

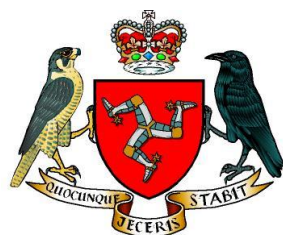
ISLE OF MAN OFFICE OF FAIR TRADING



**Isle of Man Office of Fair Trading**

**FINANCIAL SERVICES  
OMBUDSMAN SCHEME**

**ANNUAL REPORT  
2020/21**



**Isle of Man  
Government**

*Reiltys Ellan Vannin*

**VERSION 1.0**

# **Financial Services Ombudsman Scheme Report at 31<sup>st</sup> March 2021**

## **Contents**

1. Introduction
2. Data and analysis of complaints received
3. Impact of the covid-19 pandemic
4. Case studies as determined by Adjudicators
5. Scheme update
6. Contact details

# 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 2020 to 31<sup>st</sup> March 2021.

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.

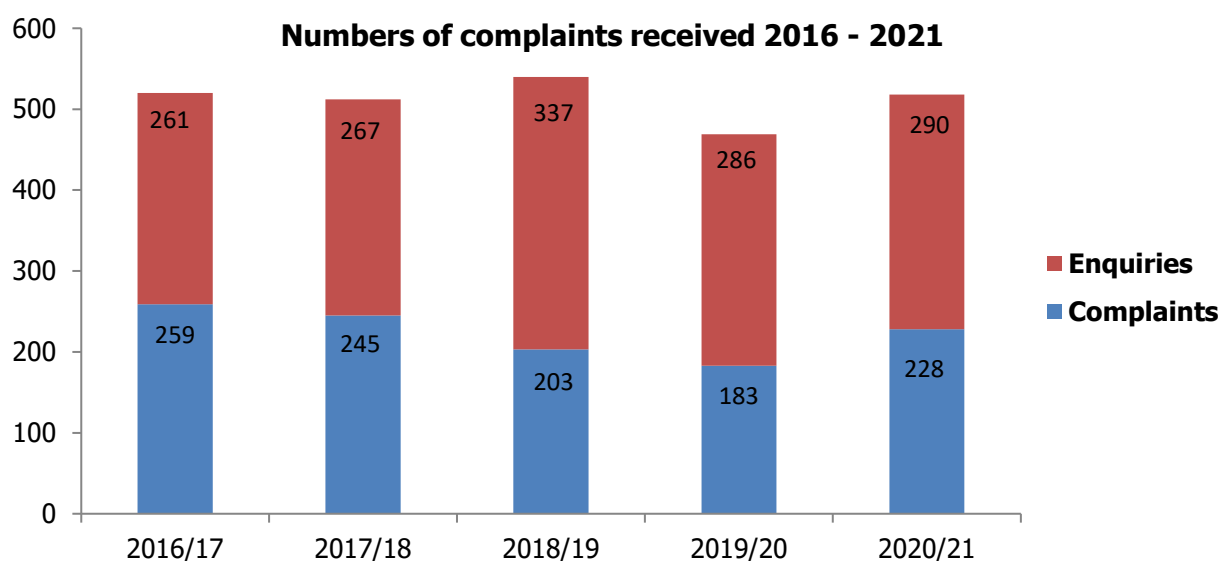
## 2. Data and analysis of complaints received

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	2019/20	2020/21
Complaint forms received	183	228
Enquiries received	286	290

Overall the Scheme received a total of 518 contacts made up of 228 complaint forms received and 290 enquiries. The overall total shows a significant increase in numbers of complaint forms to the office compared with previous years; specifically 45 more complaint forms were received, an increase of 25% from the previous year.

