Ombudsman news

essential reading for people interested in financial complaints
– and how to prevent or settle them

Natalie Ceeney, chief executive and chief ombudsman

issue 92

Noting the numbers

On page 22 of this issue we publish our latest set of complaints figures. These show how many new complaints we received – and what proportion we resolved in favour of consumers – during the third quarter of the current financial year (2010/2011).

The figures reveal *some* good news, in that complaint numbers in some categories are levelling off, or even starting to fall. However, things look very different as far as complaints about payment protection insurance (PPI) are concerned. Here, the numbers continue to rise – to the extent that these complaints now account for half of our workload.

Issues relating to PPI complaints formed a major theme of our *plans and budget for 2011/2012*, which we published last month and on which we are currently consulting. The feedback we have received to date has largely consisted of questions about how PPI complaints may impact on our operations.

We have just spent a week in court as part of the judicial review on PPI complaints. This followed a legal challenge from the British Bankers Association (BBA) on behalf of a number of high-street banks, relating to the FSA's PPI complaints-handling guidance and to information on our own website.

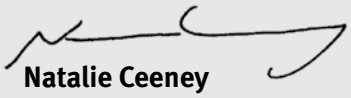
Financial Ombudsman Service

We outlined in the last issue of *Ombudsman news* (December 2010/January 2011) how we thought PPI complaints might start having a significant impact on our operations, as a result of this legal challenge. Since then a number of major businesses are indeed now telling us they don't intend responding substantively to many of these complaints until a final outcome to the legal action is known.

Regrettably, this means that many thousands of consumers are now not getting straightforward answers from some businesses. The FSA has written to trade associations to express its formal concerns about poor practice by some businesses in handling these complaints. And, of course, this situation impacts on us with the increasing numbers of consumers referring their complaints to us.

We highlighted in our *plans and budget for 2011/2012* the kind of operational challenges we expect to face if the uncertainty caused by the BBA's judicial review action is not resolved – and if the volume of cases continues to grow at (or even to exceed) the unprecedented high levels seen in recent months. Since the judicial review, for example, we have been receiving up to 4,500 PPI cases a week.

The sheer volume of these new PPI complaints – and the lack of meaningful cooperation from some businesses – is making it difficult for us to progress all these cases as rapidly as we would like. It is because of the operational risks and challenges these problems present – as we plan to deal with significant shifts in demand for our service – that we are consulting on building up our financial reserves. We are working closely with the FSA on how this will impact on the levy paid by the businesses it regulates. The FSA is currently consulting on this as part of its proposed annual funding requirement.



Natalie Ceeney
chief executive and chief ombudsman

Financial Ombudsman Service

South Quay Plaza
183 Marsh Wall
London E14 9SR

switchboard
020 7964 1000

consumer helpline
0800 0 234 567
0300 123 9 123
open 8am to 6pm Monday to Friday

technical advice desk
020 7964 1400
open 10am to 4pm Monday to Friday

www.financial-ombudsman.org.uk

'*Repair, replace or cash*' – disputes about how insurance claims are settled

We frequently see complaints where an insurer has agreed to settle a claim – but wishes to do so in a way that the policyholder considers inappropriate. The insurer may, for example, offer to repair a damaged item when the policyholder wants instead to receive a replacement. In other instances, the insurer agrees to a replacement – but insists that it is obtained from a specific retailer.

Our selection of case studies illustrates the types of complaints brought to us and the way in which we have resolved them. Our approach to such disputes has not changed over the years – and we outline here the general principles we follow.

Most household policies now provide '*new-for-old*' cover but leave it to the insurer (not the policyholder) to decide whether the claim should be settled by repair, replacement, reinstatement or cash settlement. Where a case is referred to us, we consider whether the insurer has exercised this power reasonably, in the circumstances of the individual case.

Where insurers opt for repair, we consider whether they have explained the implications of any choices made by either party. If the repairer is chosen by the insurer – or its agents (such as loss adjusters) – we are likely to

conclude that the *insurer* will be responsible for ensuring any deficiencies in the repair are put right. If the policyholder has insisted that a particular repairer should carry out the work, then we are likely to conclude that the *policyholder* will be responsible for the quality of that work.

This does not mean that every repairer who has provided a policyholder with an estimate will be regarded as the policyholder's *chosen* contractor. We have considered complaints where the insurer told the policyholder to obtain estimates and the policyholder sought the loss adjuster's assistance in doing this. In these circumstances, we are likely to conclude that it is the insurer, rather than the policyholder, who is liable for any shortcomings in the work.

Even if the policyholder chose the repairer entirely independently, we are likely to conclude that the insurer is responsible for rectifying deficiencies in the work if it (or its agents) '*controlled*' the repairer, for example by requiring the repairer to cut costs or to use certain materials or parts. In those circumstances, the repairer can no longer be regarded as the policyholder's '*agent*'.

