

ISLE OF MAN OFFICE OF FAIR TRADING



# Isle of Man Office of Fair Trading

## ANNUAL REPORT

2016/17



**Isle of Man**  
Government

*Reiltys Ellan Vannin*

**VERSION 1.0**

# INDEX

	Page
<b><u>FOREWORD BY THE CHAIRMAN</u></b>	<b><u>3</u></b>
<b><u>INTRODUCTION BY THE CHIEF OFFICER</u></b>	<b><u>3</u></b>
<b><u>OFFICE OF FAIR TRADING BOARD</u></b>	<b><u>4</u></b>
<b><u>FINANCIAL SUMMARY</u></b>	<b><u>5</u></b>
<b><u>CONSULTATIONS</u></b>	<b><u>5</u></b>
<b><u>INFORMATION ACCESS REQUESTS</u></b>	<b><u>5</u></b>
<b><u>OVERALL PERFORMANCE AGAINST TARGETS</u></b>	<b><u>6</u></b>
<b><u>OFT ACTIVITIES</u></b>	<b><u>10</u></b>
<b><u>ADMINISTRATIVE MERGER AND RELOCATION</u></b>	<b><u>10</u></b>
<b><u>TRADING STANDARDS</u></b>	<b><u>12</u></b>
<b><u>CONSUMER ADVICE &amp; DEBT COUNSELLING</u></b>	<b><u>14</u></b>
<b><u>DISABILITY DISCRIMINATION ACT 2006</u></b>	<b><u>19</u></b>
<b><u>REGISTRATION OF ARCHITECTS &amp; ESTATE AGENTS</u></b>	<b><u>20</u></b>
<b><u>FINANCIAL SERVICES OMBUDSMAN SCHEME</u></b>	<b><u>21</u></b>
<b><u>MONEYLENDERS</u></b>	<b><u>24</u></b>
<b><u>COMPETITION &amp; PRICING</u></b>	<b><u>25</u></b>
<b><u>CENTRAL SERVICES</u></b>	<b><u>27</u></b>
<b><u>SUMMARY OF ACTIVITIES</u></b>	<b><u>28</u></b>

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## FOREWORD BY THE CHAIRMAN



As the new Chairman of the Office of Fair Trading (OFT), I am very pleased to be able to report on another challenging but successful year.

2016/17 has been a year of substantial change, with the relocation of the OFT offices from Douglas to St Johns and the development of a new partnership with the Department of Environment, Food and Agriculture. Against that, it is good to report that the OFT has continued to substantially achieve the targets in its Business Plan. Without doubt, that has been largely down to the commitment and sheer determination of the staff.

I would like to place on record my thanks to my predecessor David Quirk and also to Vivienne Davies who retired from the Board in February 2017 after a decade of service.

As a Statutory Board of Tynwald, the OFT is sufficiently remote from Government to be able to work with businesses under commercial confidentiality to ensure that consumers get a fair deal. That ability is, in no small measure, down to the role played by the three non-Tynwald Members of the OFT Board

**Martyn Perkins MHK**  
**Chairman**

## INTRODUCTION BY THE DIRECTOR



In writing the 2016/17 Business Plan and gaining Board approval, I wanted to give real clarity to what we would aim to achieve. It is therefore pleasing that this Annual Report shows that we have met most of the targets which we set out to achieve. That we have done so in the context of substantial challenges posed by relocation and a new business relationship with the Department of Environment, Food and Agriculture makes it even more satisfying.

The work of the OFT benefits every local resident, but much of that work is unnoticed – monitoring and enforcement of weights and measures legislation helps to ensure that the community can have confidence in purchases of everyday items such as food, drink and fuel.

The OFT is the Regulator for the supply of gas and we have continued to oversee the operation of Manx Gas Ltd. in order to ensure a level of profitability which is fair to both the consumer and the company; and prevents any abuse of the natural monopoly.

**Mike Ball**  
**Director**

## OFFICE OF FAIR TRADING BOARD

Policy within the OFT is agreed by a Board which is constituted under the Board of Consumer Affairs Act 1981 and receives much of its powers from the Consumer Protection Act 1991. The Board comprises:

- a Chairman, who shall be a member of Tynwald;
- a Vice-Chairman, who shall be a member of Tynwald; and
- three persons, not being members of Tynwald, capable of representing consumers in relation to the functions of the Board.

Members for 2016/17 were:

**Mr D J Quirk MHK**  
Chairman until November 2016

**Mr M Perkins MHK**  
Chairman from November 2016

**Mr C G Corkish MBE, MLC**  
Vice Chairman

**Mrs V Davies**  
Until February 2017

**Mrs C Convery**

**Mrs J Bridson**

**Mrs K Lord-Brennan**  
From February 2017

During 2016/17, there were 11 regular meetings of the Board and no extraordinary meetings. Costs associated with the Board were very close to the budget of £24,621, with expenditure being £25,490 for the year. Members' attendance at Board meetings was as follows:

Name	Regular Meetings		Other Meetings		Attendance Rate
	Possible	Actual	Possible	Actual	
<b>Mr D J Quirk MHK</b>	<b>5</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>100%</b>
<b>Mr M J Perkins MHK</b>	<b>5</b>	<b>5</b>	-	-	<b>100%</b>
<b>Mr C G Corkish MBE MLC</b>	<b>10</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>100%</b>
<b>Mrs V Davies</b>	<b>8</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>67%</b>
<b>Mrs C Convery</b>	<b>10</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>100%</b>
<b>Mrs J Bridson</b> (formerly Baker)	<b>10</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>100%</b>
<b>Mrs K Lord - Brennan</b>	<b>2</b>	<b>2</b>	-	-	<b>100%</b>

## FINANCIAL SUMMARY

The net year-end financial position of the OFT for 2016/17 was under budget. Expenditure was under budget and income was also slightly under budget. In summary, figures are as follows:

	Budget	Actual	Difference
<b>Gross Expenditure</b>	<b>£858,963</b>	<b>£792,911</b>	<b>£66,052</b>
<b>Budgeted Income</b>	<b>£46,563</b>	<b>£42,996</b>	<b>£3,567</b>
<b>Net Expenditure</b>	<b>£812,400</b>	<b>£749,915</b>	<b>£62,485</b>

## CONSULTATIONS

During the year, the OFT undertook two public consultation exercises:-

- Consultation on Proposals for Changes to the Legal Quantities for Sales of Intoxicating Liquor
- Consultation on Changes to Estate Agents and Property Agents Legislation

## INFORMATION ACCESS REQUESTS

During the year 2016/17, the OFT received no requests for information under the Code of Practice for Access to Government Information and no Data Subject Access Requests under the Data Protection Act 2012.

