

resolving complaints about the mis-selling of financial products

Caroline Wayman

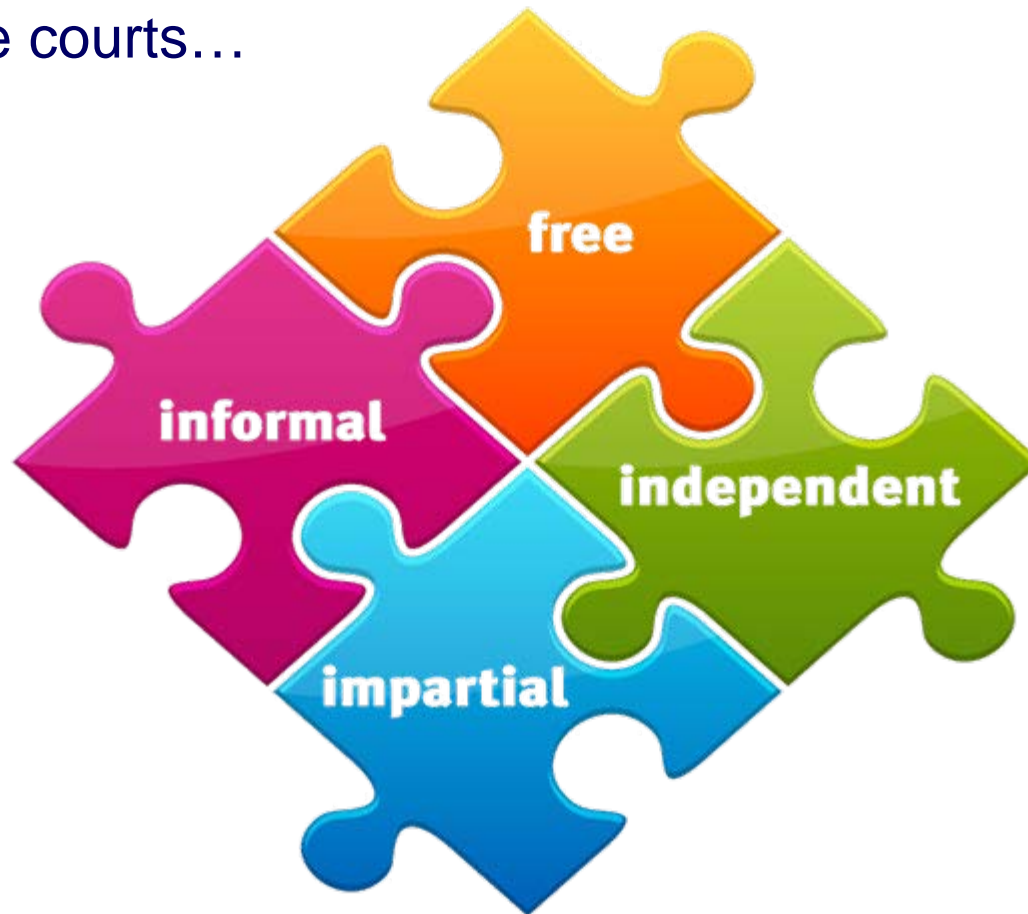
principal ombudsman and legal director



ombudsman

basics and background

set up by **statute** as an **alternative** to the courts...



ombudsman



our insight function



sharing our experience

- we want to help businesses improve complaints-handling
- we want to help consumers resolve complaints themselves
- we want to discuss trends and emerging issues



advice & seminars

- *ombudsman news*
- roadshows
- seminars
- Q&A sessions



case handling help

- online resources
- guides for smaller and larger businesses
- case studies
- technical advice desk



transparency

- the financial products most complained about
- complaints data showing individual businesses
- publishing ombudsman decisions (from 2013)

ombudsman



three jurisdictions

the extent of our jurisdiction is set by Parliament
and by rules made under powers given by legislation

compulsory jurisdiction
(1 Dec 2001)

21,000 FCA-regulated
retail firms (not just
regulated activities)
includes earlier events
if covered by a
previous ombudsman

consumer credit jurisdiction
(6 Apr 2007)

100,000 businesses
with OFT standard
licences covers
only events from
6 Apr 2007 onwards

voluntary jurisdiction
(1 Dec 2001)

not required *by law* to join
but formally agree to deal
with complaints - and
comply with our decisions
(includes past events)

ombudsman



a “one stop shop”