Where insurers opt for replacement, we consider whether a reasonable replacement can be obtained in the way the insurer has proposed. If, for example, the item concerned is jewellery that is antique or specially-commissioned, then we are likely to conclude that it would be unfair for the insurer to insist on the policyholder buying a modern substitute from a major high-street retailer. In such cases, we usually conclude that policyholders should be allowed to choose where they purchase a replacement and are entitled to a cash settlement (without the deduction of any discount) if they are unable to find an acceptable replacement.

Where a reasonable replacement *can* be obtained from a high-street retailer, insurers often specify which one – because they have a discount arrangement with that particular retailer. We are likely to conclude that this is reasonable if the consumer lives within easy travelling distance of that retailer – and the retailer can provide a reasonable replacement. Similar issues arise if the insurer offers vouchers that can only be exchanged for goods sold by a particular retailer.

Sometimes, policyholders prefer to have a cash settlement even though there is no practical reason why they could not visit the insurer's preferred retailer – *and* that retailer is able to provide a reasonable replacement. In such instances we will not usually consider it unreasonable for the insurer to deduct from the cash settlement any discount it would otherwise have obtained from the retailer.

92/1

consumer complains about insurer's proposal for replacing a specially-commissioned item of jewellery

Mr C was very unhappy with his insurer's response after he made a claim for a diamond ring that his wife had lost.

When he rang the insurer to report the loss, he explained that he had given his wife the ring several years earlier as an anniversary present. The ring had been specially commissioned from a local jeweller, who had designed and made it in his own workshop.

The insurer confirmed that Mr C was covered for the loss of the ring – and it asked him to get a written quotation from the original jeweller for the cost of replacing it.

Mr C's jeweller said it would cost £6,500 to make a replacement but that he would offer the insurer a 6.5% discount on that price. The insurer then obtained a quotation from its preferred firm of jewellers. This firm said that after applying a discount of 36% it could produce a '*similar*' ring for £4,736.

... the insurer's preferred jeweller could not provide a reasonable replacement.

The insurer then told Mr C it would *either* replace the ring through its preferred jewellers *or* pay him a cash settlement of £4,736. Mr C did not think these options were fair.

He said the ring had been a '*one-off*', so it seemed very unlikely that anyone other than the original jeweller could produce an acceptable replacement. And he did not consider it reasonable that he should be offered a cash settlement that was less than the amount the original jeweller would charge to provide a replacement.

The insurer did not accept Mr C's complaint. It drew his attention to the terms of his policy, which said it would replace '*personal belongings*' with new items obtained though its '*specified network of suppliers*'. Mr C then complained to us.

complaint upheld

We noted that the insurer's preferred jeweller had said it could provide a diamond that was '*identical*' to the one in the original ring. It undertook to provide a '*similar band and setting*' but acknowledged that it would not be able to produce a ring that was exactly the same as the original.

We agreed with Mr C that the special nature of the ring meant that the insurer's preferred jeweller could not provide a reasonable replacement. We upheld the complaint and told the insurer to pay the full amount required by the original jeweller to make a replacement.

92/2

insurer says there is insufficient proof of ownership for it to pay a burglary claim in full

Mr J and his family returned home from a short holiday to find that they had been burgled and that a number of personal possessions had been stolen, including several valuable items of jewellery.

Mr J put in an insurance claim for losses amounting to just over £26,000.

After arranging for its loss adjuster to investigate the claim, the insurer agreed to pay £3,187.62. This covered the replacement of the window the burglars had smashed, together with the cost of those possessions for which Mr J had been able to provide a receipt or other proof of purchase.

However, the insurer said it was not prepared to meet the cost of replacing the remaining items – including the jewellery and some silver ornaments – as it said Mr J had been '*unable to prove ownership*'.

Mr J was very unhappy with this. He complained that it was unreasonable of the insurer to expect him to have kept receipts for everything – particularly since some of the items taken in the burglary had been bought some years earlier – or given to the family as gifts.

He sent the insurer copies of valuations he had obtained several years earlier for a couple of the items. He also provided some family photos that had been taken at his home on various occasions in the past.

Several of the photos showed his wife wearing some of the jewellery for which he was now making a claim – and he said one of the stolen ornaments could be seen in the background of another photo.

The insurer remained unwilling to pay out for the items in question, as it said Mr J had still not provided '*sufficient evidence to prove ownership*'. Mr J then brought his complaint to us.

complaint upheld

We pointed out that it was not unusual for people to be unable to produce a receipt for every single possession stolen in a burglary. And we told the insurer we thought – on balance – that Mr J *had* provided sufficient evidence to prove his ownership of the items listed in his claim.

However, the insurer remained unwilling to meet the claim in full. It told us this was because it had concerns about the jeweller who provided the valuations Mr J had submitted, when asked for proof of ownership.