## OVERALL PERFORMANCE AGAINST TARGETS

BUSINESS PLAN TARGET	STATUS	COMMENTS
<b>FINANCIAL</b>		
Achieve the Gross Budget		The gross budget was achieved without the need to draw down available external funding to cover relocation costs.
Achieve the Net Budget		The net budget was also achieved without the need to draw down available external funding to cover relocation costs.
<b>ADMINISTRATIVE MERGER AND RELOCATION</b>		
To execute a detailed service level agreement between the OFT and the Department of Environment, Food and Agriculture, which will set out how the new arrangement will operate in order to enable the efficient and effective delivery of the statutory duties of the OFT. This should be in place by May 2016.		Service Level Agreement signed 29th April 2016
To relocate all OFT operations to Thie Slieu Whallian, St Johns in July 2016.		Moved July 2016
To approve plans for the rehousing of the Manx Standards of weights and measures including approval thereof pursuant to section 2 of the Weights and Measures Act 1989. This should be achieved by June 2016.		Whilst the original plan was to relocate in a single step, as the plans were developed it became clear that it would be far more cost effective to maintain the facilities in Douglas and progressively develop the facilities in St John's, allowing phased relocation.
To relocate all OFT technical facilities, to Thie Slieu Whallian, St Johns in July 2016		Whilst the original plan was to relocate in a single step, as the plans were developed it became clear that it would be far more cost effective to maintain the facilities in Douglas and progressively develop the facilities in St John's, allowing phased relocation.

<b>BUSINESS PLAN TARGET</b>	<b>STATUS</b>	<b>COMMENTS</b>
<b>TRADING STANDARDS</b>		
Conduct a risk assessment of the Island's businesses with 100% of those identified as being 'high risk' to be visited.		Achieved
Each of the 'top ten' local businesses in terms of relative volume and seriousness of consumer concerns recorded during the preceding year to be the subject of targeted action aimed at improving standards.		Achieved
Undertake at least thirty educational visits to reinforce compliance with the age restriction on sales of cigarettes.		Achieved
Continue to actively target those who knowingly trade unfairly.		Achieved
Maintain the Manx Standards of Weights and Measures and their traceability to international standards		Under current validation - revalidation in 2018
Once the Consumer Protection (Amendment) Bill receives Royal Assent (and becomes the Consumer Protection (Amendment) Act 2016) make an Appointed Day Order bringing the Act into full operation within 3 months of the approval of the Order and place that Order before Tynwald at the next available sitting.		Achieved June 2016
<b>CONSUMER ADVICE &amp; DEBT COUNSELLING</b>		
Ensure that all enquiries and complaints are acknowledged within three working days of receipt.		Achieved
Ensure that 75% of consumer advice enquiries and complaints are concluded within 14 days of receipt.		Achieved
Ensure that the time between the initial contact for Debt Counselling and the first meeting to review budget is within 10 working days in 90% of cases and within 15 working days in 100% of cases.		Achieved

<b>BUSINESS PLAN TARGET</b>	<b>STATUS</b>	<b>COMMENTS</b>
At least eight educational presentations to community groups.		Exceeded.
At least 18 media releases of significance to the wider community		Exceeded. (25 media releases issued)
<b>REGISTRATION OF ARCHITECTS AND ESTATE AGENTS</b>		
<p>Reach a decision on the most appropriate route to replace the Estate Agents Act 1975 by December 2016 and either:-</p> <p>(a) seek the approval of the Council of Ministers to the introduction of the Property Agents Bill as part of the Government Legislative Programme; or</p> <p>(b) initiate public consultation on proposals to apply the UK consumer protection framework around estate agents and property transactions by March 2017.</p>		<p>Agreed to proceed on the basis of applying parts of the UK consumer protection framework around estate agents, plus some minor primary legislation.</p> <p>Public consultation runs from 10th March 2017 to 21st April 2017.</p>
<b>FINANCIAL SERVICES OMBUDSMAN SCHEME</b>		
Acknowledge new complaints within three working days of receipt.		Achieved
Action correspondence within 20 working days.		Achieved
Close 75% of complaints within six months.		Achieved
Review the results of the surveys of customers and suppliers who used the Scheme in 2015/16 and publish the results in the annual report of the Scheme.		Published in November 2016
Identify ways in which we will measure customer service in the future.		<p>The focus of the team has necessarily been on dealing with FSOS (business as usual) and preparation for the introduction of complaint handling under the Disability Discrimination Act.</p> <p>This remains a worthwhile exercise when other priorities allow.</p>



<b>BUSINESS PLAN TARGET</b>	<b>STATUS</b>	<b>COMMENTS</b>
<b>REGISTRATION OF MONEYLENDERS</b>		
Acknowledge new applications within three working days of receipt.		Achieved
Reactivate discussions with the Financial Services Authority (FSA) and The Treasury by December 2016 with regard to the proposed transfer of responsibility.		Given the focus of the FSA on the merger and then on MONEYVAL this has not been a priority for the FSA. Whilst it remains a valid objective the timescale is out of OFT control and largely out of OFT influence.
<b>COMPETITION &amp; PRICING</b>		
Review drafting instructions for the Competition Bill and resubmit them to the Council of Ministers by November 2016		Achieved May 2016
With the support from Treasury accountants, analyse the data provided by Manx Gas to ensure the obligations under the regulation agreement are continuing to be met.		Achieved
All investigations completed within six months.		No formal investigations undertaken
Continue to collect publish and monitor comparative pricing data for domestic heating fuel, road fuel and travel		Achieved

## KEY

**Target Achieved**



**Target Partly Achieved or Achieved Late**



**Target Not Achieved or No Longer Achievable**



**No action required or taken**



## OFT ACTIVITIES

# ADMINISTRATIVE MERGER AND RELOCATION

In March 2016, the Council of Ministers decided to implement an administrative merger between the OFT, the Road Transport Licencing Committee (RTLCL) and the Department of Environment, Food and Agriculture (DEFA). Under the proposals, the three bodies were to retain their statutory independence, but were to co-locate at Thie Slieu Whallian in St Johns and share staffing.

This decision was taken at a high level and it was left to the three partners to the merger to determine in detail how best to deliver the corporate objective.

In the light of the timing of the decision, it was not been possible to provide detailed proposals in the 2016/17 Business Plan:

### WE SAID

we would

- execute a detailed service level agreement between the OFT and the Department of Environment, Food and Agriculture, which will set out how the new arrangement will operate in order to enable the efficient and effective delivery of the statutory duties of the OFT. This should be in place by May 2016.
- approve plans for the rehousing of the Manx Standards of weights and measures including approval thereof pursuant to section 2 of the Weights and Measures Act 1989. This should be achieved by June 2016.
- relocate all OFT operations, including technical facilities, to Thie Slieu Whallian, St Johns in July 2016.

