

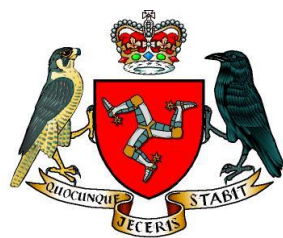
ISLE OF MAN OFFICE OF FAIR TRADING



**Isle of Man Office of Fair Trading**

**FINANCIAL SERVICES  
OMBUDSMAN SCHEME**

**ANNUAL REPORT  
2021/22**



**Isle of Man  
Government**

*Reiltys Ellan Vannin*

**VERSION 1.0**

# **Financial Services Ombudsman Scheme Report at 31<sup>st</sup> March 2022**

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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 2021 to 31<sup>st</sup> March 2022.

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.

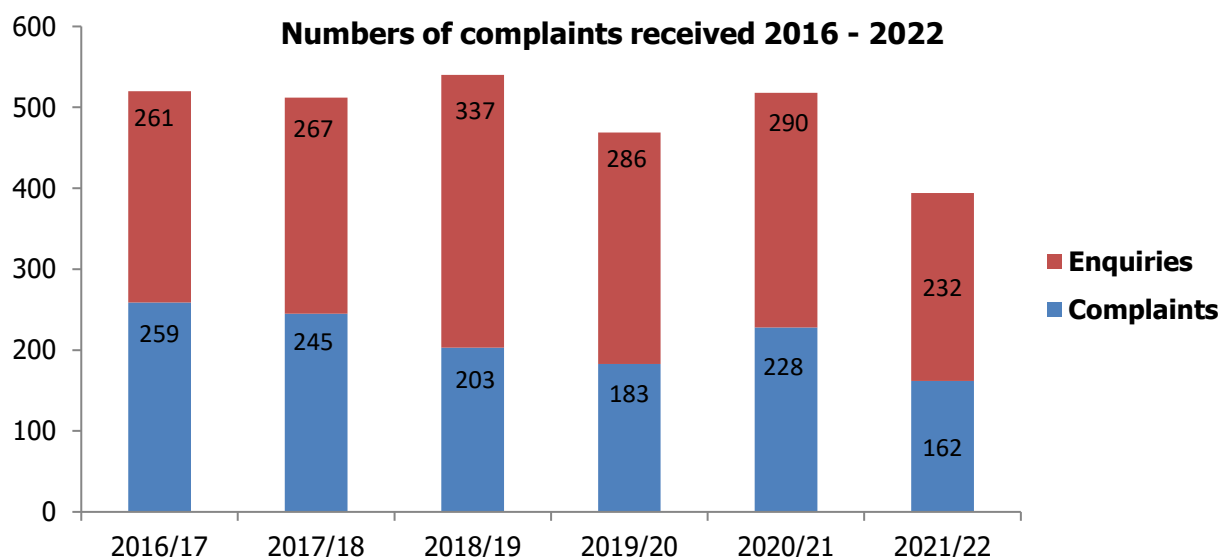
## 2. Data and analysis of complaints received

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

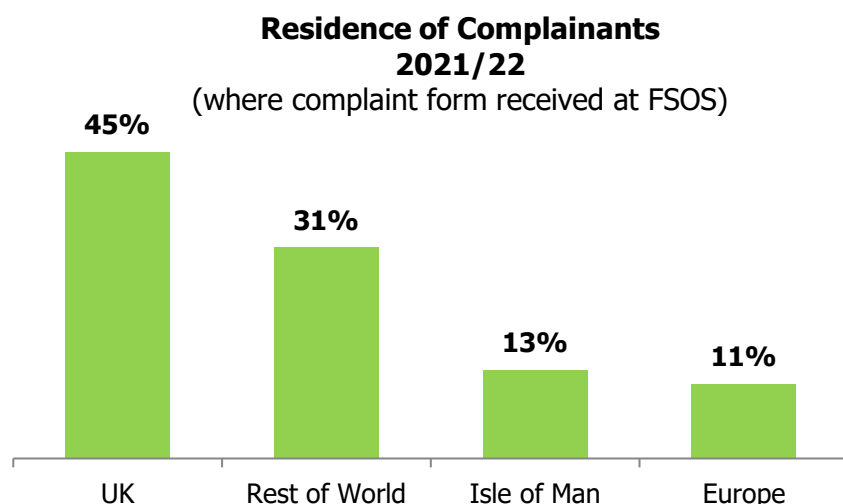
Year	2019/20	2020/21	2021/22
Complaint forms received	183	228	162
Enquiries received	286	290	232

Overall the Scheme received a total of 394 contacts made up of 162 complaint forms received and 232 enquiries. The overall total confirms a decrease in numbers of complaints made to the office compared with previous years.