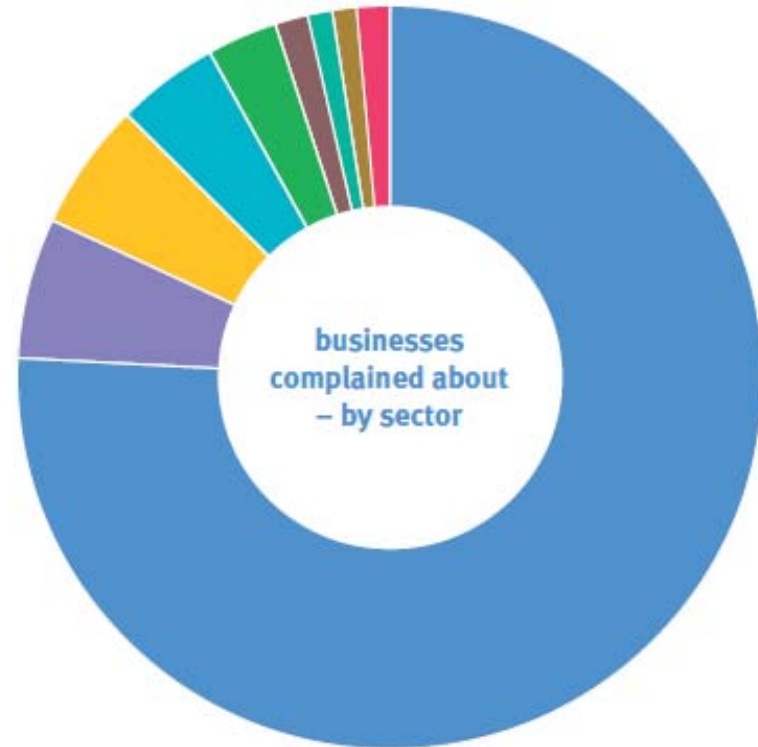
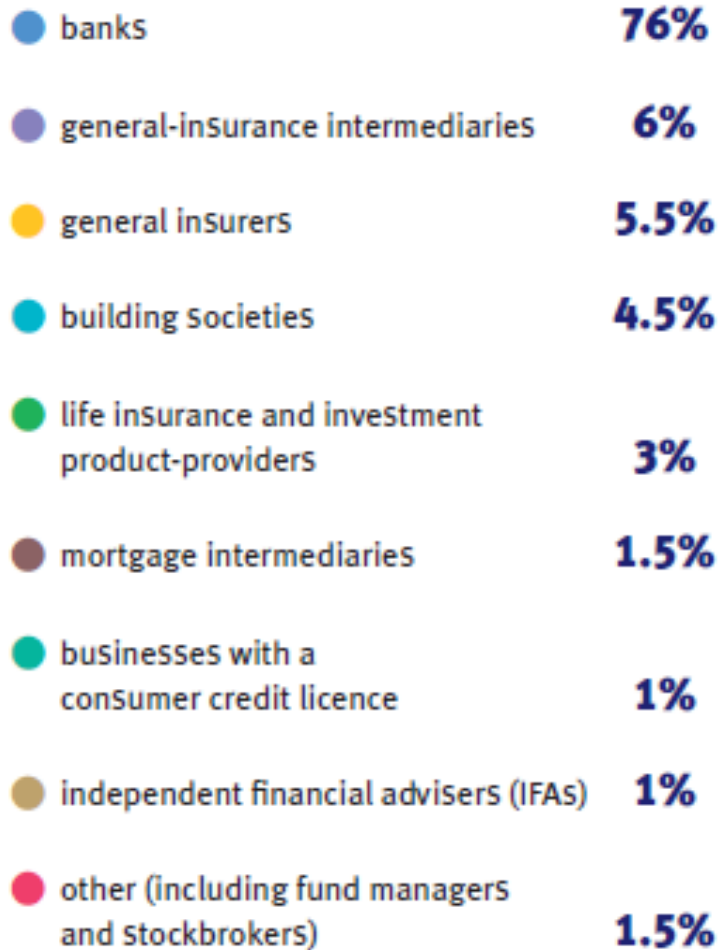
we can deal with most **unresolved disputes** about **financial services providers** all under one roof