### WE DID

The negotiations with the Department of Environment, Food and Agriculture (DEFA) progressed rapidly, with a Service Level Agreement agreed and executed in April 2016.

The underlying principle of that Service Level Agreement was that the OFT would remain as a politically independent body, but that OFT staff would transfer to DEFA as their 'stationed employer' on behalf of the Public Services Commission. The Service Level Agreement requires that DEFA must provide the level of resources necessary to enable the OFT to perform its statutory functions.

Whilst the new system has left most of the technical OFT staff working wholly or predominantly for the OFT; the former OFT Central Services team has been absorbed fully into the Corporate Services Directorate of DEFA. The former OFT Chief Officer has taken on a dual role as Director OFT and also Director of Corporate Services for DEFA. This has been possible due to a more substantial team which can be used flexibly to support the work of both the OFT and DEFA. This approach has enabled the aggregation of various parallel support services across the OFT and DEFA (plus the RTLCL) to enhance efficiency.

The relocation of the main OFT Office to Thie Slieau Whallian, St John's was achieved on target in early July 2016. However, as the plans for relocation of the technical facilities progressed, it became clear that moving the technical facilities on a phased basis was likely to achieve a more satisfactory and less expensive outcome. This was made possible through agreement with the Department of Infrastructure (as the "landlord" of the Lord Street Building) to permit the delayed relocation. Whilst splitting the OFT technical operations across two sites has not been easy, as relocation reaches its conclusion, it is clear that the revised approach has been beneficial.

Although the Business Plan made it clear that the funding for relocation would come from sources external to the OFT, in fact the OFT has been able to cover the whole cost of relocation of around £57,000, from its 2016/17 revenue budget. It has done so as a result of overall prudent financial management, careful cost management of the move and the revised approach to phased relocation.

The administrative merger has already produced tangible financial savings across DEFA, OFT and the RTLC of the order of £150,000 per annum, mainly through staffing efficiencies and the merging of duplicate systems. The way in which those savings have been achieved does, however, make it difficult to allocate them between the three partners to the administrative merger. In addition, the move has freed-up two Government-owned facilities (the former OFT Offices in Lord Street and part of Prospect House formerly used by RTLC) for reuse; which will ultimately lead to a reduction in the overall leasehold estate and a significant saving to Government.

The new arrangement has resulted in closer working relationships between the various regulatory and enforcement agencies, which are now co-located; and potentially provides the basis for a Government regulatory hub. This concept will be further examined under the **Programme for Government** under the action (page 17) that Government will *Produce a Report on our regulatory framework which explores options for better regulation.*

# OFT ACTIVITIES TRADING STANDARDS

## WE SAID

we would:

- continue to undertake the enforcement of legislation based on risk assessment and intelligence so as to ensure that consumers are protected. Particular attention will be focussed on those operators who target vulnerable members of society. The aim is to ensure that scarce resources are genuinely targeted towards the real priorities and that enforcement activity is always proportionate to risk.
- use the new powers under the Consumer Protection Amendment Act 2016 (as it now is) to disrupt the activities of “cowboy builders”
- Look to develop a strategy to disrupt the activities of disreputable traders in the construction sector who market themselves in manners which, whilst not actually untruthful, are designed to encourage the customer to believe that they are reputable tradesmen.

## WE DID

All premises or businesses identified as being ‘high risk’ were visited on at least one occasion.

The keeping of petrol or fireworks was authorised at ‘high risk’ premises, including, amongst others, petrol stations, petrol can stores, shops storing fireworks and the pit lane during the major motorcycle races. Each of the premises concerned was inspected to assess compliance with the relevant legislation, the purpose of which is to prevent fire, explosion or personal injury.

In addition, all other premises or businesses identified as being ‘high risk’, i.e. weighbridges, the three major suppliers of domestic oil and the largest supermarkets, were inspected to assess compliance with the relevant trading standards legislation, e.g. weights and measures legislation. No major problems were found at any of the ‘high risk’ premises or businesses concerned.

Particular businesses were visited following an analysis of, amongst other things, the number of consumer concerns recorded against the business during the preceding year, the seriousness of those concerns and the relative size of the business. The main purpose of these visits was to minimise the number of consumer concerns recorded against the business by raising awareness of any specific consumer concerns appertaining to it and establishing or reinforcing an ongoing dialogue.

Over thirty premises, including shops, supermarkets and public houses, were visited to check that requirements concerning sales and displays of tobacco were being complied with.

The on-going project targeting “cowboy builders” was bolstered by the Consumer Protection (Amendment) Act 2016 coming into force on 1<sup>st</sup> June 2016 as this effectively bans cold-calling, a tactic often used by unscrupulous traders.

Twenty seven licences were issued to non-resident traders who were either selling or buying goods in the Island. These licences were only issued after checks had been carried out to confirm that the traders concerned were fit and proper. Most of the licences were issued to traders selling

goods at the major motorcycle events. None of the licensed traders caused any major problems.

The OFT did not initiate any criminal proceedings during 2016/17. Prosecutions are a last resort and are not taken lightly, as they must be in the public interest. Other enforcement tools such as warning letters, enforcement notices and formal cautions are often used when education fails or specific advice is not heeded.

