4 of the Financial Services Act 2008.

The aim of the Scheme, where possible, is to put the complainant in the position they would have been in had the relevant act or omission not occurred. It is not to seek betterment for the complainant or to punish the financial provider.

Where a complaint is found to be within the Scheme remit, case officers provide the first stage of complaint handling offering a conciliation and mediation service. The involvement of case officers with an impartial viewpoint can help the parties see the complaint in a different light and resolve the matter with mutual agreement. In cases where mediation of a complaint fails it can be referred to an Adjudicator for formal investigation and determination.

Where, after consideration, a complaint is declined the reasons why are always explained to complainants and they are given the opportunity to respond if they disagree. Wherever possible we will inform the complainants of any alternatives which may be available to them.

The Isle of Man Appointments Commission nominates and maintains a panel of six Adjudicators who work independently from the OFT. As part of their consideration of the complaint the Adjudicator will take into account the relevant law, statutory regulations, regulators' rules, guidance and standards and codes of practice. If the Adjudicator upholds the complaint, they can make binding awards of up to £150,000.

If either party disagrees with the final determination of an Adjudicator, they can ask for the complaint to be reviewed by the Senior Adjudicator who will consider the complaint and either uphold the original determination or issue their own.

If a complainant is dissatisfied with the determination of an Adjudicator, they cannot take their complaint on to court. Awards made by the Adjudicators are binding on both parties subject only to appeal to the High Court on a point of law.

## 2. Data

Overall we handled 537 initial enquiries and complaints from consumers. 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.

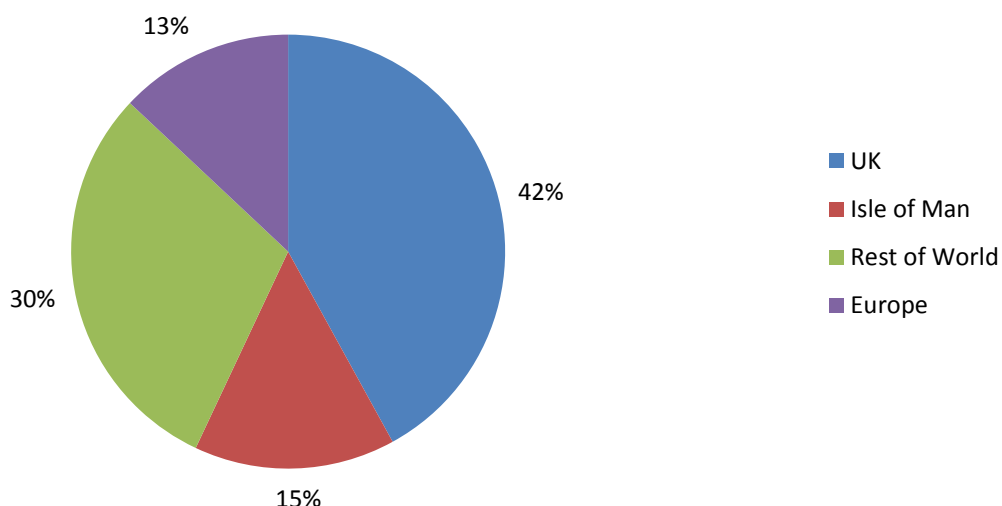
### 2.1 Change in numbers of enquiries and complaints received over the year

Year	2014/15	2015/16
Complaint forms received	267	277
Enquiries received	275	260

### 2.2 Residence of Complainants

Where the complainant lives	2013/14		2015/16	
	No.	%	No.	%
UK	136	51	117	42
Isle of Man	44	17	43	15
Rest of World	65	24	82	30
Europe	22	8	35	13
<b>Total</b>	<b>267</b>		<b>277</b>	