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

Where the complainant lives	2020/21		2021/22	
	No.	%	No.	%
UK	111	49	73	45
Rest of World	51	22	50	31
Isle of Man	35	15	21	13
Europe	31	14	18	11
<b>Total</b>	<b>228</b>		<b>162</b>	



Isle of Man residents represented just 13% of the total complaints received during this year. 45% of complaints received were from UK residents and 11% were received from European countries outside the UK. The spread of the remaining 31% 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	2020/21		2021/22	
	No.	%	No	%
Life Insurance	145	64	94	58.0
Bank/Building Society	59	26	57	35.0
Investment Adviser	7	3	5	3.0
Not within definition of a financial service	7	3	2	2.0
General Insurance	4	2	1	0.5
Insurance Intermediaries	3	1	1	0.5
Moneylenders	3	1	1	0.5
Collective Investment Scheme	-	-	1	0.5
<b>Total</b>	<b>228</b>		<b>162</b>	

As in previous years the life insurance and banking sectors attracted the most numbers of complaints to the Scheme. This is a reflection of the numbers of customers worldwide who have relationships with businesses within these provider types.

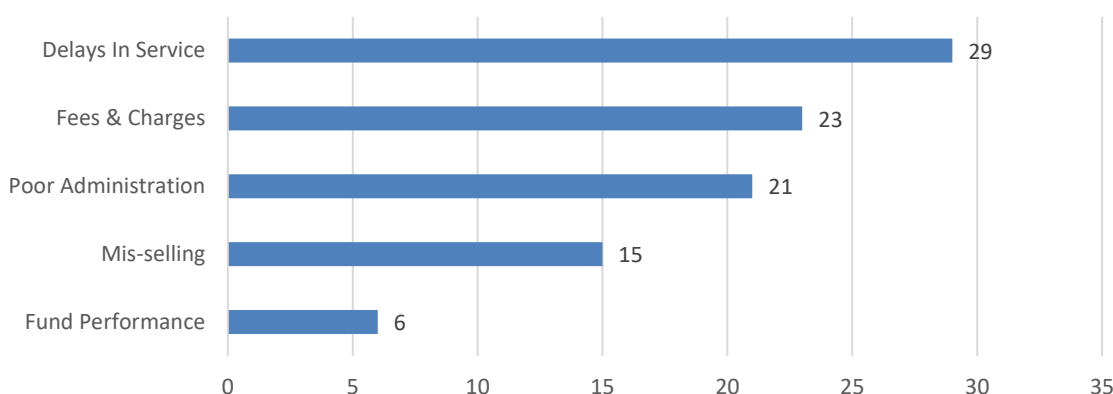
In 2021/2022 94 formal complaints were received against life insurance companies and 57 complaints against island banks. These two provider types together represent over 90% of the total complaints received.

The remaining provider types, which include investment advisers (5), general insurance companies (1), insurance intermediaries (1) and moneylenders (1) together account for 9% of the complaints received. Individually these represent just a small number of the overall complaints received.

Of the 21 complaints received from local (Isle of Man) residents it is noted that 16 related to banking services, three to advice from local independent financial advisers and two were against UK providers. These two complainants were referred to the UK Financial Ombudsman Service.