# OFT ACTIVITIES CONSUMER ADVICE AND DEBT COUNSELLING

## WE SAID

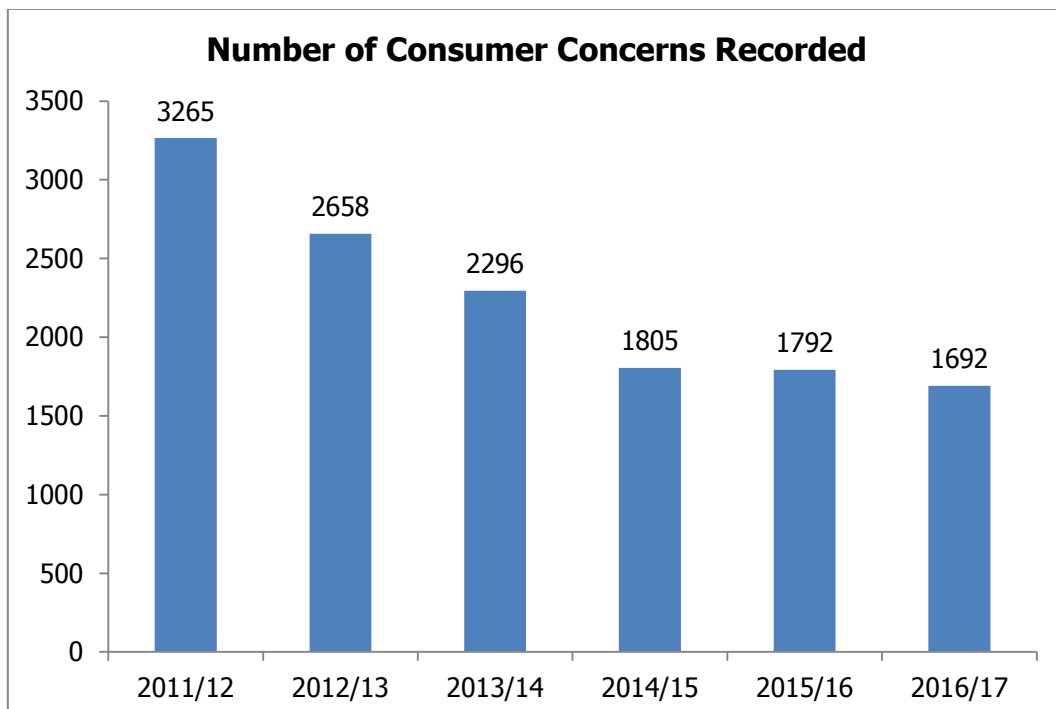
we would:

- continue to act as the public face of the OFT, both within the office and also going out into the community to advise and educate consumers;
- continue to provide high quality effective advice to consumers both through their understanding of relatively complex issues surrounding consumer law and by offering advice as to problem resolution;
- act as the “eyes and ears” of Trading Standards, and provide intelligence that leads to enforcement action;
- continue to provide a high quality responsive Debt Counselling service to customers.

## WE DID – CONSUMER ADVICE

A total of 1,692 consumer concerns were reported to the OFT in 2016/17.

Comparisons with previous years are shown in the chart below:



The table below shows the top public concerns recorded in 2016/17:

<b>Concern</b>	<b>Number</b>	<b>%</b>
Money advice	173	10
Home maintenance, repairs & improvements	169	10
Second-hand cars	160	9
Scam or possible scam	157	9
Tenancy advice	148	9
Road, rail, air, sea travel excluding car hire	74	4
Car repairs & servicing	52	3
Large white goods & major fixed appliances	46	3
Personal computers, soft & hardware	46	3
Clothing & clothing fabrics	34	2
Other	633	38

We continue to issue warnings about current scams and how to avoid scams in general. These are often followed up with media interviews. This work appears to be paying off, as there was a further significant drop in the number of concerns raised with the OFT about scams or possible scams, from 175 in 2015/16 to 157 in 2016/17. Whilst this is encouraging, there is no room for complacency, as scams are becoming more sophisticated and often target the more vulnerable members of society.

There was also a further significant drop in the number of concerns raised with the OFT about home maintenance, repairs and improvements, from 196 in 2015/16 to 169 in 2016/17, with this category dropping from top place in 2015/16 to second place in 2016/17 in the list of top public concerns. As already stated in this report, the on-going project targeting "cowboy builders" was bolstered by the Consumer Protection (Amendment) Act 2016 coming into force on 1<sup>st</sup> June 2016 as this effectively bans cold-calling, a tactic often used by unscrupulous traders. It is too early to say for sure that this has led to the drop in the number of concerns raised, but there are signs that

it may well be curbing the activities of unscrupulous traders.

The information collected by the Consumer Advisors provides the Trading Standards Service with vital intelligence which enables informed decisions to be made concerning enforcement action.

We continue to raise awareness of consumer rights through media releases, radio programmes and via presentations to community groups.

## WE DID – DEBT COUNSELLING

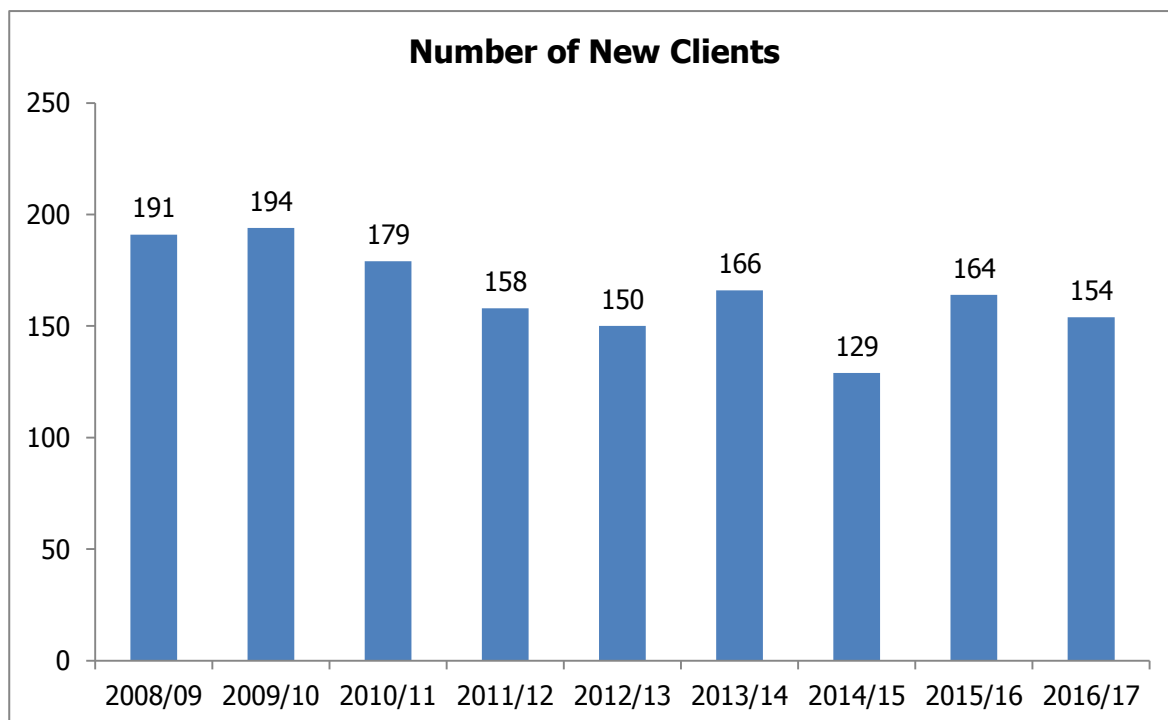
In the context of this report, 'debt' only includes those debts managed by the Debt Counselling Service. These may include 'priority' and/or 'non-priority' debts. Priority debts are those where non-payment can result in clients losing their liberty, homes, essential services or essential goods - for example, mortgage arrears, rent arrears, debts owed to utility providers and debts on hire-purchase agreements.

