

ISLE OF MAN OFFICE OF FAIR TRADING



Isle of Man Office of Fair Trading

**FINANCIAL SERVICES
OMBUDSMAN SCHEME**

**ANNUAL REPORT
2019/20**



**Isle of Man
Government**

Reiltys Ellan Vannin

VERSION 1.0

Financial Services Ombudsman Scheme Report at 31st March 2020

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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 2019 to 31st March 2020.

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

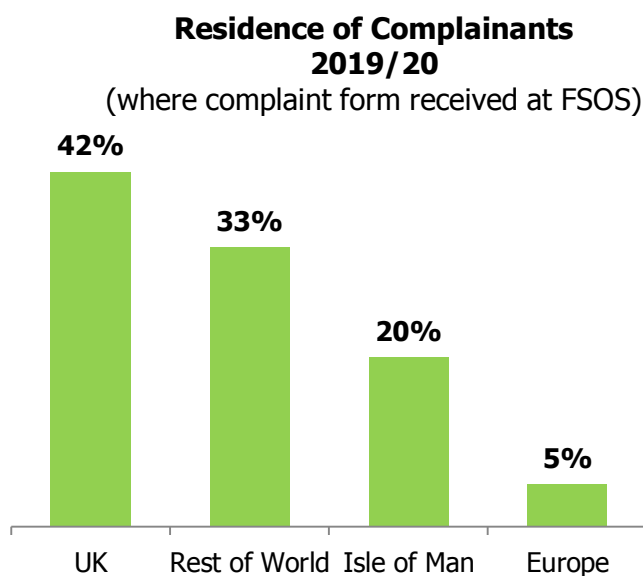
Overall, **we received 469 enquiries and complaints** from consumers. A 'complaint' is recorded when the Scheme receives a complaint form and the matter is investigated. In the case of an 'enquiry', a completed complaint form is not received, but some discussion may take place with the client regarding their concerns and further communication may be necessary.

2.1 Change in number of enquiries and complaints received over the year

Year	2018/19	2019/20
Complaint forms received	203	183
Enquiries received	337	286

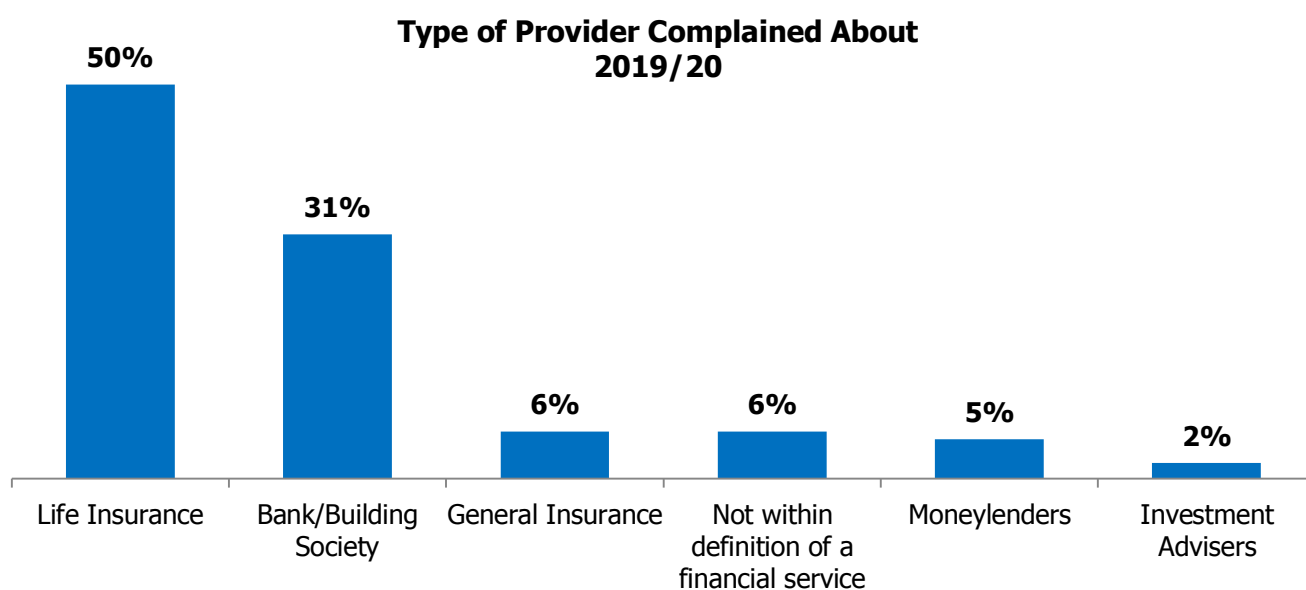
2.2 Residence of Complainants (where complaint form received at FSOS)