### 2.3.1 Life Insurance

**Subject matter of complaints against Life Companies**



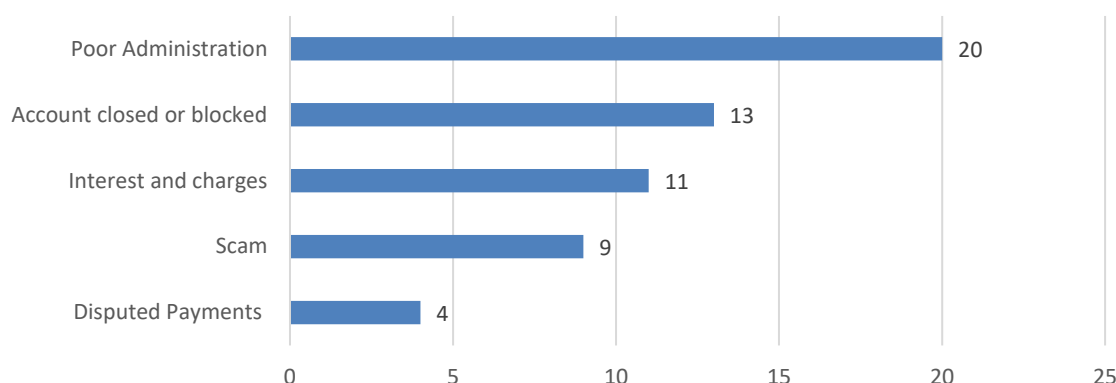
As reflected in the chart above, during 2021/22, the Covid 19 pandemic continued to impact upon the levels of service provided by many of the life companies and this is reflected in the number of complaints received which referenced levels of service. Many of these complaints could have been avoided if better information had been provided at the point of contact on potential delays or changes to response times. In some instances emails and telephone calls were not returned in a timely manner which increased the anxiety of customers waiting for return of funds or investment updates and the ensuing delays did, at times, lead to a financial loss. However, whilst there were instances of poor administration and reduced service levels we did see evidence where businesses had been proactive in making their customers aware of potential delays and issued timely updates reducing anxiety levels for their customers.

Fees and charges were the second highest complained about subject matter. Most long term financial products offered to the public are complex especially around charging structures and as these are sold in the main by third party advisers it is essential that these charging structures are clearly written and able to be understood by investors.

The Scheme continues to receive a number of complaints, where mis-selling or other issues have arisen involving an Independent Financial Adviser ('IFA') based overseas and the complainant has expected the insurer to take responsibility where a financial loss has occurred. Whilst a contract does exist between the complainant and the life insurance company this refers solely to the administration of the investment product and other services which the life company is contracted for which does not include being responsible for the investment return received. By the nature of the arrangement between insurer and IFA, the insurer is not usually responsible for the actions of the IFA as the IFA is the agent of the client not the insurer.

## 2.3.2 Banks

**Subject matter of complaints against Banks**



Poor administration was the top reason for complaints received against the banks. A number of complainants felt that the closure of local branches along with reliance on call centres and internet banking made it more difficult for customers to engage with their bank and therefore, when processes did not go as planned, additional worry and distress were felt by customers.

Accounts being closed or blocked by the banks were the subject of 13 complaints to the Scheme. In this area the Scheme takes the view that a bank can close an account, subject to adequate notice, as specified in the account terms and conditions. There were also situations where an account was closed without notice leaving the account holder without access to funds. In each complaint case officers will consider what is fair and reasonable in the circumstances, although the bank is not required to provide a reason for their decision.

Just nine complaints referred to the Scheme in 2021/22 related to scams. The very nature of this type of complaint whereby the complainant has been tricked into handing over confidential information which has enabled fraudsters to access their money can be emotive. In most instances the fraudster has preyed on a vulnerability or caused the complainant to panic by advising them that their funds are at risk.

Where the customer has authorised the fraudulent payment themselves it would be reasonable to conclude that the bank is not responsible for the loss but there are situations where the banks are best placed to review a transaction before making the payment and avoiding what can be a significant loss. One such complaint was determined by an Adjudicator to the Scheme who found that the bank had acted negligently. The details of this complaint can be found in the link under section 4 of this report.

