



Isle of Man Office of Fair Trading

**FINANCIAL SERVICES
OMBUDSMAN SCHEME**

**ANNUAL REPORT
2018/19**



**Isle of Man
Government**

Reiltys Ellan Vannin

VERSION 1.0

Financial Services Ombudsman Scheme Report at 31st March 2019

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1. Introduction

Welcome to the annual review of the Financial Services Ombudsman Scheme ('the Scheme') which covers the period from 1st April 2018 to 31st March 2019.

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, nor 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 received 540 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 number of enquiries and complaints received over the year

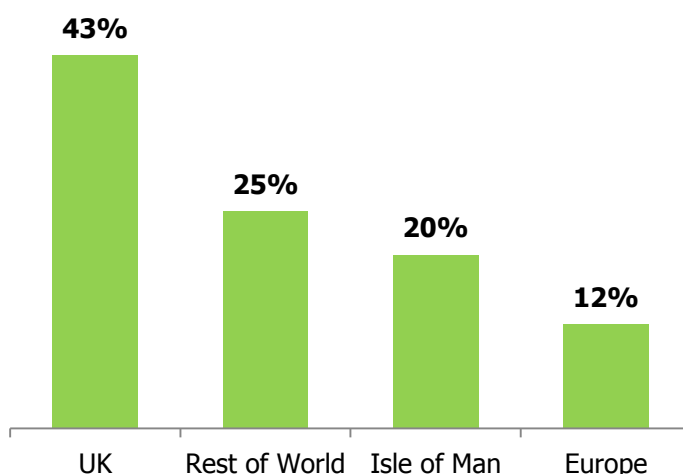
Year	2017/18	2018/19
Complaint forms received	245	203
Enquiries received	267	337

2.2 Residence of Complainants (where complaint form received at FSOS)

Where the complainant lives	2017/18		2018/19	
	No.	%	No.	%
UK	103	42	86	43
Rest of World	61	25	52	25
Isle of Man	41	17	41	20
Europe	40	16	24	12
Total	245		203	

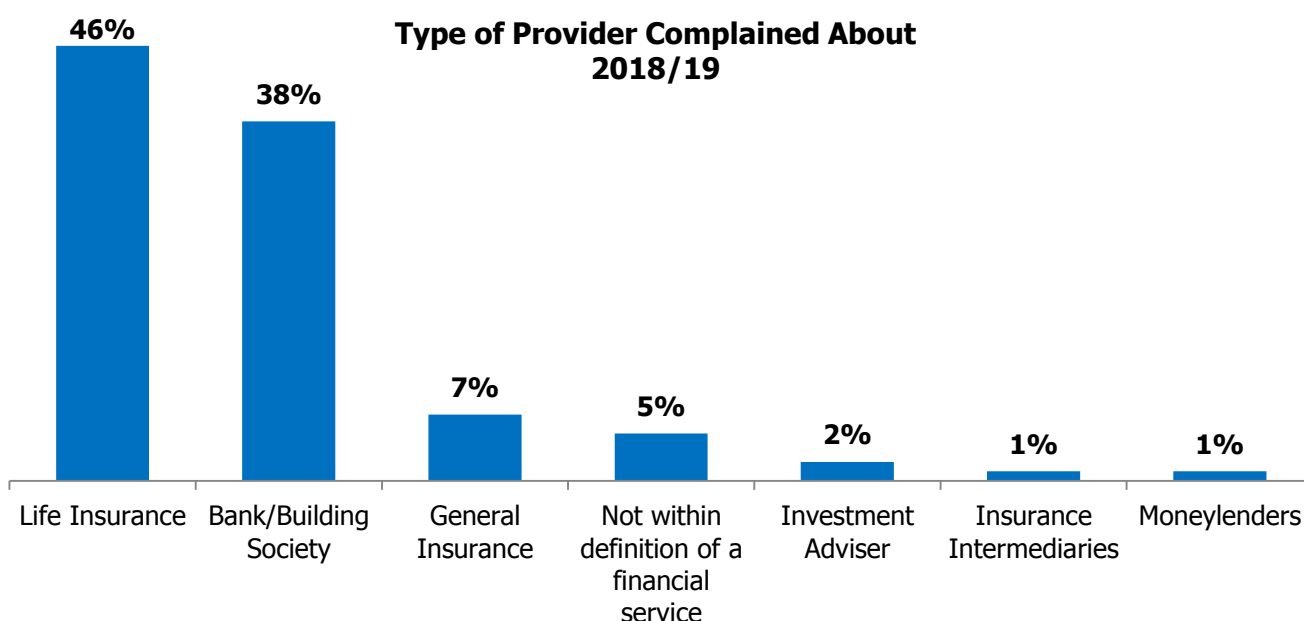
Residence of Complainants 2018/19

(where complaint form received at FSOS)



