



Financial
Ombudsman
Service

*the financial
ombudsman
service and you*



consumer credit businesses and the ombudsman

about this guide

This brief guide is aimed at businesses that have a standard consumer-credit licence issued by the Office of Fair Trading (OFT) – and are not authorised by the Financial Services Authority (FSA). It outlines – in general terms – what the complaints-handling rules mean for consumer-credit businesses. It is not intended as detailed legal guidance.

The rules reflect common sense and good customer practice. They are designed to ensure that consumers are aware of how to complain – and that complaints are dealt with promptly, efficiently and impartially. There are links to the full rules in the consumer-credit resource section of our website – (www.financial-ombudsman.org.uk/publications/technical_notes/consumer_credit_resource.html).



about the Financial Ombudsman Service

The Financial Ombudsman Service is an independent service for settling disputes between consumers and businesses providing financial services. We were set up under the *Financial Services and Markets Act 2000* to help resolve disputes between consumers and financial services firms regulated by the Financial Services Authority (FSA) – including banks, building societies, insurance firms and financial advisers.

The *Consumer Credit Act 2006* extended our remit and since 6 April 2007 we have also covered by law – for their consumer-credit activities – all businesses holding a standard consumer-credit licence issued by the Office of Fair Trading (OFT). This includes:

- businesses whose main activity is lending and hiring;
- businesses licenced for ancillary activities, such as debt collecting and credit brokerage; *and*
- many businesses, for example motor dealers and furniture retailers, where consumer-credit is secondary to their main activities.

From 1 October 2008 we will also cover OFT-licensed businesses for the new consumer-credit activities of debt administration and the provision of credit information services.

We are not a regulator or consumer champion. We consider each case impartially, on its own merits. So we do not take the side of either the consumer or the business.



what does ‘covered by the Financial Ombudsman Service’ mean for my business?

In simple terms, it means you must have in place – and operate – in-house complaints-handling procedures that comply with the rules. These rules ensure that businesses have the opportunity to try to resolve any complaints themselves, before we get involved. But where businesses are unable to do that, the consumer has the right to refer their complaint to us.

If you fail to follow the complaints-handling rules, your eligibility to hold a consumer-credit licence may be affected.





what procedure must my business follow when dealing with consumer complaints?

The rules require each business to have in place – and to operate – an effective and clear complaints-handling procedure.

You must use this procedure to deal with any complaint from an ‘eligible complainant’ (a person or business who would be eligible to take their complaint to the ombudsman service – see page 8).

The procedure must take into account, among other things:

- the time limits for dealing with complaints; *and*
- the consumer’s ultimate right to refer any unresolved dispute to the Financial Ombudsman Service.

You must publish a summary of your complaints-handling procedure. You may wish to do this by producing a leaflet for the consumers you deal with that summarises how you handle complaints.

The information you provide should:

- cover how you seek to handle and resolve complaints; *and*
- explain that if the complaint is not resolved, the consumer may be entitled to refer it to the Financial Ombudsman Service.

You must:

- refer in writing to the summary of your complaints-handling procedure at, or immediately after, the point of sale (or, if your contact with the consumer does not involve a sale, at the point of first contact);
- supply a copy of the summary, if you are asked to do so by an ‘eligible complainant’; *and*
- automatically supply a copy of the summary when acknowledging a complaint.



what else should my business take into account when drawing up its complaints-handling procedure?

- Your business should take reasonable steps to ensure all relevant employees are aware of – and follow – the complaints-handling procedure.
- You must put appropriate management controls in place to ensure your business handles complaints fairly, consistently and promptly – and resolves them at the earliest opportunity. This helps to minimise the possibility of unresolved disputes needing to be referred to the ombudsman.
- Your process should be accessible for consumers with specific needs, for example, because of a disability.
- You should take account of ombudsman service decisions on similar types of complaints; and if you receive recurring complaints, you should analyse the causes and take remedial action, where possible.
- Where a complaint is upheld, you should make an appropriate offer of redress – and you must honour this offer if the consumer accepts it.



what is 'appropriate redress'?