We told the insurer we could see no reason why the information it had about the jeweller should discredit Mr J's claim. We upheld the complaint and told the insurer to pay the remainder of the claim, in full. ■

... he was unable to provide receipts for every item that had been stolen.

92/3

consumer questions clarity of insurer's policy regarding the limit on claims for individual items

Mr Q was very unhappy with his insurer's response after he claimed for the theft of his designer watch. The watch was stolen by a mugger, who had attacked him as he approached his front door on his way home from work.

The insurer accepted the claim and did not dispute Mr Q's statement that the watch was valued at just over £7,400. However, it told Mr Q that it could not pay him more than £1,500. When Mr Q queried this, the insurer referred him to the policy booklet, which said there was a '*single item limit of £1,500*'.

Mr Q was very taken aback by this. He complained that the wording of the policy *schedule* gave the clear impression that he had unlimited cover.

The insurer told him he should have read the schedule '*in close conjunction with the policy booklet, in order to get the full picture*'. And it said that if he had wanted to cover his watch for its full replacement value, he could have done so by paying an additional premium of £97.26.

Unable to reach agreement with the insurer, Mr Q eventually came to us.

complaint upheld

Mr Q thought the insurer had treated him unfairly. He sent us a copy of the policy schedule which had led him to believe his watch would be covered in full. This stated that the '*sum insured*', under the contents section of the policy, was '*unlimited – see policy booklet*'.

We agreed with Mr Q that the wording was misleading and that it had been reasonable of him to have concluded – from the policy schedule – that he had unlimited cover.

We noted that the insurer appeared already to have recognised the deficiency in its documents. Only a few months before Mr Q had made his claim it had revised the wording of both the schedule and the policy booklet, making it clearer that there was a limit for the amount that could be claimed for any single item.

We upheld the complaint and told the insurer to settle the claim by reimbursing Mr Q for the full value of his watch.

... we agreed that the policy wording was misleading.

92/4

policyholder questions the fairness of cash settlement offered by insurer

Mrs B put in a claim to her insurer after some items of jewellery were stolen. She included an estimate she had obtained from her local jeweller, who had said the replacement value of the jewellery was £5,110.

The insurer's preferred jeweller confirmed that it would be able to supply the same items for £4,740. So the insurer told Mrs B it would ask its own jeweller to provide replacements for her.

Mrs B was unhappy with this proposal. She accepted that the jewellery was of a fairly classic design – and that it would be relatively easy to obtain similar items.

However, she said the jewellery had a particular sentimental value for her which no replacements could ever provide, however closely they matched the originals in appearance. She therefore wanted the insurer to settle her claim by paying the cash value of the jewellery.

The insurer agreed to this. However, instead of paying the £5,110 that her own jeweller had quoted as the cost of replacement, the insurer sent Mrs B a cheque for £3,175.80.

When she queried this, the insurer explained that it had paid her what its preferred jeweller would have charged for the replacements, less the discount it would have received from the jeweller. Mrs B then complained to us.

complaint not upheld

Mrs B told us she thought she had been treated unfairly, particularly as the insurer knew that the jewellery had considerable sentimental significance for her.

We said we entirely understood why she did not think any new items of jewellery could adequately replace the originals, which had been given to her by her late husband.

... we did not think it reasonable of the insurer to require him to travel to Africa to replace the jewellery.

The policy terms and conditions offered the option of a cash settlement, if that was what the policyholder preferred, and we noted that the insurer had readily agreed to Mrs B's request for cash rather than replacement.

The policy clearly stated the terms under which the insurer would make a cash settlement rather than replacing lost or stolen items. The maximum the insurer would pay was the amount it would otherwise have paid its own supplier to provide replacements, after deducting any discount.

We drew Mrs B's attention to the policy wording and explained why we did not agree with her that the insurer had acted unfairly. We did not uphold the complaint. ■

... we did not agree that the insurer had acted unfairly.

■ **92/5**

consumer disputes amount of cash offered to settle claim for theft of jewellery

Mr L was mugged one evening while he was on holiday in Spain. When he returned home to the UK he put in a claim to his insurer. This included several items of jewellery that he said the mugger had stolen from him during the attack.

Mr L provided detailed receipts for the jewellery, all of which had been bought while he was in holiday in Africa the year before.

The insurer agreed to meet the claim and told Mr L that in view of the '*unusual character*' of the stolen items, it would need to consult its '*jewellery appraisal specialist*' about suitable replacements.

This specialist noted that it would cost significantly more to replace the items in the UK than the price Mr L had paid in Africa. The insurer therefore offered Mr L a cash settlement. This was the sterling equivalent of the amount it said he would have to pay – in Africa – to replace the jewellery.

Mr L thought the insurer should *either* provide him with '*proper replacements*' *or* give him the amount it would cost him to buy replacements himself – in the UK. However, the insurer was not prepared to consider either of these options. It said they would both result in Mr L '*profiting*' by getting back '*more than the value of his original outlay*'.