2.3 Provider Type – (See Section 3 for additional information on the top 3 Providers noted below):

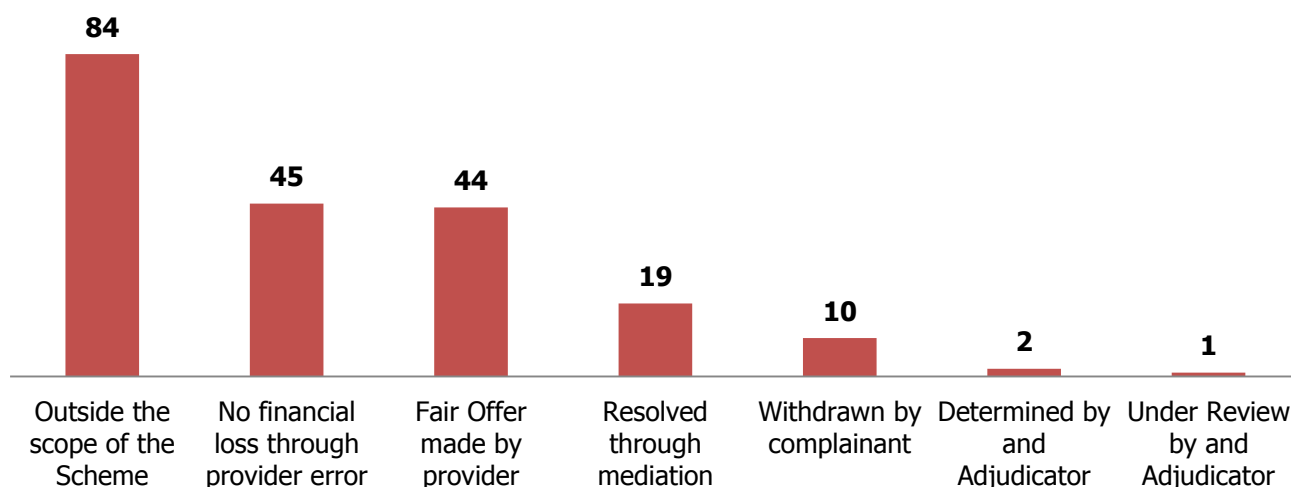
Type of provider complained about	2017/18		2018/19	
	No.	%	No	%
Life Insurance	121	49	94	46
Bank/Building Society	100	40	77	38
General Insurance	2	1	14	7
Not within definition of a financial service	9	3	10	5
Investment Adviser	7	3	4	2
Collective Investment Scheme	3	2	0	-
Insurance Intermediaries	2	1	2	1
Moneylenders	1	1	2	1
Total	245		203	



2.4 Closed complaints
(where complaint form received)

Outcome of Closed Complaints		
	No.	%
Outside scope of the Scheme	84	41
No financial loss through provider error	45	22
Fair offer made by provider	44	21.5
Resolved through mediation	19	9
Withdrawn by complainant	10	5
Determined by Adjudicator	2	1
Under review by an Adjudicator	1	0.5
Total	205	

Outcome of closed complaints 2018/19
(in numbers)
 (where complaint form received)



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 41% of the complaints received. A breakdown of the reasons for decline is shown in the following table (*see Section 3 for additional information on the top 2 trends noted below*):

Reason Complaints declined 2018/19	No.	%
Out of time: 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.	32	38
Commercial judgement: A reasonable assessment has been made by the financial services provider of risk, or of financial or commercial criteria or of character.	27	32
Not an individual: The Scheme is unable to consider complaints received on behalf of a body corporate.	10	12
Not an Isle of Man provider: The financial provider is not operating in or from the Isle of Man.	9	10
No financial service provided: The service provided is not covered by the Scheme.	3	4
Better dealt with in court or already decided in court: The dispute would be more suitably dealt with by a court or has already been decided in court.	3	4
Total	84	