Where the complainant lives	2018/19		2019/20	
	No.	%	No.	%
UK	86	43	78	42
Rest of World	52	25	61	33
Isle of Man	41	20	35	20
Europe	24	12	9	5
Total	203		183	



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

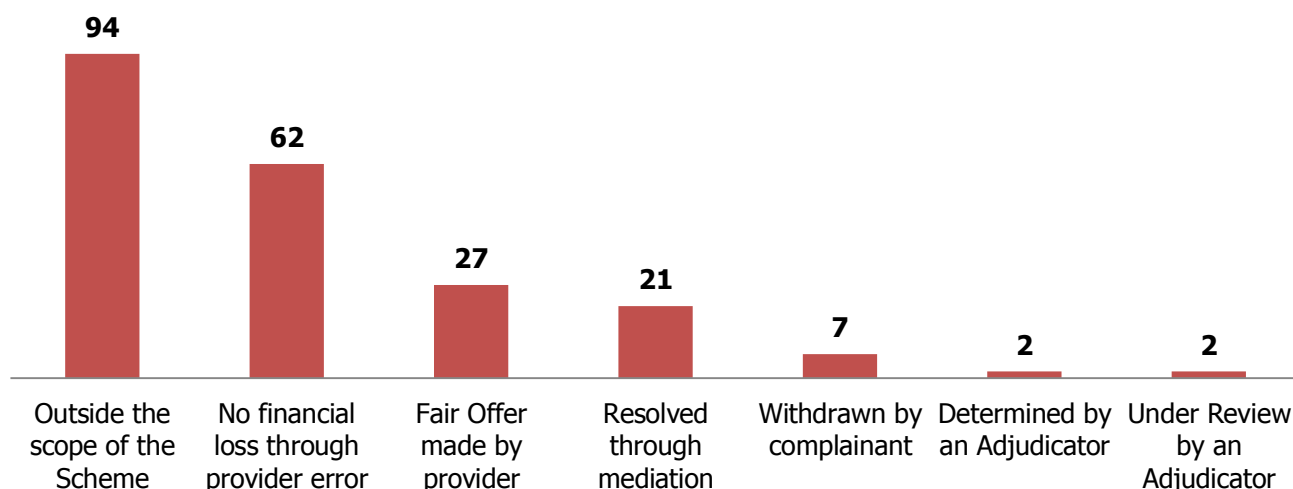
Type of provider complained about	2018/19		2019/20	
	No.	%	No	%
Life Insurance	94	46	91	50
Bank/Building Society	77	38	56	31
General Insurance	14	7	11	6
Not within definition of a financial service	10	5	11	6
Moneylenders	2	1	10	5
Investment Adviser	4	2	4	2
Insurance Intermediaries	2	1	0	-
Total	203		183	



2.4 Closed complaints
(where complaint form received)

Outcome of Closed Complaints	No.	%
	Outside scope of the Scheme	94
No financial loss through provider error	62	29
Fair offer made by provider	27	12
Resolved through mediation	21	10
Withdrawn by complainant	7	3
Determined by Adjudicator	2	1
Under review by an Adjudicator	2	1
Total	215	

Outcome of closed complaints 2019/20
(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 51% of the complaints received. A breakdown of the reasons for decline is shown in the following table.

Reason Complaints declined 2019/20	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.	41	43
Commercial judgement: A reasonable assessment has been made by the financial services provider of risk, or of financial or commercial criteria or of character.	21	22
No financial service provided: The service provided is not covered by the Scheme.	12	13
Not an Isle of Man provider: The financial provider is not operating in or from the Isle of Man.	9	10
Not an individual: The Scheme is unable to consider complaints received on behalf of a body corporate.	8	9
Investment Performance: Movements on the financial markets have affected the value of an investment rather than the actions of the supplier.	2	2
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.	1	1
Total	94	