After further discussion, the insurer eventually said it was prepared to pay him the original purchase price. It told him that if he was not happy with this, it would reimburse him for the cost of replacing the items in Africa. However, it said would only do this if he submitted the receipts *after* buying the replacements.

Mr L then referred his complaint to us.

complaint upheld

We told the insurer we did not think that requiring Mr L to travel to Africa in order to replace the jewellery was either fair or reasonable. We said it should settle the claim by paying the cost of replacing the items in the UK, minus any discount that it would receive by using its preferred retailer.

92/6

consumers say they were wrongly advised that they would get the same level of cover if they switched to a different insurer

When Mr and Mrs A moved their mortgage to a different lender, the lender's representative persuaded them to move their buildings and contents insurance as well – to an insurer owned by the new lender.

They said the representative had assured them that they would receive exactly the same cover, for a lower premium.

Eight months later, there was a break-in at the couple's house and a number of items were stolen. These included a diamond ring belonging to Mrs A, valued at £4,000.

The insurer agreed to meet the claim but said it was unable to pay the full value of the ring. This was because the policy had a single item limit of £2,000.

Mr and Mrs A were very unhappy about this. They sent the insurer confirmation that their previous policy covered them for the full value of the ring. They said they had only agreed to change insurers because they were told the new policy gave them an identical level of cover.

The insurer did not accept Mr and Mrs A's complaint. It told them its policy document made it clear that the *single article limit* was £2,000. It also pointed out that the policy offered the option of cover for '*specified valuables*' up to a limit of £9,000. The couple had not chosen this option.

complaint upheld

After considering the available evidence, we accepted that Mr and Mrs A had been persuaded to take the policy on the basis that it gave them '*identical*' cover to that provided by their previous policy. The new policy had a significantly lower limit for single items, but this had not been brought to their attention by the representative who sold them the policy.

We upheld the complaint and told the insurer to pay Mr and Mrs A the full cost of replacing the diamond ring. ■

92/7

consumer disputes the cash value placed by insurer on a set of football programmes destroyed in a house fire

Mr G put in a claim to his insurer after a serious fire at his home. Overall, he was happy with the way in which the insurer dealt with his claim. However, he thought the insurer had '*seriously under-estimated*' the value of a set of football programmes.

He was an avid football fan and had been collecting programmes from his favourite team's games for over 50 years. More than half of this collection was destroyed in the fire.

The insurer thought '*the fairest way*' to settle this part of the claim would be for it to pay him the current cover price for a match programme, multiplied by the number of programmes lost in the fire.

Mr G said he thought this '*totally unacceptable*' and he asked the insurer to reconsider the matter. In response, the insurer said it believed its offer to be '*more than reasonable*'.

When Mr G asked why it thought this, the insurer said it was '*obvious*' that the cover price of the earliest programmes in his collection would have been significantly less than the present-day cover price.

Mr G then explained that the older programmes in his collection had been of *greater* value than their present-day equivalents. This was because their good condition and relative rarity made them collectors' items. He also pointed out that they had an additional value because they had formed part of a complete collection.

The insurer remained unwilling to increase its original offer, so Mr G asked us to help resolve matters.

complaint upheld

We agreed with Mr G that the insurer's offer failed to reflect the specialist nature of his programmes.

The insurer had also overlooked the fact that even though Mr G had bought each programme individually, the programmes had then formed part of a larger collection that had an intrinsic value as a '*set*'.

As neither Mr G nor the insurer had provided a specific valuation, we said the insurer should consult a specialist valuer to establish the cost of replacing the collection. The insurer should then pay Mr G this amount.

92/8

insurer declines to replace three-piece suite after accidental damage to sofa

Ms H put in a claim to her insurer for accidental damage to her sofa. The sofa, which was part of a three-piece suite, was less than a year old when the damage occurred.

During a visit to her home, her brother's two small children had accidentally spilt food and drink on the sofa, as well as marking it with coloured pens.

Ms H had tried to clean up the mess as soon as she realised what had happened. However, she had been unable to remove the stains from the cushions that formed part of the sofa.

The insurer's loss adjuster inspected the sofa and said a professional cleaning company ought to be able to restore the fabric of the cushions to its original condition. He asked Ms H to obtain an estimate from a company of her choice and to then forward this to the insurer for its consideration, before proceeding any further.

Ms H duly obtained a quote and sent it to the insurer. However, without waiting for the insurer's response she arranged for the cleaning company to proceed with the work.

Soon afterwards, the insurer confirmed that it was happy with the quote and would reimburse her for the full cost of the cleaning.

By that time, however, the cleaning company had finished the job and the cushion covers had shrunk to such an extent that they were beyond use.

... the insurer believed its offer to be '*more than reasonable*'.

The cleaning company offered to pay for replacements – but Ms H was concerned that there would then be a mis-match between the fabric on her sofa and that on the two chairs that made up the suite of furniture.