2.5 Closed enquiries (where complaint form not received)

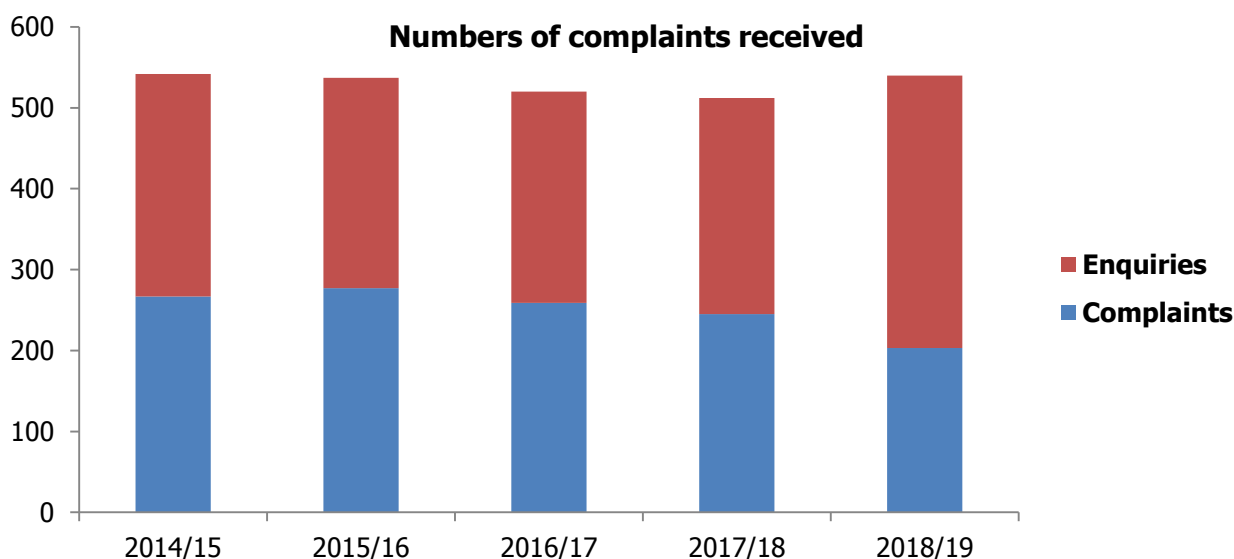
Reason Enquiries closed 2018/19	No.	%
Advice and assistance provided to complainant on initial contact with no further action required.	242	75
Found to be outside the remit of the Scheme	74	23
Resolved through Scheme intervention. The case worker has contacted the provider on behalf of the client and the complaint has been resolved without the need for a complaint form.	7	2
Total	323	

2.6 Work in Progress - Active complaints and enquiries open at 1st April 2019

Awaiting response from complainant	22
Under investigation	30
Awaiting response from provider	49
Total	101

3. Analysis of Complaints Received

Overall the Scheme received a total of 540 contacts to the office made up of 203 complaint forms received and 337 enquiries. The overall total is similar to those received in past years; however one noticeable difference this year is the **increase in the number of enquiries** as a percentage of the number of contacts with the Scheme.