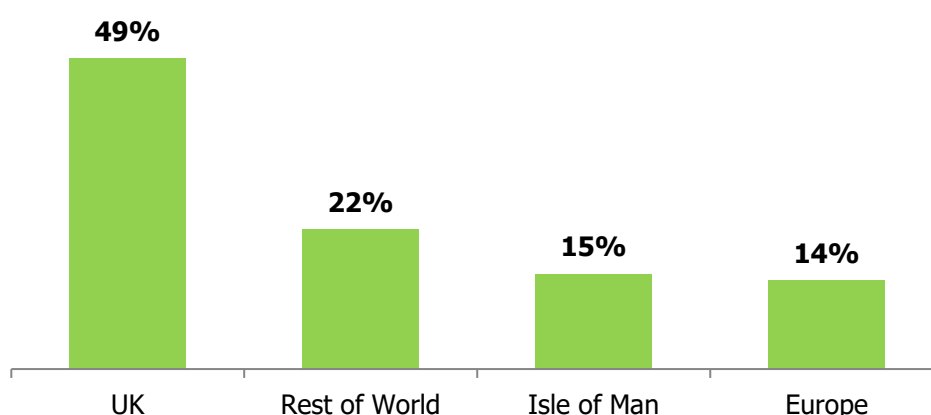


As financial service providers struggled with the challenges of the Covid-19 pandemic and markets fluctuated we experienced an increase in enquiries and complaints made to the Scheme. Numbers peaked in the second quarter, July to September 2020, when a total of 157 new complaints and enquiries were raised with case officers compared to 106 contacts to the Scheme in the same period in the previous year. This was felt to be a consequence of the disruptions caused by the covid-19 pandemic. Financial provider complaint handling teams, required to work remotely, were hindered in their ability to gather information requested by our case officers. However, whilst delays had caused their clients frustration and the inconvenience of chasing for responses, there had not been an actual financial loss and many cases were settled with amounts agreed for distress and inconvenience.

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

Where the complainant lives	2019/20		2020/21	
	No.	%	No.	%
UK	78	42	111	49
Rest of World	61	33	51	22
Isle of Man	35	20	35	15
Europe	9	5	31	14
<b>Total</b>	<b>183</b>		<b>228</b>	

**Residence of Complainants  
2020/21**  
(where complaint form received at FSOS)



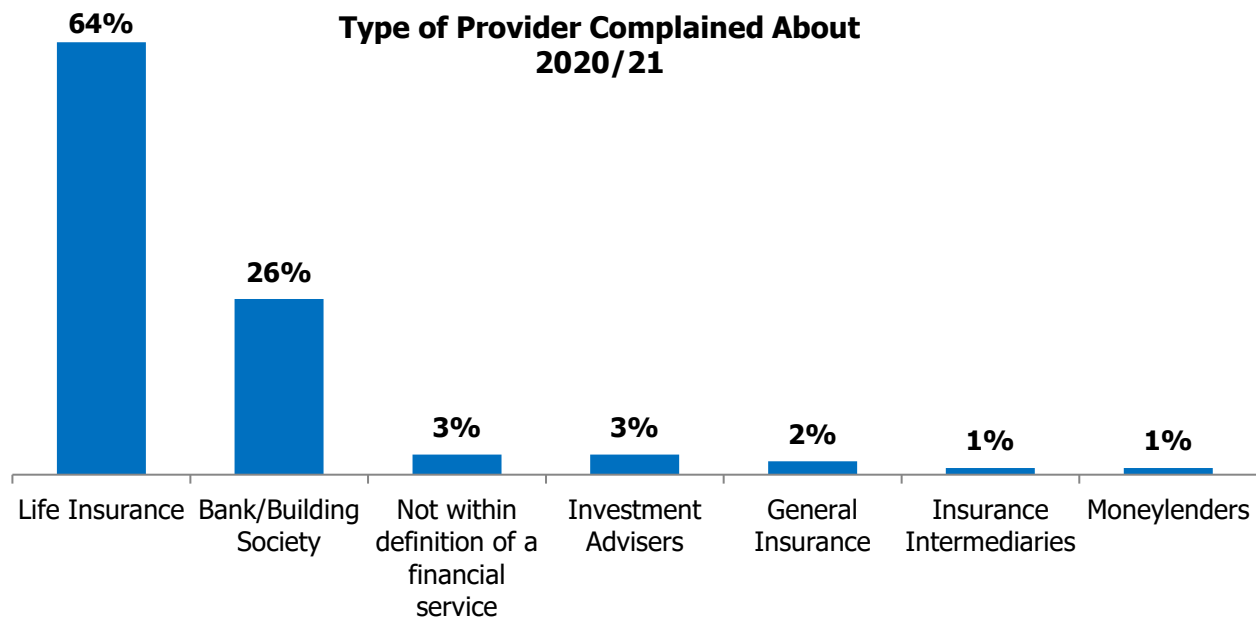
Isle of Man residents represented just 15% of the total complaints received during this year. 49% of complaints received were from UK residents and 14% were received from European countries outside the UK. The spread of the remaining 22% is worldwide, with complaints being received from the Middle East, as well as America and Asia.