- banks
- building societies
- insurance companies
- insurance intermediaries
- credit unions
- friendly societies
- stockbrokers
- life companies
- investment providers
- pension providers
- independent financial advisers
- debt advice
- mortgage intermediaries
- mortgage lenders
- credit card providers

our workload last year

- over 2.1 million initial enquiries received in 2012/13
- 1 in 4 of these enquiries turned into a formal dispute, resulting in a record 508,881 new cases
- this is a 92% increase on the 264,375 new cases received in 2011/12
- it is the highest number of new cases we have received in any year since we were set up
- the record level in 2012/13 resulted from a 140% increase in complaints about PPI

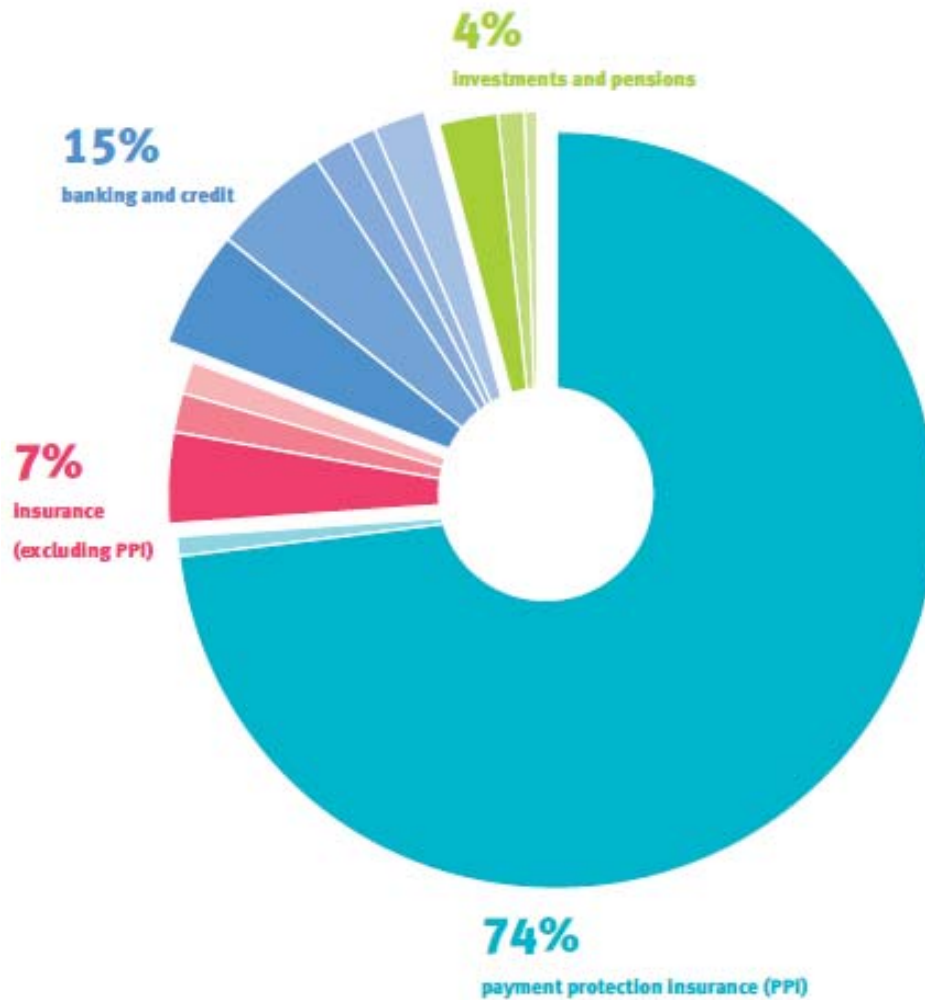
who the complaints were about



ombudsman



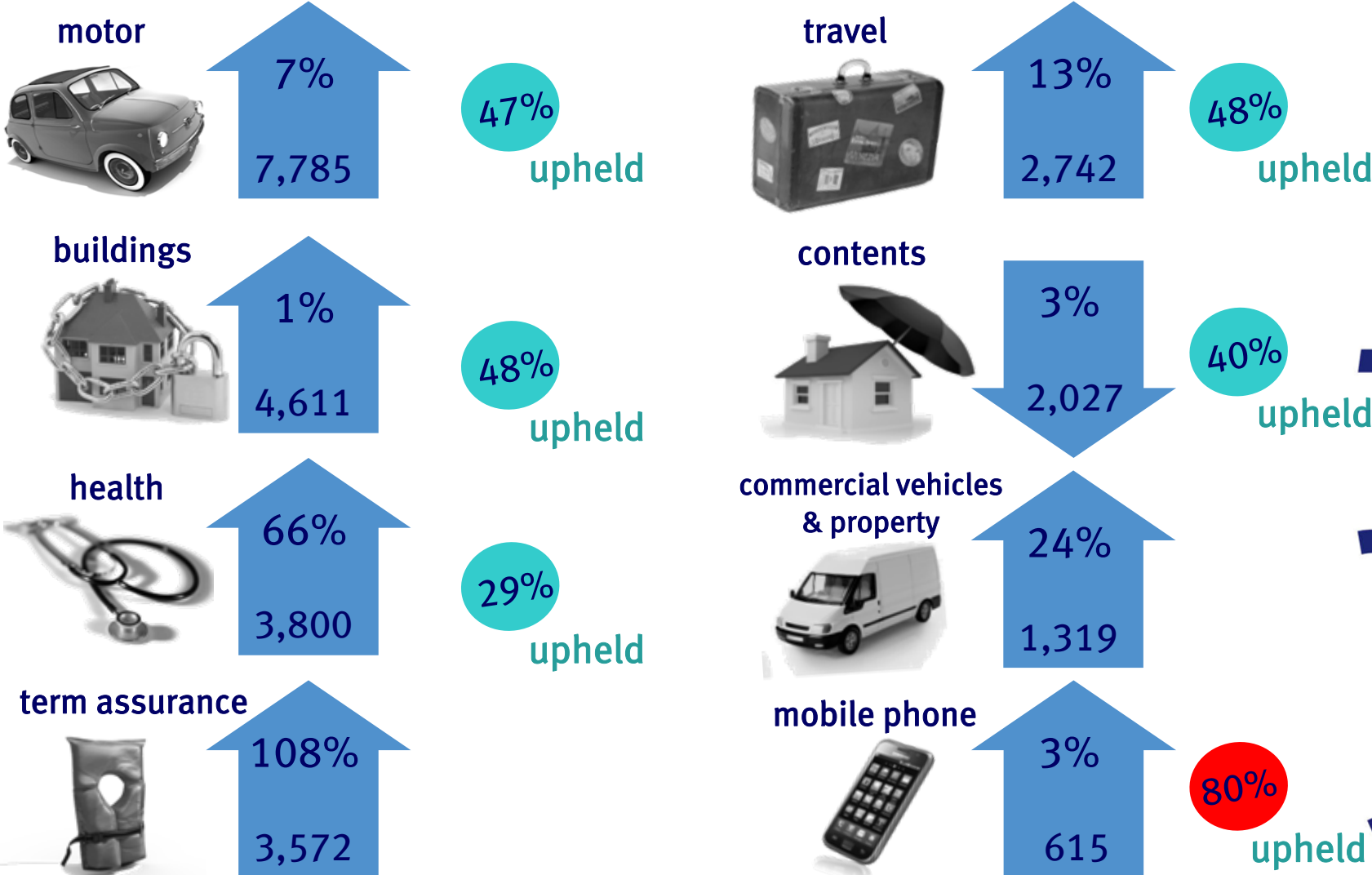
what the complaints were about



ombudsman



insurance complaints – excl PPI



ombudsman



why do people complain?