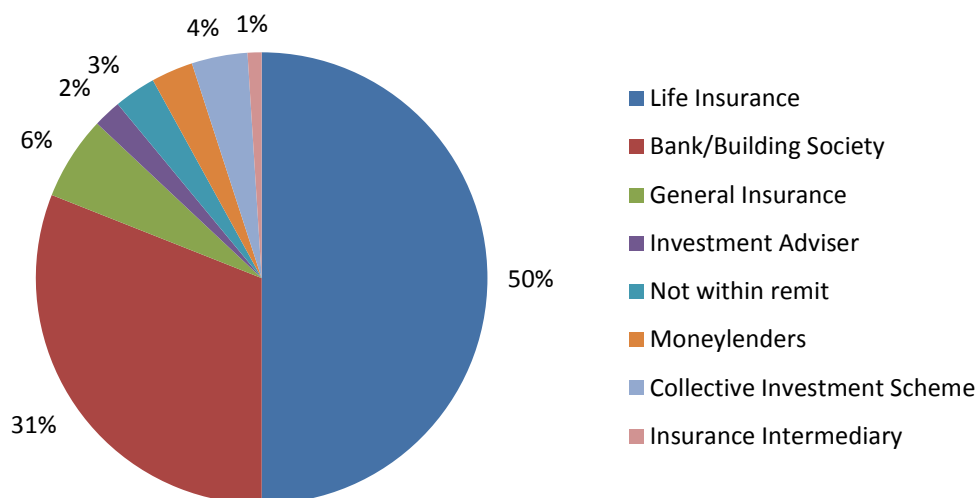
### Residence of Complainants 2015/16



## 2.3 Provider Type

Type of provider complained about	2014/15		2015/16	
	No.	%	No	%
Life Insurance	114	43	139	50
Bank/Building Society	100	38	87	31
General Insurance	35	13	18	6
Investment Adviser	7	2	6	2
Not within definition of financial service	6	2	7	3
Moneylenders	4	1.50	7	3
Collective Investment Scheme	1	0.50	11	4
Insurance Intermediary	0	0	2	1
<b>Total</b>	<b>267</b>		<b>277</b>	

### Provider Type 2015/16



## 2.4 Closed complaints

Outcome of complaints		
	No.	%
Outside scope of the Scheme	144	55
Resolved through mediation	62	24
No financial loss through provider error	31	12
Fair offer made by provider	22	8
Awaiting determination by Adjudicator	1	0.75
Determined by Adjudicator	2	0.25
<b>Total</b>	<b>262</b>	

### 2.4.1 Reasons why complaints were outside the scope of the Scheme

The Scheme, after initial enquiries and investigations, declined in accordance with the legislation, to give further consideration to 55% of the complaints received. A breakdown of the reasons for decline is shown in the following table:

<b>Reason Scheme declined 2015/16</b>	<b>No.</b>	<b>%</b>
Out of time: <i>Complaint is received more than two years after the act or omission giving rise to it came, or ought reasonably have come, to the knowledge of the complainant; and in any case, more than six years after that act or omission.</i>	54	38
Commercial judgement: <i>A reasonable assessment has been made by the financial services provider of risk, or of financial or commercial criteria or of character.</i>	33	23
Not an Isle of Man provider: <i>The financial provider is not operating in or from the Isle of Man.</i>	24	17
No financial service provided: <i>The service provided is not covered by the Scheme.</i>	8	5
Not an individual: <i>The Scheme is unable to consider complaints received on behalf of a body corporate.</i>	14	10
Investment performance: <i>Movements on the financial markets have affected the value of an investment rather than the actions of the supplier.</i>	3	2
Better dealt with in court / or already decided in court: <i>The dispute would be more suitably dealt with by a court or has already been decided in court.</i>	8	5
<b>Total</b>	<b>144</b>	