She therefore contacted the insurer and said that, in the circumstances, she thought the insurer should now replace the entire suite.

The insurer was not prepared to do this. It said it had undertaken to reimburse Ms H for the cost of getting the covers cleaned – and that it would pay for that work. However, as it had not chosen the cleaning company itself, it was not responsible for '*the deficiencies in the work – or for any consequences of that deficiency*'.

Ms H then referred her complaint to us.

complaint not upheld

We noted that Ms H had commissioned the cleaning company to do the work before the insurer had authorised her to do so. And even after she obtained authorisation, the insurer had only agreed to reimburse her for the cost of the cleaning.

Neither the insurer nor its loss adjuster had chosen the company that did the cleaning, so the insurer was not responsible for its error in shrinking the covers. We did not uphold the complaint.

92/9

consumer says insurer failed to ensure matching bricks were used for structural repairs to his house

Mr K's insurer arranged a temporary repair after a drunk-driver crashed into the side of his house, demolishing part of the external wall. The insurer then liaised with Mr K about plans for a permanent solution.

The building firm appointed by the insurer to carry out the work noted that the original bricks used for Mr K's house (a 1950's semi) were no longer manufactured. It had therefore provided a sample of what it thought was an acceptable alternative.

Mr K told the insurer this sample was a '*very poor match*' and that he was not prepared to have the work done with bricks that differed so noticeably from the originals.

... The insurer offered a number of possible replacements, all of which it considered suitable.

Eventually the insurer found a supplier who had bricks that were a slightly better match than those suggested by the builder. However, Mr K remained unwilling to proceed. He said he was unhappy with the insurer's '*failure to provide the correct bricks*'.

The insurer stressed that it had made a number of enquiries on his behalf but had not been able to find any bricks that were an exact match. It explained that – in any event – the original bricks had weathered over the years. This meant that *no* new bricks would be an exact match for those already in place.

Mr K continued to argue that this was unsatisfactory – and the insurer eventually offered him a cash settlement of £7,000. This was the sum it would have cost the insurer to get the damage repaired by the builder it had appointed to do the work.

Mr K then referred his complaint to us, saying the insurer had let him down by not '*making greater efforts to obtain correctly-matching bricks*'.

complaint not upheld

The insurer sent us evidence that it had contacted a number of suppliers to try and obtain bricks that would meet Mr K's requirements. It had offered him a number of possible replacements, all of which it had considered suitable.

Even though the precise make and model of brick used to build Mr K's house was no longer manufactured – it was of a fairly standard type. There was nothing unusual about it and we thought that *all* the sample replacements shown to Mr K were reasonable substitutes.

We explained to Mr K that the insurer had, in fact, made considerable efforts to obtain bricks that were as close a match as possible. We told him the insurer was obliged to ensure the damaged part of the wall was properly repaired. However, in the circumstances it could not reasonably be expected to ensure that the bricks were identical to the originals.

... they had legitimate concerns about the contractors the insurer had chosen.

We told Mr K the insurer's offer of £7,000 was reasonable and that the insurer remained willing to arrange – instead – for its own contractor to complete the repairs, if Mr K agreed to this. We did not uphold the complaint.

■

■ **92/10**

consumers say repair work arranged by their buildings insurer was inadequate

Mr and Mrs D's insurer sent a contractor to carry out repair work after a major leak in the couple's bathroom caused extensive damage. However, the couple were far from happy with the standard of the contractor's work.

... the contractor failed to complete the repair work to a satisfactory standard.

The insurer accepted that several matters had not been properly resolved and it arranged for the contractor to return to put things right. Unfortunately, even after this second attempt the contractor failed to complete all the work to a satisfactory standard.

The insurer then asked a second contractor to visit Mr and Mrs D's house and provide a quote for completing the repairs. He said he could do the job for '*under £1,000*', less a discount of 35% for the insurer.

The insurer was happy to go ahead on this basis. However, Mr and Mrs D had '*serious misgivings*'. They had so little confidence in the first contractor that they did not think it was enough for the second contractor simply to correct the work already undertaken. They thought the remedial work should be started afresh.

They said that in view of the inconvenience they had experienced to date, they did not want any more work done by a contractor who '*might or might not be sufficiently competent*'.

The couple wanted a local contractor to do the work. He had undertaken other jobs for them in the past and they said they had '*complete confidence*' in him. He had told them he could carry out all the work necessary, to a good standard, for £1,600.

The insurer had no objection to Mr and Mrs D getting the work done by their local contractor – so it said it would pay them a cash settlement of £650.

When Mr and Mrs D queried this sum, the insurer said it was the amount it would otherwise have paid its own contractor to do the work. Mr and Mrs D argued that this was unreasonable but the insurer refused to increase its offer. The couple then referred their complaint to us.

complaint upheld

After considering all the evidence, we concluded that the work proposed by the insurer's second contractor was insufficient to put matters right.