We assisted 154 new clients during 2016/17, compared with 164 in 2015/16.

The total debt managed decreased from £2,010,161 in 2015/16 to £1,880,389 in 2016/17.

The average debt per client (both secured and unsecured) decreased slightly from £12,257 in 2015/16 to £12,210 in 2016/17.

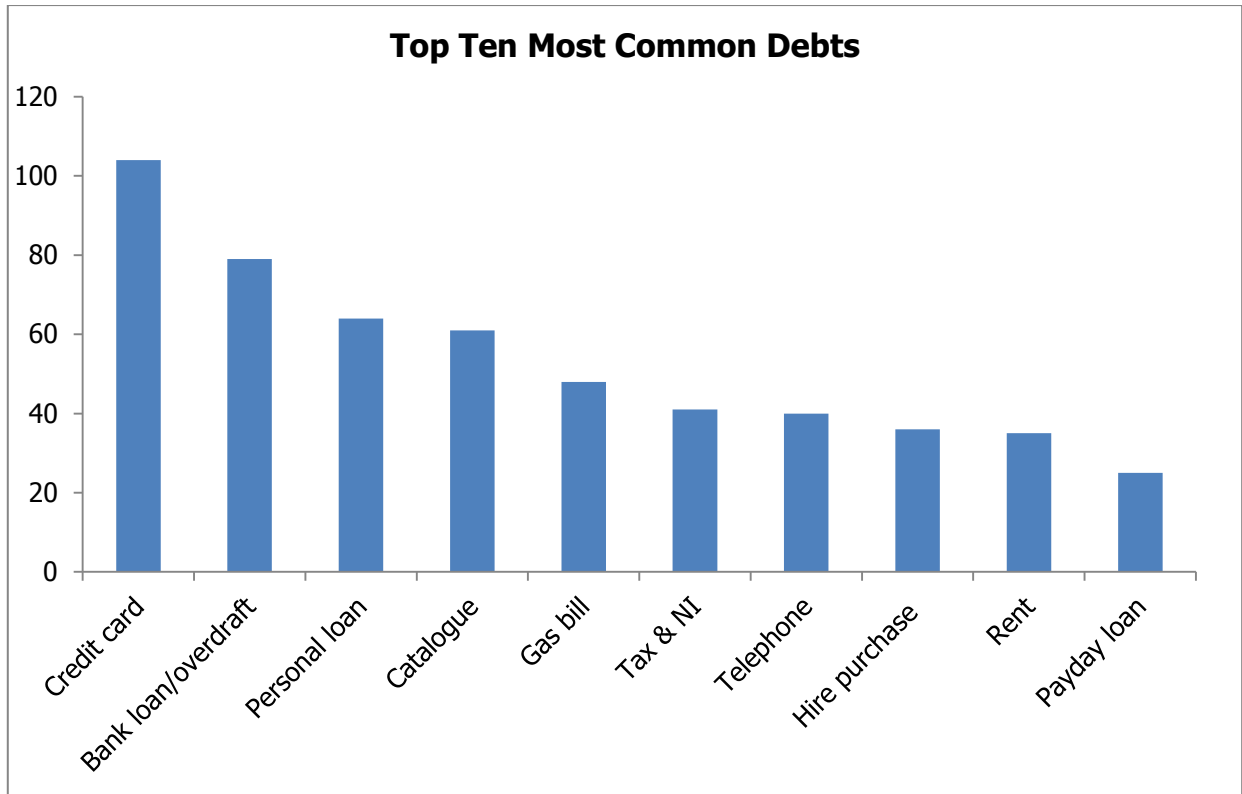
Comparisons with previous years are shown in the chart below:



In 2016/17, 24.5% of the total debt managed was owed to credit card companies. This compares with 30% in 2015/16. Credit cards perennially account for the highest percentage of the total debt managed.

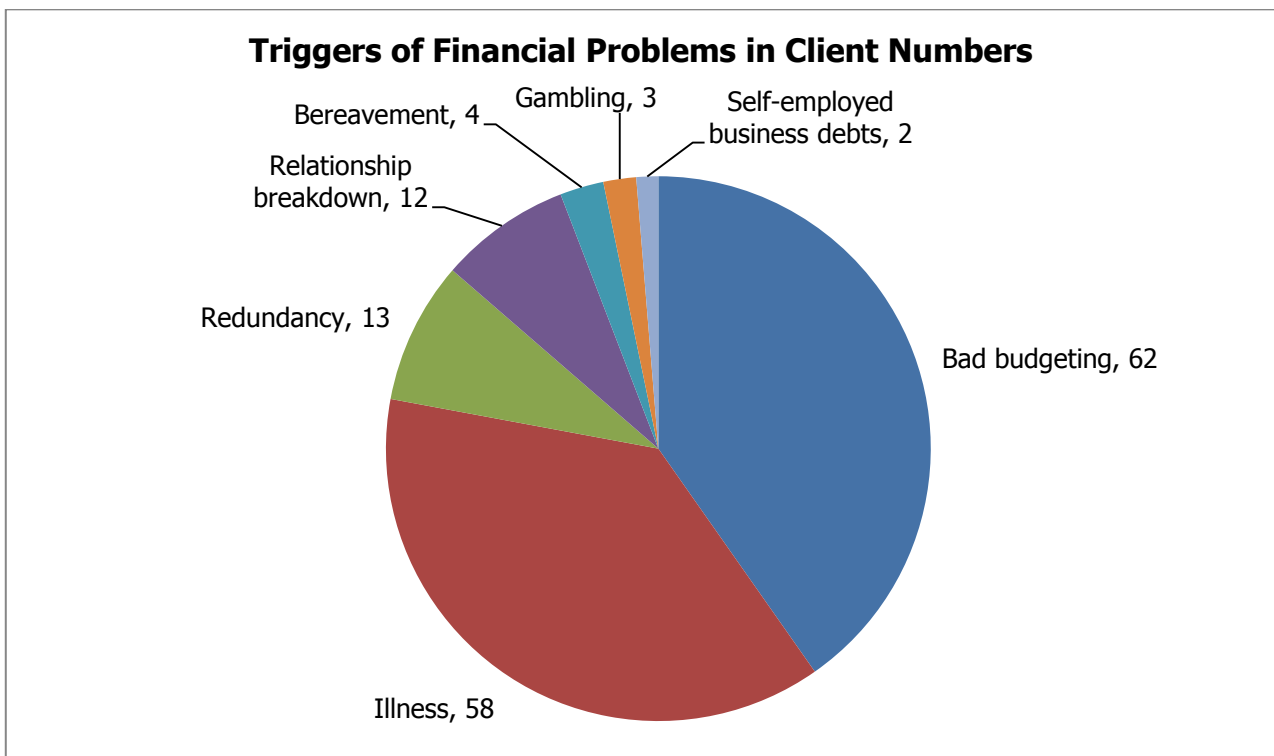


The chart below shows the most common debts as reported by clients in 2016/17:



The most common trigger of financial problems in 2016/17 was, again, bad budgeting. This is perennially the most common trigger for financial problems. The numbers in the chart reflect that clients may have more than one debt.