### 2.5 Closed enquiries

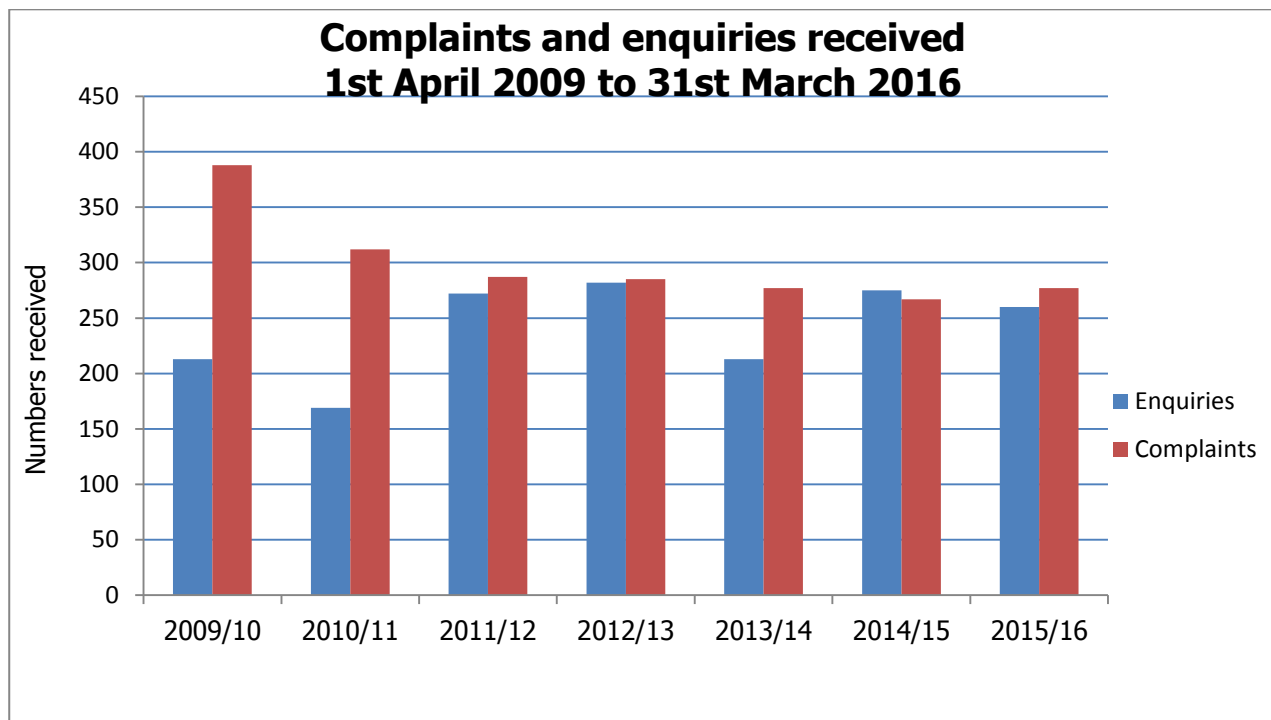
<b>Reason Scheme closed 2015/16</b>	<b>No.</b>	<b>%</b>
Advice & assistance provided to complainant on initial contact with no further action required.	135	59
Found to be outside the remit of the Scheme	90	40
Resolved through Scheme intervention. The case worker has contacted the provider on behalf of the client and the complaint has been resolved without the need for a complaint form.	2	1
<b>Total</b>	<b>227</b>	

### 2.6 Work in progress

<b>Active complaints open at 1<sup>st</sup> April 2016</b>	
Awaiting response from complainant	99
Under investigation	30
Awaiting response from provider	15
<b>Total</b>	<b>144</b>

### 3. Comment on Trends in Complaints

Overall the Scheme received 537 initial enquiries and complaints from consumers, a remarkably similar number to those handled in the previous year.



Banks and life insurance companies remain the most complained about providers. However when compared with 2014/15 the number of complaints about banks has fallen from 38% of complaints received to 31% whereas complaints about life insurance companies has increased from 43% to 50%.

Whilst the overall number of complaints against banks has fallen this year we have seen an increase in one area. These are complaints from clients unhappy that a number of banks on the Island have taken the decision to no longer provide accounts to them for various jurisdictional reasons. However the Scheme considers this a commercial decision by the bank and will not overrule their actions provided sufficient notice has been given. The Scheme has continued to receive complaints about the sale of Payment Protection Insurance (PPI) but most of these are now time barred from being considered as the sale took place more than six years ago. This does not prevent customers from approaching their bank direct with their complaint.

Several life insurance companies undertook system upgrades during 2015/6 which resulted in unacceptable delays for clients. This had a knock on effect of increasing the number of complaints the providers received, particularly about delays in the claims area, which led to more delays in the complaint handling process. Some clients were not getting a final response within the eight week time limit. This then led to the rise in the number of complaints and enquires concerning life insurance companies being received by the Scheme.

Complaints against collective investment schemes have increased from 0.5% to 4%. This has been caused primarily by a number of schemes being suspended for long periods resulting in problems

for clients wanting to withdraw their money. Many of the issues have now been crystallised because a number of the schemes are falling into liquidation. General insurance complaints have fallen this year and this is in part due to the Scheme working with a provider of insurance backed warranties so it now explains clearly to its clients how claim settlements are calculated.

Insurance intermediaries were brought within the remit of the Scheme on the 1<sup>st</sup> April 2015 but as there have been only two complaints received it does not appear there is a problem in this area.