## 2.3 Provider Type

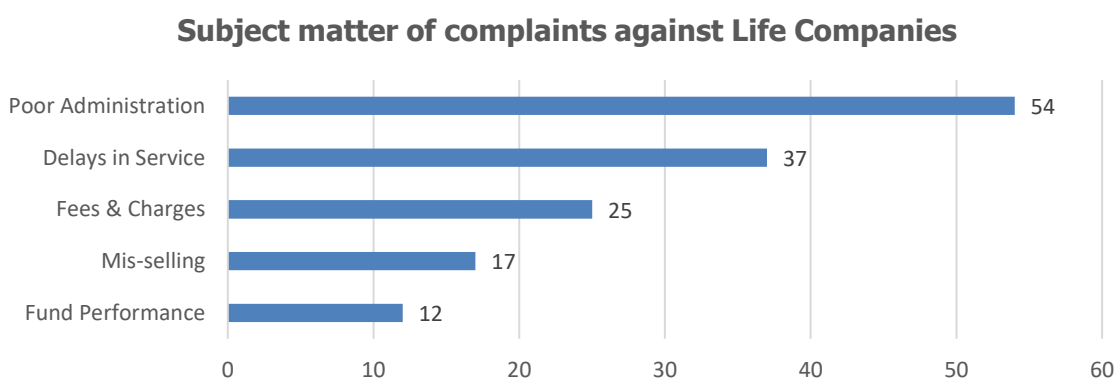
Type of provider complained about	2019/20		2020/21	
	No.	%	No	%
Life Insurance	91	50	145	64
Bank/Building Society	56	31	59	26
Not within definition of a financial service	11	6	7	3
Investment Adviser	4	2	7	3
General Insurance	11	6	4	2
Insurance Intermediaries	0	-	3	1
Moneylenders	10	5	3	1
<b>Total</b>	<b>183</b>		<b>228</b>	

The life insurance and banking sectors attracted the most numbers of complaints to the Scheme. In 2020/2021 we received 145 formal complaints against life insurance companies and 59 complaints against island banks. These two provider types represent 90% of the total complaints received.

The remaining provider types, which include general insurance companies, moneylenders and investment advisers together account for 10% of the complaints received. Individually these represent just a small number of the overall complaints received.



### 2.3.1 Life Insurance

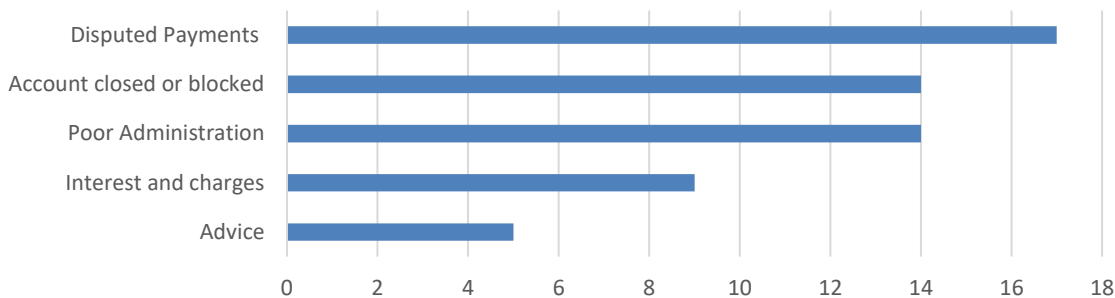


Poor administration and service delays together were the subject of more than half of the complaints received against the life companies. Whilst the initial disruptions caused by the Covid-19 pandemic were in many ways unavoidable, there were instances beyond the initial period of upheaval where the expectations of clients had not been managed correctly and many complaints may have been avoided with improved communication.