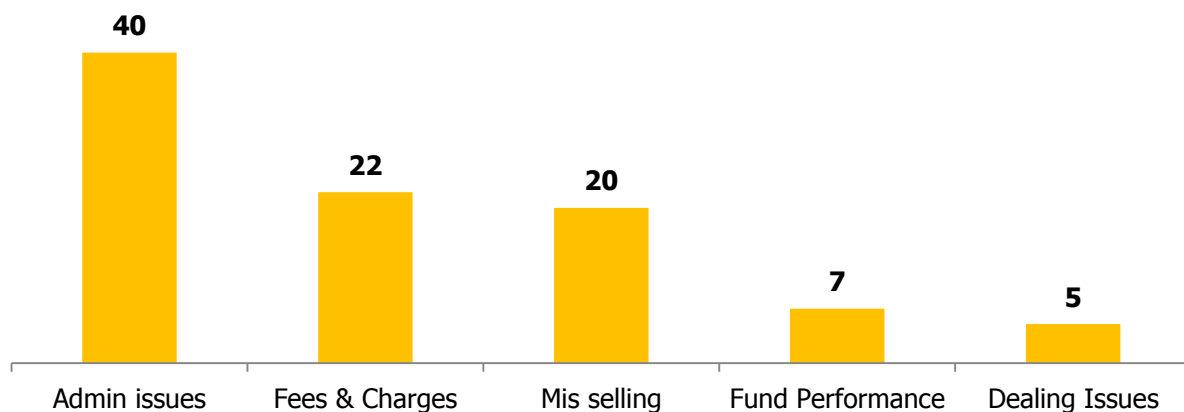


In previous years, many enquiries were received and dealt with by OFT Consumer Advisers whose role is to give basic advice and signpost enquirers to the Scheme website and issue associated literature. From 2018, all enquirers to the Scheme have been referred to an FSOS Case Officer who has made a preliminary assessment of the complaint and given advice and assistance to the enquirer. This has enabled Case Officers to identify complaints that are outside the remit of the Scheme and also assist complainants in resolving their complaint without our involvement. In

many instances, when contacting the Scheme, the complainant has not taken the first step of making a formal complaint to the financial provider but following advice from a Case Officer they have been able to submit their complaint to the provider and receive redress without further recourse to the Scheme.

The Island's financial sector continues to be dominated by the Banks and Life Insurance companies and this is reflected in the numbers of complaints received in those sectors. In 2018/19 we received 94 complaints against Life Insurance companies and 77 complaints against Banks.

**Subject Matter of Complaints
Against Life Insurance companies**
(in numbers)

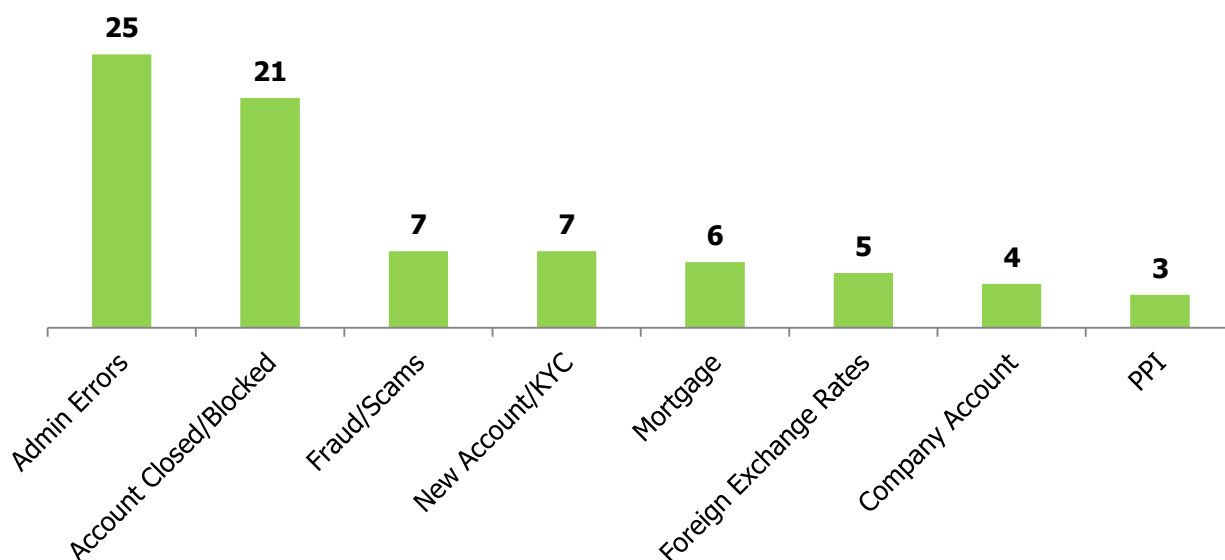


In 2017/2018 we reported that 53 complaints received against the **Life Companies** involved the mis-selling of life assurance products. In the current report this level has reduced to 20 and we hope that this downward trend will continue with the introduction on the 1st January 2019 by the Isle of Man Financial Services Authority of a Conduct of Business Code for Long Term Insurers. The new Code requires a provider to obtain the investors' written confirmation that they have read and understood the terms and conditions of the investment that they are making.