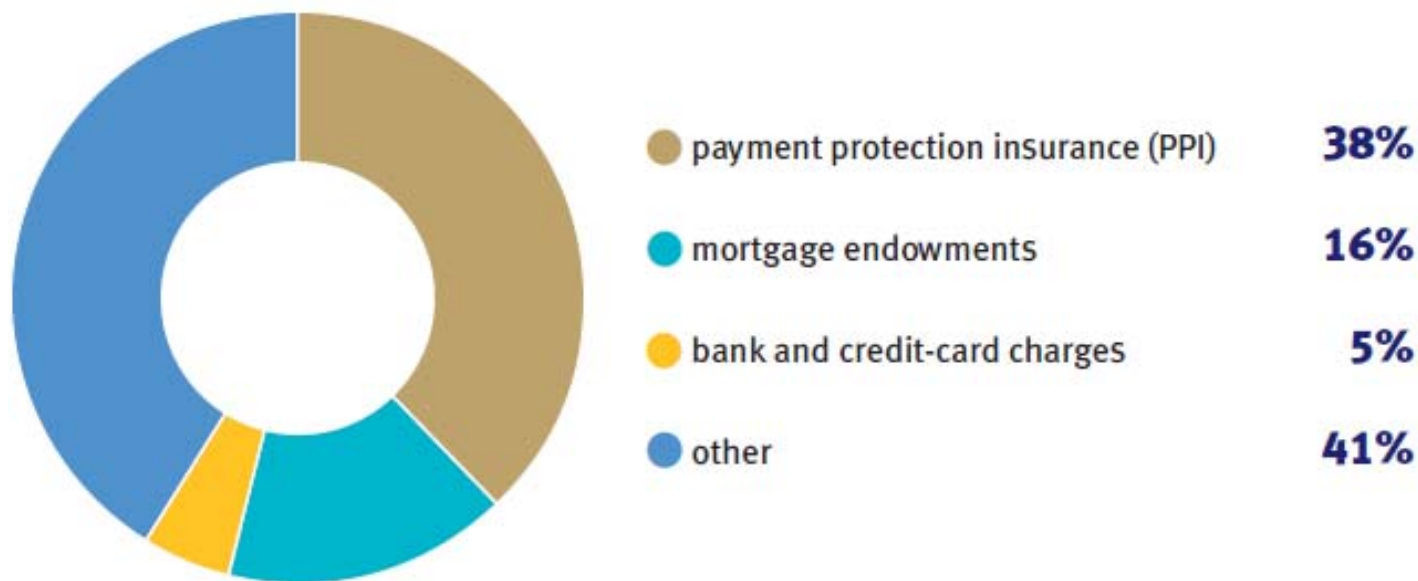
in general insurance (7% of all our work)

- sales and advice – 25%
- admin – 20%
- claims – 55%

...and then there's PPI (74% of all our work)

mis-selling: common complaints

- over 1.9m complaints received since we were set up
- of which 59% have involved just three issues



some other recent areas

- interest rate hedging products
- packaged accounts
- interest only mortgages
- investment complaints
- other protection policies

how do we consider complaints?

- we decide each case by reference to what is, in the opinion of the ombudsman, fair and reasonable in all the circumstances
- we take into account relevant:
 - law and regulations
 - regulators' rules, guidance and standards
 - codes of practice
 - (where appropriate) what is considered to have been good industry practice at the relevant time.

what is a relevant consideration?

Consumer Credit Act 1974

GISC

BCOBS

ABI Code

ICOBS

Consumer Insurance Act 2012

COBS

Lending Code

* this list is non-exhaustive

ombudsman



a common approach...

we can often adopt a **basic test**:

eg in the case of **PPI mis-selling** we have a **two stage** approach

- **“stage 1”**

if the business gave advice or made a recommendation, did it take adequate steps to ensure that the product recommended was suitable for the consumer's needs?

- **“stage 2”**

if the business did *not* give advice or make a recommendation, did the business give information that was clear, fair and not misleading (allowing consumer to make an informed choice)?



mis-selling: what difference did it make?

- if the consumer has lost out then we can tell the business to put things right
- money awards (up to £150,000 from 1 January 2012), interest awards, costs awards, directions
- we take into account the law – causation, reasonable foreseeability, remoteness of loss
- whether (and how much) to award will depend entirely on the individual circumstances
- we approach the issue like any other – what would be fair and reasonable?

mis-selling: some difficulties

- considering complaints about mis-selling can raise difficulties:
 - agency
 - redress
 - records
 - individual testimony



conclusion: our role?

- provide consumers and businesses with an informal alternative to the courts
- allow disputes about mis-selling to be resolved at relatively low cost, free to consumers (funded by industry)
- provide consumers with the certainty that their complaint about mis-selling will be taken forward and a decision made on it
- help businesses to learn from situations where things have gone wrong – which in turn, should help prevent future problems



any questions?



ombudsman