## **4. Case Studies as Determined by Adjudicators**

With effect from 1<sup>st</sup> April 2015, summaries of all cases determined by Adjudicators have been placed on the OFT website when finalised.

Two cases were determined by the Adjudicators in the year which can be found at the following links:

1. [Mortgage underfunding](#)

<https://www.gov.im/lib/docs/oft/ombudsman/fsoscomplaintsummarymortgageadmi.pdf>.

2. [Miss sale of structured financial product](#)

<https://www.gov.im/lib/docs/oft/ombudsman/misssaleofastructuredfinancial.pdf>.

## **5. Scheme Update**

During the year the Channel Islands Financial Ombudsman was established which considers complaints against financial providers operating from Jersey and Guernsey. This new Ombudsman will be of assistance to a number of clients holding bank accounts in Jersey and Guernsey who previously would have submitted complaints to the Scheme believing their accounts to be held in the Isle of Man.

In November 2015 the two financial service regulators combined to form the Isle of Man Financial Services Authority (FSA) encompassing the regulation of all financial service providers falling within the remit of the Scheme. Regular meetings between the FSA and the Scheme continue to be held.

## **6. Extension of the Remit of the Scheme**

The retirement of the existing UK Pensions Ombudsman during 2015/16 has the potential to impact the Isle of Man as the incumbent also fulfils, in a personal capacity, the role of Isle of Man Pensions Ombudsman. Discussions are ongoing about where this function will sit in the future.

Following relevant public consultations the remit of the Scheme was expanded, with effect from 1<sup>st</sup> May 2016 to include complaints about crowdfunding, a newly regulated activity.

In addition the Scheme has been further extended from 1<sup>st</sup> August 2016 to include complaints about Credit Unions as it is anticipated that a Manx Credit Union will be operational later in 2016.

## 7. Consumer Survey

In order to measure our standards of service we issued consumer satisfaction questionnaires to all clients who had either made an enquiry or a complaint that had been closed between 1<sup>st</sup> April 2015 and 31<sup>st</sup> March 2016.

The tables below show how those clients who responded to the survey rated our service measured against a specific customer service benchmarks.

<b>How clients who had an enquiry handled by us rated our service</b>	<b>Agree</b>	<b>Disagree</b>
It was easy to find out how to contact us	81%	19%
The enquiry was dealt with promptly	88%	22%
We showed an interest in your individual enquiry	67%	33%
We knew enough to be able to answer your questions	68%	32%
We gave a clear explanation of what would happen next	77%	23%
We did what we said we would do	69%	31%

<b>How clients who had a complaint decided by us rated our service</b>	<b>Agree</b>	<b>Disagree</b>
We understood your complaint and dealt with the issues thoroughly	49%	51%
The process was easy to understand	77%	23%
You were kept informed as to how long it would take to resolve your complaint	69%	31%
Our final decision was explained to you clearly	62%	38%
The outcome of your complaint was fair and unbiased	40%	60%

In our survey, of those clients whose complaint had been upheld or a settlement agreed 94% gave positive feedback<sup>1</sup> on the level of service we provided whereas 6% indicated that they thought our service could be better.

In contrast, of those clients whose complaint had not been upheld, 56% gave positive feedback and 44% gave negative feedback. Even though it is understandable that clients would like the Scheme to uphold their complaints, those clients whose complaints we did not uphold provided feedback which will be reviewed to look at ways in which we can improve on the service we deliver.

## 8. Suppliers Survey

Alongside the survey of consumers, we issued questionnaires to all the providers about which the complainants within the customer survey had raised a complaint. Those providers who responded gave practical and helpful feedback, particularly about the information supplied about the workings of the Scheme. The telephone help desk and website were considered to be the most useful contacts with the Scheme by the suppliers of financial services.

Overall 100% of providers were generally satisfied with the level of service provided by the Financial Services Ombudsman Scheme but again additional feedback was given which will be

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<sup>1</sup> Positive feedback is determined as a respondent having answered three or more questions as 'agree' or 'mildly agree' Likewise where a respondent answered three or more questions as 'disagree'/'mildly disagree' this is considered to be negative feedback.

reviewed to look at ways in which we can improve on this aspect of the service we deliver.

## **9. Contact Details**

In July 2016 the OFT moved to new premises in St John's and if you have any questions about the operation of the Scheme, a specific issue or feedback on this report, please contact us using the details below.

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