It is our experience that many investors do not fully understand how a number of life insurance products work and the separate, differing responsibilities and charging structures adopted by the life insurance companies and the fund managers. These should have been made clear to the complainants by their financial adviser at the time of investment, but regrettably this is not always the case. In this environment customers should be able to trust that their instructions will be carried out promptly and efficiently with providers acting quickly to rectify any mistakes which do occur.

The volume of complaints received this year against **Banks/Building Societies** remain very much in line with previous years, (88 during 2016/2017, 100 during 2017/2018 & 77 during 2018/2019). Complaints concerning administration errors continue to dominate the statistics. Trends, such as 'delays handling customer instructions' and 'failure to follow internal procedures' often dictate this category.

Subject Matter of Complaints Against Banks (in numbers)



We have seen an increase in complaints concerning **fraud and scams** this year. Typical themes include disputed card transactions, cash machine withdrawals and online banking fraud. When a complaint is received the Scheme will look carefully at the circumstances, examine the evidence and decide on balance, what we think has happened, and who should fairly and reasonably bear the loss.

Although we only received three formal complaints concerning **PPI**, the Scheme has received a number of enquiries in this regard. Time limits govern when a complaint can be made to the Scheme and a complaint must be brought to the Scheme within six years of the act or omission that the customer is complaining about. All contact with consumers this year has established that their complaint is out of time to be considered as their PPI was taken out more than six years ago. Although the Scheme is unable to consider these complaints, we always recommend that the consumer contacts their provider directly, raising a formal complaint.

In the **General Insurance** sector, following last year's dip in complaints received, the volume of complaints this year totalled 13. These General Insurance policies covered a range of products - Caravan; Car/Motorbike; General Household; Chauffeur Plan and After the Event ("ATE") Insurance. In six of the complaints received it was found that the complainants had not understood the level of cover in place and their claims were not covered by the policy that had been taken out.

The Scheme mediated in two complaints in which the amount of the pay-out following a claim was in dispute. Consideration was given to the opinions of experts and their related fields and also the methodology that had been applied when calculating the amount of the award.

4. Case Studies as Determined by Adjudicators

Two cases were determined by Adjudicators in the year and can be found via the following links:

1. Complaint made to the Scheme regarding a lost cheque.
<https://www.gov.im/media/1362272/complaint-made-to-the-scheme-regarding-a-lost-cheque-case-summaries.pdf>
2. Complaint made to the Scheme regarding an After the Event Insurance Policy.
<https://www.gov.im/media/1366224/complaint-made-to-the-scheme-regarding-an-after-the-event-insurance-policy.pdf>

5. Scheme Update

Financial Services Disputes (Definition) Order 2019

In March 2019 Tynwald gave approval for the regulation of credit unions to be brought under the Financial Services Act 2008 as Class 9 licence holders with effect from 1 April 2019. Credit Unions are covered by the Scheme so the change necessitated a further amendment to the Financial Services Disputes (Definition) Order 2008 which specifies the activities and businesses which are the financial services covered by the Scheme.

Since 2008 there have been four amendments to the 2008 Order which included the addition of credit unions to the remit of the FSOS in August 2016. At that time credit unions were regulated by the Isle of Man Financial Services Authority as societies registered under the Industrial and Building Societies Act 1982 as credit unions.

The Financial Services Disputes (Definition) Order 2019 which will be laid before the July 2019 sitting of Tynwald sets out a full list of the activities and businesses which are 'financial services' for the purposes of Schedule 4 to the Act. It revokes and replaces the 2008 Order, as amended; and brings the reference to credit unions within the context of a Class 9 licence holder regulated by the Isle of Man Financial Services Authority.

Review of the Financial Services Act 2008

We are currently undertaking a review of the remit of the Scheme with a view to making some amendments to its operation and anticipate being able to submit these in draft form to the OFT Board in Autumn 2019.

Any adjustments which require amendments to the primary legislation, Schedule 4 of the Financial Services Act 2008, will be the subject of a public consultation.

6. Contact Details

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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