If a business decides redress is appropriate, it must provide a fair amount for any acts or omissions for which it was responsible.

Appropriate redress need not always include paying money. In some cases it might be an offer to put something right – for example, to correct the consumer's credit record, or simply to apologise.



what are the time limits within which my business must deal with a complaint?

The ombudsman service will not consider any complaint until the business concerned has first had the opportunity to resolve it.

The rules require businesses to resolve complaints as quickly as possible. But they have up to eight weeks in which to do this. Most complaints will be resolved within this time and will never need to be referred to the ombudsman service.

When handling complaints, your business should:

- send the consumer a prompt written acknowledgment (if you have not been able to resolve the complaint on the spot, or by the end of the next working day);
- ensure you keep the consumer reasonably informed about the progress of their complaint; *and*
- send the consumer a 'final response' no later than eight weeks after your business received the complaint (if you have not already resolved the complaint by sending a response which the consumer has accepted in writing).





what is a 'final response'?

The rules state that this should set out your final view on the issues raised in the complaint, confirming whether you:

- accept the complaint and are offering redress, where appropriate; *or*
- are offering redress *without* accepting the complaint; *or*
- reject the complaint.

If you reject the complaint, then your final response must give the reasons why you are doing this.

The final response must also tell the consumer that – if they remain dissatisfied with your response – they may refer the complaint to the Financial Ombudsman Service within six months of the date of the final response.

And you must enclose the Financial Ombudsman Service consumer leaflet (see page 7).



what if the eight weeks have passed and I'm still not able to send a final response?

Under the rules, you will normally be expected to have resolved the complaint – or to have sent a final response – within the eight-week time limit. If exceptional circumstances mean this is not possible, then the rules say you must send the consumer a response in which you:

- explain why you are not yet able to send a final response;
- tell the consumer they can refer the complaint to the Financial Ombudsman Service if they are dissatisfied with the delay; *and*
- enclose a copy of the Financial Ombudsman Service consumer leaflet.





what is the Financial Ombudsman Service consumer leaflet?

Under the rules you must send out our consumer leaflet:

- when you send your final response to the complaint; *or*
- if you run out of time – and eight weeks after receiving a complaint are still not in a position to send out your final response.

To order supplies of our consumer leaflet, *your complaint and the ombudsman*, you will need to complete the order form available on the publications page of our website (www.financial-ombudsman.org.uk), where you'll also find information about:

- the availability of the leaflet in alternative formats (Braille, large print, languages other than English *etc*);
- arrangements for businesses who deal with consumers (and their complaints) by email;
- the option of printing the leaflet yourself; *and*
- the use of our logo to help promote consumer awareness of the ombudsman service.

You must not send consumers photocopies of our consumer leaflet or hard copy print-outs of it from our website.





who is an 'eligible complainant'?

This is the term used in the rules to describe those who can complain to the ombudsman.

Complaints can be made by, or on behalf of, customers (or potential customers) of a consumer-credit business, as long as they are:

- private individuals;
- sole traders and small partnerships with a yearly turnover of under £1 million (some restrictions apply);
- charities with a yearly income of under £1 million; *or*
- trusts with net assets of under £1 million.

The rules also list a number of people who can complain, even though they are *not* customers or potential customers.

These include someone:

- who has given the business complained about a guarantee or security for a mortgage, loan, actual (or prospective) regulated consumer-credit or hire agreement, or any linked transaction;
- about whom information relevant to their financial standing is (or was) held by the business complained about in its capacity as a credit-reference agency; *or*
- from whom the business complained about has sought to recover payment, under a regulated consumer-credit or hire agreement, as part of its debt-collecting activities.



what will the ombudsman service do if it receives a complaint about my business?

Consumers can register complaints with us directly by phoning us on **0845 080 1800**. We will take the details of their complaint over the phone, fill in as much of the complaint form as possible, and send them the form to complete and sign. This approach reduces confusion about when and how consumers can bring their complaint to the ombudsman. The complaint form is also available to download from our website.