2.5 Closed enquiries (where complaint form not received)

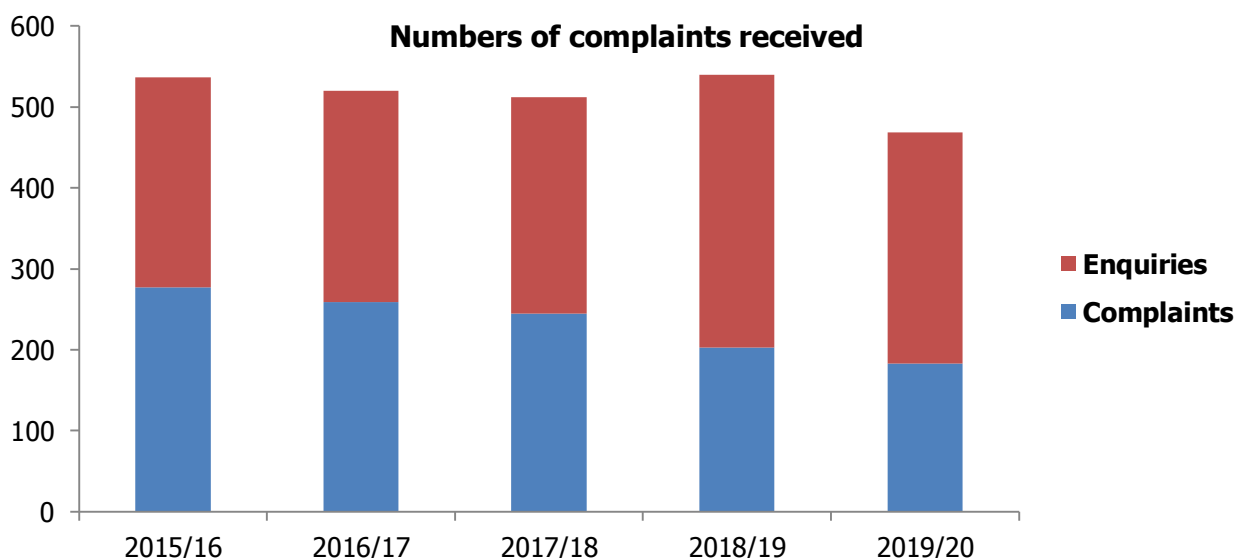
Reason Enquiries closed 2019/20	No.	%
Advice and assistance provided to complainant on initial contact with no further action required.	171	75
Found to be outside the remit of the Scheme	56	24
Resolved through Scheme intervention. The case worker has contacted the provider on behalf of the client and the complaint has been resolved without the need for a complaint form.	2	1
Total	229	

2.6 Work in Progress - Active complaints and enquiries open at 1st April 2020

Awaiting response from complainant	54
Under investigation	27
Awaiting response from provider	10
Total	91

3. Analysis of Complaints Received

Overall the Scheme received a total of 469 contacts to the office made up of 183 complaint forms received and 286 enquiries. The overall total shows a downturn in numbers of contacts to the office compared with previous years; specifically there were 51 fewer enquiries made during 2019/20 than in the previous year and 20 fewer complaint forms were received.



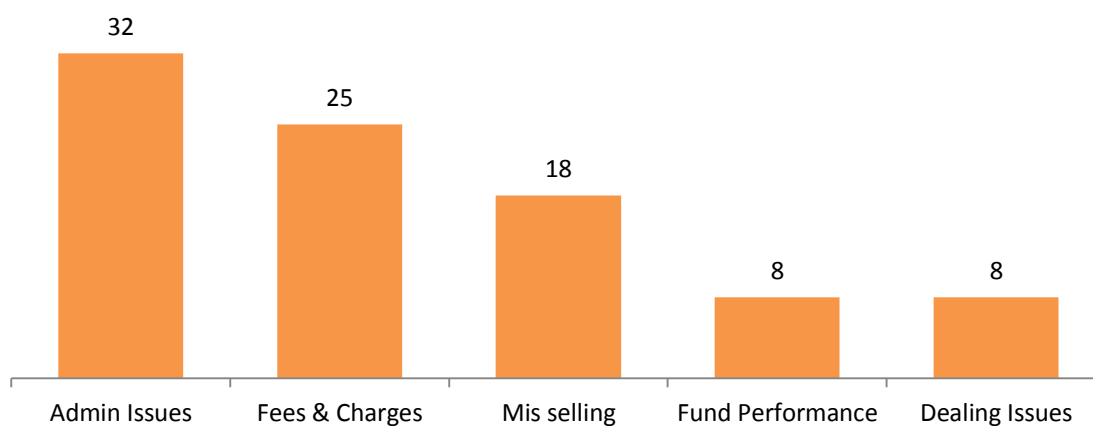
Enquirers to the Scheme continue to be referred to a Case Officer who makes a preliminary assessment of the complaint and gives advice and assistance to the enquirer. This enables Case Officers to identify complaints that are outside the remit of the Scheme and also assist complainants in resolving their 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 life insurance and banking sectors attract the most numbers of complaints to the Scheme. In 2019/20 we received 91 formal complaints against life insurance companies and 56 complaints against island banks. These two provider types represent 81% of the total complaints received.

The remaining provider types, which include general insurance companies, moneylenders and investment advisers together account for 19% of the complaints received. Individually these represent just a small number of the overall complaints received.