There were 25 complaints around fees and charges, the same number as recorded in 2019/20. Generally the product holder had not totally understood how fees and charges would be applied to their policy from the outset. In addition a further 17 complainants claimed that the product had been mis-sold. Many of these complaints could not be reviewed by our case officers as the financial advisers responsible for recommending and selling these products and ensuring that their clients understood the terms of the policies were not based in the Isle of Man.

### 2.3.2 Banks

**Subject matter of complaints against Banks**



Of the 59 banking complaints received, 17 related to disputed payments. These were received from victims of fraud where the complainants were persuaded by fraudsters, using sophisticated strategies, to transfer money out of their account into the fraudsters account known as authorised push payment fraud (APP fraud).

In the UK banks are signed up to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code which sets out clear expectations on banks when considering whether to refund customers who have been the victim of APP fraud. There is not a similar code in the Isle of Man but our case officers consider each complaint on the merits of what is fair and reasonable in the circumstances. It is important that the banks own systems are set sufficiently to detect suspicious transactions or unusual activity on a customer's account. Where this does not appear to be so the Scheme has required that the bank refund their customer in full the total of their losses. This has resulted in payments to complainants which total almost £200,000.

Accounts being closed or closed by the banks were the subject of 14 complaints to the Scheme. The banks have the right to close accounts in certain circumstances and in most cases the Scheme regards this as a commercial decision by the banks and as a result most complaints in this area are not upheld.

14 other complaints referred to poor administration and highlighted as with the life companies, that businesses need to put into place more effective communications which manage their customers' expectations more effectively.

## 2.4 Closed enquiries (where complaint form not received)

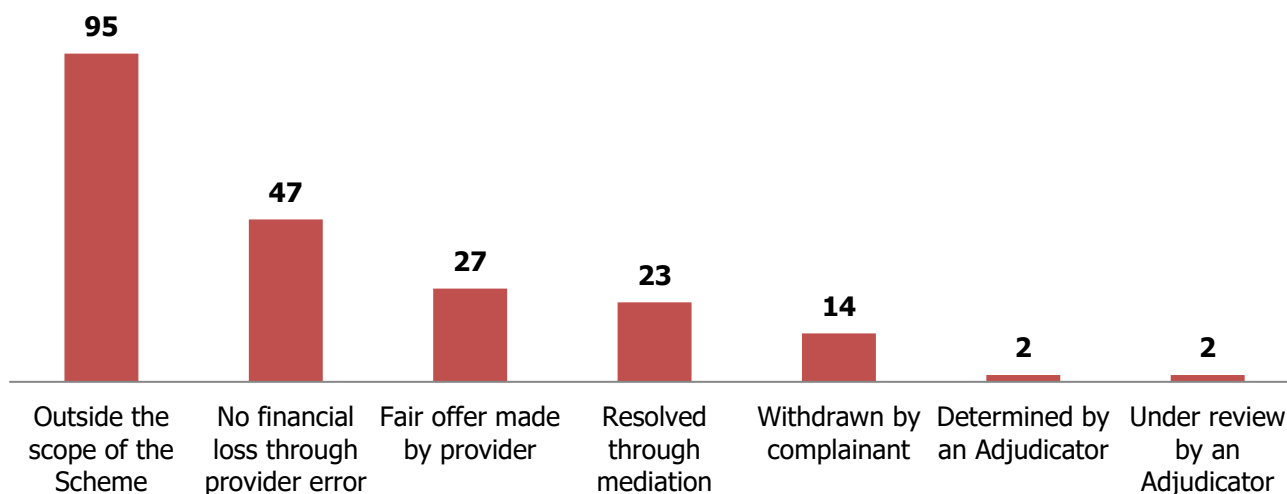
Reason Enquiries closed 2020/21	No.	%
Advice and assistance provided to complainant on initial contact with no further action required.	218	70
Found to be outside the remit of the Scheme.	87	28
Resolved through Scheme intervention. The case worker has contacted the provider on behalf of the client and the complaint has been resolved without the need for a complaint form.	8	2
<b>Total</b>	<b>313</b>	

## 2.5 Closed complaints (where complaint form received)

Outcome of Closed Complaints 2020/21	No.	%
Outside scope of the Scheme.	95	45
No financial loss through provider error.	47	22
Fair offer made by provider.	27	13
Resolved through mediation.	23	11
Withdrawn by complainant.	14	7
Determined by Adjudicator.	2	1
Under review by an Adjudicator.	2	1
<b>Total</b>	<b>210</b>	

### Outcome of closed complaints 2020/21 (in numbers)

(where complaint form received)





### 2.5.1 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 45% of the complaints received. A breakdown of the reasons for decline is shown in the following table.