The chart below shows the triggers of financial problems as reported by clients during 2016/17:



Clients who were tenants in rented accommodation (private or local authority) remained the largest proportion of clients assisted, accounting for 76% of those assisted in 2016/17. This compares with 71.3% in 2015/16.

We continue to proactively promote the debt counselling service to encourage those living with serious debt to seek advice.

The Council of Ministers is furnished with a relevant statistical analysis of the debt counselling service, on both a quarterly and an annual basis, and this forms part of a wider economic assessment.

Figures should not by any means be interpreted as a measure of the indebtedness of residents of the Isle of Man. They merely reflect the profiles and circumstances of those people who have chosen to make use of the OFT's debt counselling service.

# OFT ACTIVITIES

## DISABILITY DISCRIMINATION ACT 2006

### WE SAID

we would take on the mediation role under the Disability Discrimination Act 2006 in relation to complaints regarding the provision of goods and services. This service will operate in parallel with the Financial Services Ombudsmen Scheme. The FSOS staff already have extensive experience in dispute resolution; albeit in a different area.

The part of the Disability Discrimination Act 2006 which provides for this service will come into effect, by way of an Appointed Day Order which has already be made and approved, in December 2016.

### WE DID

Whilst the OFT was in a position to take on this new role in December 2016, there were protracted discussions with the Department of Health and Social Care regarding the detailed fulfilment of that role. The service went live on 9<sup>th</sup> February 2017 and the OFT is charged under section 14(2) of the Act with providing advice and assistance to persons with a view to promoting the settlement of disputes arising under Part II (Discrimination). In order to fulfil that role, the OFT will:

- inquire into the circumstances and cause of the dispute, which may relate to the provision of goods, facilities or services, or the disposal or management of premises, to determine whether discrimination has taken place and whether it was justified: and
- offer the parties to the dispute assistance with a view to bringing about a settlement, stopping short of formal binding mediation or arbitration

In writing the 2016/17 Business Plan, the OFT expressed concern that, whilst there had been significant pressure to bring the Disability Discrimination Act 2006 into force, there was no real understanding of the scale and extent of the practical problems which were faced by those with a disability. The OFT was, therefore, providing a service without understanding the scale of demand, with the resultant risk that the service would be swamped.

In the event, those fears proved to be unfounded and far from the feared initial rush of complaints, in fact the OFT did not receive a single complaint from December 2016 to the end of the reporting (financial) year. This was a most unexpected outcome which seems to suggest that the demand for the introduction of the Act was rather more symbolic than practical. Matters may change however and the OFT's anticipated role under the Equality Act will significantly widen scope and potential for cases and workload.

# OFT ACTIVITIES REGISTRATION OF ARCHITECTS & ESTATE AGENTS

## WE SAID

we would reach a decision on the most appropriate route to replace the Estate Agents Act 1975 by December 2016 and either:-

- (a) seek the approval of the Council of Ministers to the introduction of the Property Agents Bill as part of the Government Legislative Programme; or
- (b) initiate public consultation on proposals to apply the UK consumer protection framework around estate agents and property transactions by March 2017.

## WE DID

The OFT completed its review of the options to resolve the problems with the Estate Agents Act 1975 in Autumn 2016. In the end, it was decided, in principle, to proceed on the basis of a hybrid of the two options identified in the Business Plan and:-

- (a) Make an Order under section 62A(1)(b) of the Consumer Protection Act 1991, applying the United Kingdom Estate Agents (Redress Scheme) 2008 (SI2008 no 1712) to the Isle of Man with modifications.
- (b) Make an Order under section 62A(1)(b) of the Consumer Protection Act 1991 applying the United Kingdom Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014 (SI 2014 No 2359) to the Isle of Man with modifications.
- (c) Promote a small Estate Agents (Amendment) Bill to deal with the remaining defects in the Estate Agents Act 1975

The OFT launched a public consultation on these proposals on 10<sup>th</sup> March 2017. The consultation document offers far more detail on the proposed approach.<sup>1</sup>

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<sup>1</sup> <https://www.gov.im/lib/docs/oft/consultations/estateagentsconsultationdocument.pdf>

# OFT ACTIVITIES FINANCIAL SERVICES OMBUDSMAN SCHEME

## WE SAID

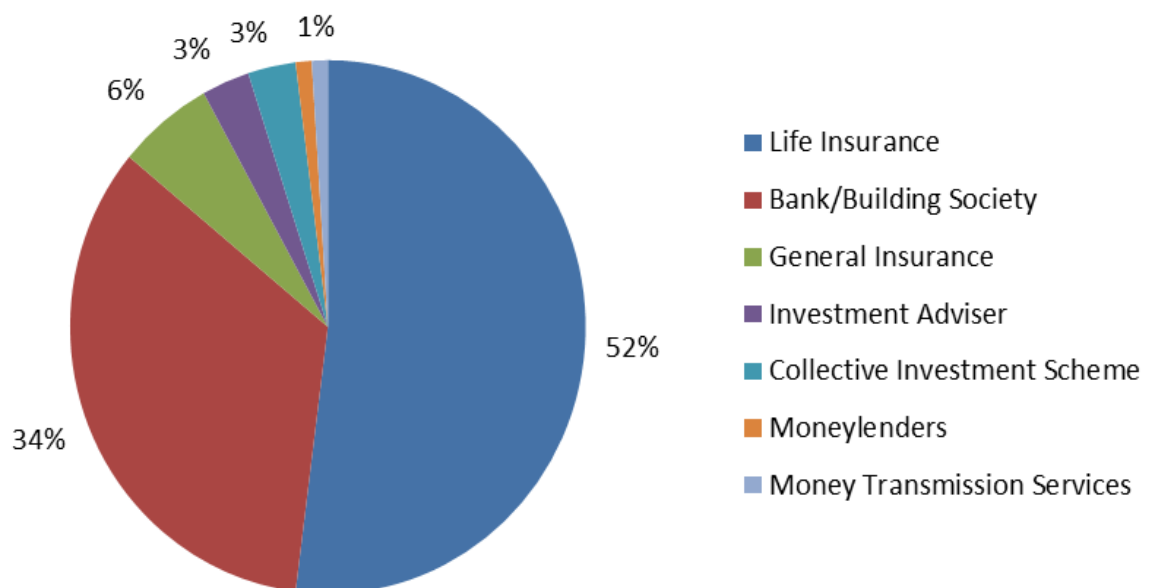
we would:

- Acknowledge new complaints within three working days of receipt.
- Action correspondence within twenty working days.
- Close 75% of complaints within six months.
- Review the results of the surveys of customers and suppliers who used the Scheme in 2015/16 and publish the results in the annual report of the Scheme.
- Identify ways in which we will measure customer service in the future.
- Discuss with the Treasury the potential incorporation of the Isle of Man Pension Ombudsman Service into the Financial Services Ombudsman Scheme

## WE DID

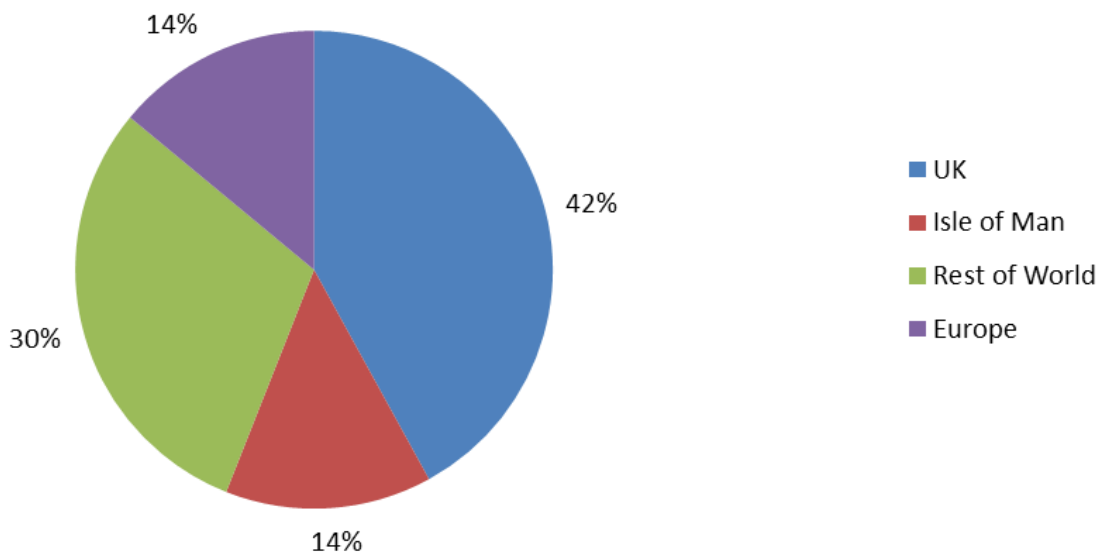
During 2016/17, the OFT received 520 contacts with regard to the Financial Services Ombudsman Scheme (FSOS), which resulted in 259 formal complaints to the Scheme. The complaints related to the following services:-

### Provider Type 2016/17



The residence of complainants was as follows:-

## Residence of Complainants 2016/17



During the year, one case was referred to the FSOS Adjudicators for formal determination of the complaint. The role of the adjudicator is to provide formal investigation and determination of those complaints which have not been resolved through conciliation or mediation. This complaint was not upheld initially and the complainant exercised his/her right to ask that the determination be reviewed by the senior adjudicator. Following his review, the senior adjudicator overturned the adjudicator's decision and upheld the complaint.

To assist with the development of a credit union regime on the Island, the Board considered extending the remit of the FSOS to enable the scheme to provide dispute resolution in respect of the services provided by a credit union. As a result, the Board made the Financial Services Disputes (Definition) (Amendment) (No2) Order 2016, which came into effect on 1<sup>st</sup> August 2016. This provides an increased level of consumer protection for a service used in the main by the local community. The Manx Credit Union became operational in January 2017.

A review of the surveys of customers of the FSOS and financial service providers was included in the Annual Report of the FSOS published in November 2016. In summary, of those clients whose complaint had been upheld or a settlement agreed, 94% gave positive feedback 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. 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.

Surveys were issued via email and, where an email address was not available, by letter. There was a low response rate to the survey with 21% of those who made an initial contact with the office and 25% of those who had made a complaint responding to the survey. We have considered how we can improve response rates in future surveys and note that other ombudsman services conduct surveys by telephone with greater success. Should we choose to take this route, resources would need to be made available to enable outside assistance to be sought.

# OFT ACTIVITIES REGISTRATION OF MONEYLENDERS

## WE SAID

we would

- Continue to register moneylenders under the Moneylenders Act 1991 ensuring that those owning and controlling the business are fit and proper persons
- Continue to work with the Financial Services Authority and the Treasury in progressing legislation which will transfer the responsibility for moneylenders by making moneylending a regulated activity and repealing much of the Moneylenders Act 1991;

## WE DID

On 1<sup>st</sup> April 2016, there were 46 businesses registered with the OFT as moneylenders under the Moneylenders Act 1991. During the year, six new applications were received and seven registrations were discontinued, leaving a total of 45 registered moneylenders at 31<sup>st</sup> March 2017.

Three of the newly registered moneylenders operate in the peer to peer lending sector on the Island, entering the market as either direct lenders or brokers connecting lenders and potential borrowers. Of the remaining new registrations, two offer loans to individuals and one is to enable the collection of debts.

Whilst the concept of moving moneylending to the (former) Financial Supervision Commission as a regulated activity was agreed in principle, the proposal was somewhat derailed by the decision to create the Financial Services Authority by merging the Financial Supervision Commission and the Insurance and Pensions Authority. Clearly, the merger of the two bodies was a priority in terms of workloads. At the same time, the Island's performance in relation to anti money laundering and combatting the funding of terrorism was subject to inspection by MONEYVAL, which required the deployment of significant resources. Understandably, the progression of the proposed changes to the regulation of moneylenders was viewed as a lower priority and has not yet been taken forward.