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

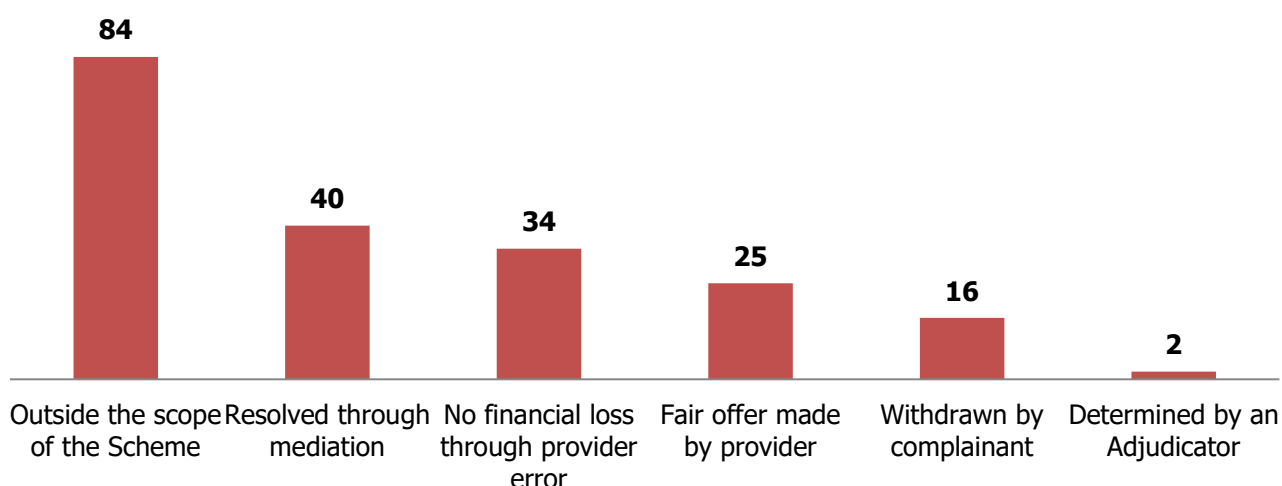
Reason Enquiries closed 2021/22	No.	%
Advice and assistance provided to complainant on initial contact with no further action required.	144	65
Found to be outside the remit of the Scheme.	66	30
Resolved through Scheme intervention. The case worker has contacted the provider on behalf of the client and the complaint has been resolved without the need for a complaint form.	12	5
<b>Total</b>	<b>222</b>	

## 2.5 Closed complaints (where complaint form received)

Outcome of Closed Complaints 2021/22	No.	%
Outside scope of the Scheme.	84	42
Resolved through mediation.	40	20
No financial loss through provider error.	34	17
Fair offer made by provider.	25	12
Withdrawn by complainant.	16	8
Determined by Adjudicator.	2	1
<b>Total</b>	<b>201</b>	

### Outcome of closed complaints 2021/22 (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 42% of the complaints received. A breakdown of the reasons for decline is shown in the following table.

<b>Reason Complaints declined 2021/22</b>	<b>No.</b>	<b>%</b>
<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.	45	53
<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.	17	20
<b>Not an Isle of Man provider:</b> The financial provider is not operating in or from the Isle of Man.	9	11
<b>Not an individual:</b> The Scheme is unable to consider complaints received on behalf of a body corporate.	5	6
<b>No financial service provided:</b> The service provided is not covered by the Scheme.	4	5
<b>Investment Performance:</b> Movements on the financial markets have affected the value of an investment rather than the actions of the supplier.	3	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.	1	1
<b>Total</b>	<b>84</b>	

### 2.6 Work in Progress –

Active complaints and enquiries open at 1<sup>st</sup> April 2022

Awaiting response from complainant	25
Under investigation	30
Awaiting response from provider	13

## 3. 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 general insurance provider had unfairly dismissed a claim made against an after the event \(‘ATE’\) insurance policy](#)
2. [Complaint made to the Scheme that a local Bank was negligent in allowing a payment to be made to a fraudster](#)

## 5. Scheme update

### Review of the Financial Services Act 2008

Minor changes to the Scheme, which is established within Schedule 4 of the Financial Services Act 2008, still remain under consideration with amendments to the legislation being overseen by the Financial Services Authority who have responsibility for this Act. The proposed amendments will be consulted upon before any permanent changes are made.

### Senior Adjudicator Guidance Notes

The Senior Adjudicator to the FSOS, Mr John Wright, assisted by members of the panel of Adjudicators, has compiled guidance notes to assist stakeholders to the Scheme where a complaint is referred to an Adjudicator for determination. These guidance notes came into effect from 1<sup>st</sup> April 2022.

Whilst the guidance notes are primarily for complaints which cannot be resolved through mediation, our case officers will also refer to these notes particularly when considering whether payments offered for distress and inconvenience are fair and reasonable in settlement of a complaint. The guidance notes can be downloaded from our website [here](#)

## 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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