<b>Reason Complaints declined 2020/21</b>	<b>No.</b>	<b>%</b>
<b>Commercial judgement:</b> A reasonable assessment has been made by the financial services provider of risk, or of financial or commercial criteria or of character.	37	39
<b>Out of time:</b> 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.	26	28
<b>Not an Isle of Man provider:</b> The financial provider is not operating in or from the Isle of Man.	15	16
<b>No financial service provided:</b> The service provided is not covered by the Scheme.	8	8
<b>Not an individual:</b> The Scheme is unable to consider complaints received on behalf of a body corporate.	4	4
<b>Better dealt with in court or already decided in court:</b> The dispute would be more suitably dealt with by a court or has already been decided in court.	3	3
<b>Investment Performance:</b> Movements on the financial markets have affected the value of an investment rather than the actions of the supplier.	2	2
<b>Total</b>	<b>95</b>	

### 2.6 Work in Progress - Active complaints and enquiries open at 1<sup>st</sup> April 2021

Awaiting response from complainant	28
Under investigation	45
Awaiting response from provider	13
<b>Total</b>	<b>86</b>

## 3. Impact of the covid-19 pandemic

In March 2021 we adapted our operations to enable case officers to work safely and effectively following remote working guidance issued by Isle of Man Government due to the Covid-19 pandemic.

Operationally we amended our requirement that complaints must be submitted to the Scheme in writing by submission of a completed complaint form. The initial Covid-19 pandemic response worldwide meant this was not an option for the submission of complaints to the Scheme. Instead we moved to being able to accept complaint forms submitted by email and we will now continue to do this going forward.

## 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 that a bank had acted unfairly in the administration of a guarantee, causing professional fees to be incurred by the guarantor.

<https://www.gov.im/media/1374574/complaint-regarding-a-loan-guarantee.pdf>

2. Complaint that a life company had delayed the purchase of a number of shares. The price of the shares increased in the intervening period between the trade being requested and it being placed causing an overdraft in their cash account.

<https://www.gov.im/media/1374575/complaint-regarding-the-purchase-of-shares-in-a-company-listed-on-the-nyse.pdf>

## 5. Scheme update

### Review of the Financial Services Act 2008

As reported last year, the Financial Services Authority is currently considering amendments to the Financial Services Act 2008 which contains the governing legislation for the Scheme. The OFT hopes to make some minor changes to the Scheme and will request that those changes are added to the draft Bill. Any proposed amendments will be consulted on before any permanent changes are made.

### Panel of Adjudicators

Adjudicators are appointed by the Appointments Commission for a term of three years. In September 2020 the appointments of the existing panel members ended and a new panel was appointed.

The current panel is as follows:

Senior Adjudicator:	Mr John Wright
Adjudicators:	Miss Geraldine Watterson
	Mr Stephen Coren
	Mr Mark Emery
	Mrs Heather Kent

The OFT wishes to record its thanks to Mr Norman Teare and Mrs Angela Main-Thompson who have stepped down from the panel. Mr Teare had acted in the capacity of Senior Adjudicator since 2011.

There is currently a vacancy on the panel which has arisen following the death of Mr Stephen Rumsey who had been a member of the panel since 2015. We send our sincere condolences to Mr Rumsey's family.

## 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.

The Financial Services Ombudsman Scheme  
Isle of Man Office of Fair Trading  
Thie Slieau Whallian  
Foxdale Road  
St John's, Isle of Man  
British Isles, IM4 3AS

Telephone: +44 (0)1624 686500  
Fax: +44 (0)1624 686504  
E-mail: [ombudsman@iomoft.gov.im](mailto:ombudsman@iomoft.gov.im)  
Website: [www.gov.im/oft](http://www.gov.im/oft)