We accepted that Mr and Mrs D had legitimate concerns about both of the contractors chosen by the insurer. In the circumstances, therefore, we said it was reasonable for the couple to insist on having the work done by a contractor of their own choice.

We told the insurer to settle the claim by paying in full the £1,600 that Mr and Mrs D's contractor would charge. We said the insurer should also pay the couple £400, in recognition of the distress and inconvenience they had been caused by its poor handling of the matter. ■

... they wanted the work done by a contractor of their own choice.

... the report concluded that it would not be economical to repair the car.

■ **92/11**

consumer complains about quality of the repairs arranged by his motor insurer

Mr W put in a claim to his motor insurer after his car was badly damaged by vandals.

The insurer accepted the claim and arranged for its contractor to carry out repairs. Unfortunately, even after returning the car three times to have various outstanding issues resolved, Mr W remained dissatisfied with the repair work.

His chief concern was that he did not think the paintwork on the repaired parts of the car was a proper match with the rest of the car. He was also unhappy with the insurer's offer of £100 as compensation for the inconvenience he had been caused.

Mr W thought this sum failed to reflect the difficulties he and his family had experienced. The insurer had provided him with a courtesy car while his own car was out of action. However, this had not been large enough for his family's needs – particularly as he frequently used the car to take his disabled mother to and from hospital appointments.

The insurer did not accept Mr W's view that there was a problem with the paintwork – and it told him it was not prepared to increase its offer of compensation. Mr W then referred his complaint to us.

complaint upheld in part

Mr W sent us a report that he had obtained from his own garage about the remedial work needed on his car, together with a quotation for the cost of the work.

... even after returning the car three times he remained dissatisfied with the repair work.

This report concluded that it would not be economical to repair the car, as this could not be done without stripping away all the paint from the whole car and then completely respraying it.

The report also suggested that the insurer should compensate Mr W for his vehicle's '*diminution of value*' – estimated at £2,750.

The insurer had obtained a report on the car from its own engineer, who stated: '*I was unable to see a colour difference other than general wear and tear to the non-painted panels against the newly-painted panels. Any accident-repaired vehicle will have more paint as a consequence of the repair. The paint build-up on the policyholder's vehicle is commercially acceptable*'.

Because of the disparity between the two reports, we asked an independent expert to look at the car. He noted that, overall, the paint-match was acceptable but that there were some '*minor paintwork defects*' that would cost just under £450 to put right.

The insurer agreed to meet this cost. However, Mr W insisted that the insurer should also pay him the sum quoted by his own garage for the diminution in the car's value.

We explained to Mr W that he was not entitled to receive this sum, as the insurer was paying the full cost of rectifying the paintwork.

However, we agreed with Mr W that the insurer had offered insufficient compensation for the inconvenience that he and his family had been caused. We said that in view of the evidence Mr W had provided – and the particular circumstances of this case – the insurer should increase this sum to £500. ■

... He wanted compensation for the inconvenience he had been caused.

... he asked the insurer to explain how it had calculated the degree of '*wear and tear*'.

92/12

consumer queries deduction for '*wear and tear*' when insurer pays claim for damaged clothing

A serious fire at Mr E's home resulted in extensive loss and damage. After instructing a loss assessor to investigate Mr E's claim, totalling more than £69,000, the insurer agreed to pay it.

Mr E was far from happy when he found the insurer had made a '*wear and tear deduction*' of 66% for every item of clothing listed in his claim. He said many of these items were '*almost brand-new*' and he asked the insurer to explain how it had calculated the degree of '*wear and tear*'.

He also said it was his understanding that any cash payment should reflect the full replacement value of the damaged items.

complaint upheld

We asked the insurer why it thought a '*wear and tear*' deduction of 66% was appropriate in this particular case.

It told us it had based the deduction on the loss assessor's judgement. However, it was unable to supply any evidence to support this.

The policy stated that if it was not possible to repair an item, the insurer would either replace it or '*make a cash settlement for the cost of replacement*'. The policy also said that if a claim included items of clothing, the insurer would make an '*appropriate deduction for wear and tear*'.

We accepted that the insurer was entitled to make a deduction for wear and tear. However, it was unable to justify its overall deduction of 66%. We said we thought this amount appeared excessive.

We upheld the complaint and told the insurer it should amend the amount it paid Mr E in order to reflect a 25% deduction for '*wear and tear*'. ■

... we thought it would be unfair of the insurer to pay her nothing at all.

92/13

insurer refuses to pay claim for item of jewellery because consumer had not paid import duty

Mrs M claimed on her household contents policy after her house was burgled and a number of her personal possessions were stolen or damaged.

The insurer settled the claim except for one item. This was a diamond ring that Mrs M said she had bought during a visit to the Middle East the year before. She had sent the insurer a copy of the receipt but it had then asked for proof that she had paid import duty when she returned to the UK with the ring.