Once a complaint has been referred to us, we check (so far as we can at this initial stage) that:

- we cover both the business and the activity complained about; *and*
- the person complaining is an eligible complainant.

We will not normally investigate complaints about your business's proper use of its commercial judgement.

If consumers complain to us *before* you have had the opportunity to try and resolve the complaint yourself, we will refer the complaint on to you. Your own complaints-handling procedure will then apply. We will not have any further involvement unless:

- you cannot resolve the complaint within the time limits; *and*
- the consumer decides to refer it to us at that stage.

But you must tell the consumer that they may refer an unresolved complaint to the ombudsman (see page 6).



what are the time limits for consumers bringing unresolved complaints to the ombudsman service?

Generally, consumers can only bring an unresolved complaint to the ombudsman within:

- six months of your business sending them a final response; *and*
- six years of the event they are complaining about (or, if later, three years from when they could reasonably have known they had cause to complain).

However, we can look at complaints that fall outside these time limits where the business complained about does not object to our doing so – or in certain exceptional circumstances.





how does the ombudsman service handle cases?

Our approach is to decide what we believe is fair and reasonable in the circumstances of each particular case. We take into account the law, rules, codes and good practice that applied at the time of the event complained about.

Generally, our approach will involve informal mediation or conciliation. In more complex cases we may issue a more formal 'adjudication report'. And in a small minority of cases, the dispute is resolved after a review and final decision by an ombudsman.

The rules require businesses to comply promptly with an ombudsman decision, as well as with any settlement that may have been agreed earlier in the process. Once it has been accepted by the consumer, an award is legally binding on both parties. If necessary, the consumer can go to court to enforce the ombudsman decision.

Our booklet, *smaller businesses and the Financial Ombudsman Service*, gives more information about our case-handling process. This is available in the publications section of our website (www.financial-ombudsman.org.uk) – or you can ring our publications line on **020 7964 0092**.



what financial redress can the ombudsman tell businesses to pay consumers?

The ombudsman can tell you to pay a consumer an amount for financial loss and/or pain and suffering, damage to reputation, and distress and inconvenience. The maximum amount the ombudsman can instruct you to pay is £100,000.

The ombudsman can also award costs (although this happens very rarely). And we can direct a business to take appropriate action, such as to apologise or correct records.



paying for the ombudsman service

We are funded by a levy on the businesses we cover and also by individual case fees. The OFT will calculate and collect the levy from individual businesses when they take out (or renew) their standard consumer-credit licence and after that, every five years. Currently, the amount each business pays is £150 for each five-year period.

When a complaint is referred to us, the business concerned has to pay an individual case fee. However, all businesses are entitled to a number of 'free' cases. In the 2008/09 financial year we will not charge a business for the first three cases that we close that year. Further cases will be charged a case fee. The case fee is currently £450 per case but is reviewed each year.

The overall funding arrangements are kept under review in the light of experience.

By law, consumers cannot be charged a fee for referring a dispute to the ombudsman service.



what services does the ombudsman offer businesses?

As well as resolving complaints, we help promote 'complaints prevention'. We work with businesses to identify and reduce problems that might otherwise lead to time-consuming disputes.

The range of free services we offer businesses includes:

- our technical advice desk – dedicated to answering queries about the ombudsman service and its general approach
phone **020 7964 1400** or
email **technical.advice@financial-ombudsman.org.uk**
- our newsletter, *ombudsman news*, published around 10 times a year and including case studies and articles
- a comprehensive website at **www.financial-ombudsman.org.uk** with information relevant to businesses, including frequently-asked questions, publications and details of future events; *and*
- conferences, training and seminars on complaints-handling issues and the ombudsman service in general.

If you have any questions please contact
our technical advice desk on

020 7964 1400

or email (**technical.advice@financial-ombudsman.org.uk**).



the financial
ombudsman
service and you

how to contact us

for general questions or technical queries

020 7964 1400

technical.advice@financial-ombudsman.org.uk

our phone number for consumers

0845 080 1800

address

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183 Marsh Wall
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