Whilst the transfer of responsibility remains an OFT objective, the absence of a timescale means that the OFT must plan to undertake the role in, at least, the medium term. During the year, the OFT has reviewed the way in which it handles the registration process to ensure that only fit and proper persons are involved in moneylending. Currently the registration of a moneylender has a three year term and in order to ensure more frequent vetting, it has been agreed, in principle, to reduce that term to two years. The registration fee relates to the amount of work required to deal with an application which is the same regardless of the term. As a result, the registration fee would not change. The OFT is also proposing to introduce a fee for a change to an ongoing registration. Requested changes, which at the moment are not chargeable, inevitably involve changes of directors or managers, and involve the same fit and proper person test and use of staff resources as a full application. These agreed changes, which will be introduced in 2017/18, will increase the costs of a moneylending business, but the OFT feels that they are necessary to protect consumers and the Island's reputation as a finance centre.

# OFT ACTIVITIES COMPETITION AND PRICING

## WE SAID

we would:

- With support from Treasury accountants, analyse the data provided by Manx Gas to ensure the obligations under the regulation agreement are continuing to be met.
- Review drafting instructions for the Competition Bill and resubmit them to the Council of Ministers by November 2016.
- Complete any formal investigations which are necessary within six months.
- Continue to collect, publish and monitor comparative pricing data for domestic heating fuel, road fuel and travel.

## WE DID

The Regulatory Agreement signed between Manx Gas, the OFT, Treasury and Department of Economic Development which fixes the level of return allowable against the asset base at a level of 9.99% has now completed two full years. The OFT has continued to scrutinise the management accounts supplied by Manx Gas to ensure compliance with the terms of the Agreement.

In 2016, Manx Gas restructured its standing charge with the introduction of 9 bands. Of significant concern to the OFT is the need to protect low volume users, which includes many of the most vulnerable in society and therefore any consumers using less than 5,000 kWh per year were not affected by the changes.

The OFT monitored the changes to ensure customers as a whole would not be worse off as a result of the restructure. The OFT also assisted customers who believed that they had been allocated to an incorrect band, due to, for example, changes in their personal circumstances.

In order to continue to target the fixed level of profit, Manx Gas made 3 tariff reductions over the course of 2016, cumulatively reducing gas charges by just under 10%. This was a good example of the value of the Regulatory Agreement; ensuring that reductions in the price of gas lead to reduced prices to consumers. In addition, Manx Gas achieved a small over-earning against the fixed level of profitability in 2016 and as a result there was an increased 'regulatory adjustment' applied from April 2017.

Road fuel prices had been falling as international oil prices have reduced, eventually bottoming out in the first quarter of 2016. Over the course of 2016/17 there has been a small, but steady increase in prices. The OFT has continued to scrutinise the local market and collect data on a weekly basis, to ensure that prices remain fair and that there is no abuse of the collective market power enjoyed by the two importers.

Over the course of 2016/17, there has been public debate in regard to alternative forms of energy



use for central heating. An annual domestic heating fuel publication, as well as a monthly schedule is produced, not only highlighting the prices of fuel and providing consumers with an indication of the cost per useful kWh, but also including prices over the previous decade. This provides consumers with additional information if they wish to consider making changes to their central heating arrangements.

Travel data for both airlines and sea travel has been produced on a monthly basis, with the publication highlighting the differences in price when buying tickets 6 months, 3 months, 6 weeks and 1 week prior to the date of departure.

During 2016/17, there have been several complaints concerning potential competition issues, but after undertaking initial analysis on the queries raised, there was insufficient to proceed with any formal investigations under Part 2 of the Fair Trading Act 1996. Formal investigations are expensive and time consuming and will only be sanctioned at Board level when there is clear potential for consumer benefit or prima facie evidence of serious anti-competitive behaviour.

The OFT has successfully argued the case for including the progression of the proposed Competition Bill in the Programme for Government (GD 2017/0002)<sup>2</sup>.

## **OFT ACTIVITIES CENTRAL SERVICES**

The Central Services team oversaw and facilitated all of the other activities of the OFT. Its role over the year included the provision of services to the Board and the Chairman, the financial management of the OFT, ensuring compliance with statutory requirements and corporate governance, business planning, dealing with OFT business in both Tynwald and the Branches (including primary and secondary legislation and questions); and the general administration of the OFT, its office and the support services needed to make it function effectively.

This team was the part of the OFT most affected by the administrative merger between OFT, DEFA and RTLC and is now formally part of DEFA's Corporate Services Directorate. Most of the team members are now, to a greater or lesser degree, working across organisational "boundaries". The administrative merger has enabled the elimination of parallel systems to enhance efficiency so, for example, the financial management of the OFT is now fully integrated into the DEFA system. It is proposed by the Council of Ministers that the OFT will become subject to the Freedom of Information Act 2015. It has been agreed that rather than creating a whole new system to manage freedom of information for the OFT it will simply utilise the existing DEFA system. This means that officers from DEFA are also working across the organisational "boundaries" and providing services to OFT.

This approach is driving the more efficient utilisation of resources and underpins some of the savings being delivered by the administrative merger.

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<sup>2</sup> <https://www.gov.im/media/1354840/programme-for-government.pdf>

# SUMMARY OF OFT ACTIVITIES

Corporate Services	Director; Services to the Board; Corporate Governance; Financial Management; Business Planning; Legislation; Administration.
Competition and Pricing	Competition or Pricing Investigations under the Fair Trading Act 1996; Monitoring trading practices in relation to competition and pricing; Monitoring consumer issues and concern.
Trading Standards	Consumer Protection (not exhaustive): <ul style="list-style-type: none"><li>• Weights and measures (including maintenance of the Manx Standards)</li><li>• Safety of consumer goods (e.g. toys, electrical goods, furniture and furnishings)</li><li>• Rogue traders</li><li>• Age-restricted sales</li><li>• Timeshare</li><li>• Cinematograph exhibitions</li><li>• Shop opening hours</li><li>• Price marking</li><li>• Trade marks</li><li>• Tobacco advertising</li><li>• Trade Descriptions</li><li>• Auctions</li><li>• Unsolicited goods &amp; services</li><li>• Misleading prices</li><li>• Misleading advertisements;</li></ul> Registration: <ul style="list-style-type: none"><li>• Moneylenders</li><li>• Estate Agents</li><li>• Architects</li><li>• Suppliers of video recordings;</li></ul> Licensing: <ul style="list-style-type: none"><li>• Non-resident traders</li><li>• Chapmen</li><li>• Dangerous goods (safe storage of fireworks on retail premises)</li><li>• Dangerous Goods (safe storage of petrol).</li></ul>
Consumer Advice	Consumer Advice; Debt Counselling; Consumer Education.
Financial Services Ombudsman Scheme	Mediation of cases; Adjudication of cases by Adjudicators independent of the Office.
Disability Discrimination Act	Providing advice and assistance under section 14(2) of the Disability Discrimination Act 2006