Subject Matter of Complaints Against Life Insurance Companies (in numbers)



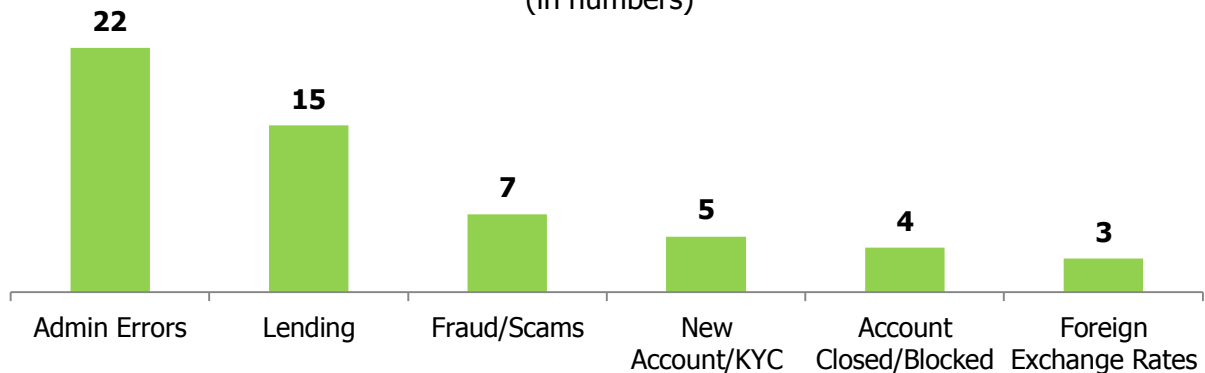
In 2018/19 we reported that 40 complaints received against the **Life Companies** involved administrative errors. In the current report this has reduced to 32 whilst the number of complaints around dealing issues has increased slightly from 5 to 8. Customers should be able to trust that their instructions will be carried out promptly and efficiently and we are pleased to report that in the main providers act quickly to rectify any mistakes which do occur.

Complaints which surround the mis selling of a life assurance policy, the application of fees and charges to a policy, or poor fund performance generally refer back to the manner in which the investment product is presented to the client at the point of sale. In many cases, complainants come to the Scheme as they believe their financial adviser to be the agent of the life insurance provider. However, the Scheme considers a financial adviser to be the agent of the client, not of the provider.

We urge clients to ask questions and ensure that they have considered all possible future scenarios prior to committing their funds. They should also ensure that they, in conjunction with their IFA, review their investments regularly, on receipt annual statements, to enable them to be aware of the impact of movements in the financial markets on their investments.

The volume of complaints received this year against **Banks/Building Societies** continues a downward trend. There were 100 complaints received in this sector during 2017/2018, 77 during 2018/2019 and in this year 56 complaints. Almost half of the complaints received referred to administrative errors where the Bank had not followed their customer's instructions in regards to a payment request or standing order mandate, the issue of debit cards or recording of personal information.

Subject Matter of Complaints Against Banks (in numbers)



Complaints concerning **fraud and scams** have this year mostly referred to online banking fraud. When a complaint is received the Case Officer looks carefully at the circumstances, examines the evidence and decides on balance, what they think has happened and who should fairly and reasonably bear the loss.

There was a significant increase in the number of complaints received in the category of **Moneylenders** where 10 complaints were received in 2019/20 compared to just one in the previous year. These complaints are against a number of moneylenders and relate to varying issues.

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 life insurance provider that acted upon an incomplete dealing instruction.
<https://www.gov.im/media/1366551/complaint-regarding-the-acceptance-of-incomplete-dealing-instructions.pdf>
2. Complaint made to the Scheme regarding delays by a Provider in the endorsement of a Bond.
<https://www.gov.im/media/1370413/complaint-regarding-delays-by-the-provider-in-the-endors.pdf>

5. Scheme Update

Financial Services Disputes (Definition) Order 2019

As reported in last year's annual report the [Financial Services \(Disputes\) Definition Order 2019](#) came into operation at the July 2019 sitting of Tynwald. This Order lists the activities and businesses which are covered by the Scheme.

Review of the Financial Services Act 2008

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.

Acceptance of Complaint Forms

Complainants to the Financial Services Ombudsman Scheme are required under paragraph 1, (2) of Schedule 4 to the Financial Services Act 2008 ('FSA') to submit a complaint to the OFT "by the submission of a completed complaint form." It has always been our practice to only accept complaint forms submitted by post which contain the original signature. When contacting financial service providers for information regarding a complaint our case officers will send a copy of the signed complaint form to the financial service provider who would accept the signed form as authority from the complainant to discuss their account with the OFT.

When we accept a complaint form and submit our queries to the financial service provider we are relying on that provider to verify the signature and complaint details before releasing any information to our office. During the Covid-19 pandemic we are encouraging complainants and providers to contact us via email and avoid sending post which has necessitated a change of process to one where we are now able to accept complaint forms submitted electronically. We intend to continue this practice going forward.

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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