Initially, Mrs M had argued that this was not relevant to her claim. Eventually, however, she acknowledged that she had not paid the import duty. The insurer then said that because of this it was not prepared to pay her anything at all for the theft of the ring.

Mrs M thought this was unfair – and after complaining unsuccessfully to the insurer she came to us.

complaint upheld

As Mrs M had not paid the import duty, we thought it would be unfair for her to profit by receiving the full UK value of the ring. But we also thought it would be unfair of the insurer to pay her nothing at all.

We said that, in the particular circumstances of this case, the insurer should pay Mrs M the amount she had paid when she bought the ring in the Middle East the year before.

ombudsman focus:
(third) quarter statistics

a snapshot of our complaint figures for the *third quarter* of the 2010/2011 financial year

In *Ombudsman news* issue 87 (July/August 2010) we published a list of the financial products and services that accounted for over 90% of our complaints workload in the first quarter of the 2010/2011 financial year.

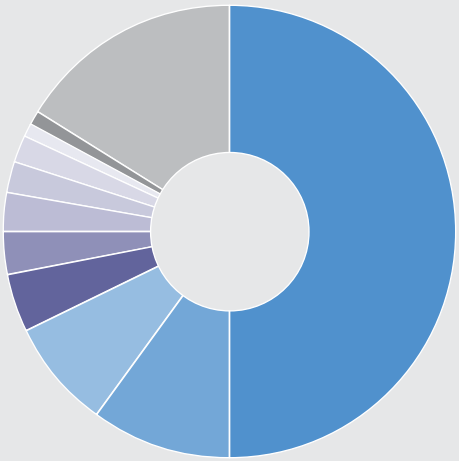
We updated these statistics in *Ombudsman news* issue 90 (November/December 2010) when we published information relating to the *second quarter* of the year.

In this current issue we now focus on data for the *third quarter*, showing how many new complaints we received and what proportion we resolved in favour of consumers during October, November and December 2010.

Later this month we will also be publishing on our website the latest six-monthly complaints data relating to *named* businesses (for the period from 1 July to 31 December 2010).

what consumers complained about most to the ombudsman service in October, November and December 2010

payment protection insurance (PPI)
current accounts
credit card accounts
house mortgages
overdrafts and loans
car and motorcycle insurance
deposit and savings accounts
buildings insurance
mortgage endowments
'point of sale' loans
travel insurance
specialist insurance
contents insurance
whole-of-life policies
hire purchase
portfolio management



the financial products that consumers complained about most to the ombudsman service in October, November and December 2010

payment protection insurance (PPI)	50%	credit card accounts	8%	buildings insurance	2%
current accounts	10%	mortgages	4%	mortgage endowments	1%
		overdrafts and loans	3%	'point of sale' loans	1%
		car and motorcycle insurance	3%	complaints about other products	16%
		deposit and savings accounts	2%		

number of new cases				% resolved in favour of consumer			
Q3 2010/11 (Oct to Dec)	Q2 2010/11 (July to Sept)	Q1 2010/11 (April to June)	previous year 2009/10	**Q3 2010/11 (Oct to Dec)**	Q2 2010/11 (July to Sept)	Q1 2010/11 (April to June)	previous year 2009/10
24,955	21,320	13,520	49,196	**66%**	73%	81%	89%
5,108	5,246	5,420	24,515	**30%**	24%	26%	20%
4,087	4,595	4,296	18,301	**62%**	55%	62%	68%
1,829	1,789	1,721	7,452	**42%**	30%	33%	37%
1,449	1,510	1,564	6,255	**43%**	40%	43%	48%
1,422	1,399	1,436	5,451	**43%**	43%	46%	38%
1,190	1,287	1,009	4,508	**40%**	40%	40%	52%
846	874	955	3,437	**42%**	39%	43%	43%
727	756	944	5,400	**31%**	31%	30%	38%
682	875	622	1,735	**26%**	36%	46%	52%
644	741	553	1,956	**39%**	37%	55%	44%
436	459	397	1,070	**53%**	51%	46%	50%
420	419	444	1,863	**41%**	38%	37%	38%
418	375	409	1,690	**31%**	34%	35%	28%
362	312	399	1,430	**46%**	40%	44%	48%
352	362	246	1,040	**70%**	72%	46%	48%

continued

from previous page

what consumers complained about most to the ombudsman service in October, November and December 2010

personal pensions
warranties
term assurance
investment ISAs
unit-linked investment bonds
endowment savings plans
cheques and drafts
'with-profits' bonds
debit and cash cards
credit broking
legal expenses insurance
share dealings
income protection
store cards
direct debits and standing orders
interbank transfers
debt collecting
catalogue shopping
(non-regulated) guaranteed bonds
critical illness insurance
pet and livestock insurance
private medical and dental insurance
annuities
self-invested personal pensions (SIPPs)
guaranteed bonds
electronic money

ombudsman focus:

(third) quarter statistics

number of new cases				% resolved in favour of consumer			
Q3 2010/11 (Oct to Dec)	Q2 2010/11 (July to Sept)	Q1 2010/11 (April to June)	previous year 2009/10	**Q3 2010/11 (Oct to Dec)**	Q2 2010/11 (July to Sept)	Q1 2010/11 (April to June)	previous year 2009/10
290	326	357	1,359	**41%**	32%	30%	29%
245	261	219	863	**69%**	58%	53%	53%
230	198	200	912	**24%**	23%	32%	24%
226	251	185	1,301	**45%**	51%	46%	42%
223	180	204	2,453	**71%**	76%	62%	57%
217	237	229	1,512	**32%**	32%	31%	25%
204	148	148	773	**48%**	43%	43%	49%
198	220	233	1,056	**35%**	46%	35%	28%
186	226	220	964	**40%**	38%	41%	43%
174	152	99	341	**69%**	48%	57%	62%
171	148	142	597	**20%**	27%	21%	25%
162	191	485	1,105	**52%**	66%	65%	52%
157	171	188	740	**47%**	37%	40%	39%
140	103	100	574	**80%**	65%	58%	74%
138	134	140	737	**46%**	45%	38%	48%
136	126	124	606	**43%**	44%	46%	43%
136	151	136	697	**38%**	49%	37%	42%
130	148	196	755	**53%**	69%	71%	79%
127	70	82	421	**33%**	45%	44%	50%
120	119	138	598	**33%**	24%	35%	31%
115	113	99	462	**24%**	25%	44%	24%
112	137	140	652	**47%**	51%	49%	35%
106	111	95	501	**33%**	44%	29%	33%
105	104	112	410	**46%**	47%	47%	53%
100	117	104	595	**39%**	32%	48%	37%
96	92	111	453	**31%**	32%	40%	49%

continued

from previous page

This table shows all products and services where we received (and settled) at least 30 cases during the quarter. This is consistent with the approach we take on publishing complaints data relating to named individual businesses. This approach was agreed after public consultation.

An asterisk (*) means that we received (and settled) fewer than 30 cases about a particular product or service in that quarter.

what consumers complained about most to the ombudsman service in October, November and December 2010

commercial vehicle insurance
personal accident insurance
debt adjusting
commercial property insurance
roadside assistance
occupational pension transfers and opt-outs
hiring, leasing and renting
business protection insurance
guaranteed asset protection ('gap' insurance)
spread betting
unit trusts
buildings warranties
state earnings-related pension (SERPs)
open ended investment companies ('oeics')
debt counselling
total
other products and services

ombudsman focus:

(third) quarter statistics

number of new cases				% resolved in favour of consumer			
Q3 2010/11 (Oct to Dec)	Q2 2010/11 (July to Sept)	Q1 2010/11 (April to June)	previous year 2009/10	**Q3 2010/11 (Oct to Dec)**	Q2 2010/11 (July to Sept)	Q1 2010/11 (April to June)	previous year 2009/10
83	65	52	290	**34%**	40%	35%	35%
81	56	80	274	**51%**	50%	48%	26%
80	61	60	231	**48%**	62%	55%	65%
76	64	68	487	**25%**	34%	34%	22%
71	59	59	226	**39%**	44%	45%	35%
47	67	55	368	**50%**	55%	48%	48%
44	58	69	283	**31%**	49%	41%	37%
42	43	53	222	**15%**	23%	23%	26%
38	41	48	224	**38%**	42%	49%	53%
35	82	62	191	**24%**	17%	17%	19%
32	40	36	192	**62%**	69%	57%	44%
31	*	*	161	**25%**	*	*	40%
31	64	60	560	**7%**	4%	7%	2%
30	33	34	329	**74%**	84%	67%	56%
*	*	56	163	*	*	57%	63%
49,892	47,286	39,213	160,776	**53%**	52%	52%	50%
486	455	363	2,236	**44%**	43%	43%	42%
50,378	**47,741**	**39,576**	**163,012**	**53%**	**52%**	**52%**	**50%**

Printed on Challenger Offset paper made from ECF (Elemental Chlorine-Free) wood pulps, acquired from sustainable forest reserves.

100% of the inks used in *Ombudsman news* are vegetable-oil based, 95% of press chemicals are recycled for further use, and on average 99% of waste associated with this publication is recycled.

the Q&A page

featuring questions that businesses and advice workers have raised recently with the ombudsman's technical advice desk – our free, expert service for professional complaints-handlers

Q. A few months ago you asked members of the ombudsman's industry panel for feedback on your consumer leaflet, *your complaint and the ombudsman*. Does this mean you'll be producing a new version of the leaflet?

A. The complaints-handling rules require businesses covered by the Financial Ombudsman Service to give consumers a copy of our leaflet, *your complaint and the ombudsman*, at the appropriate stage in the complaints procedure.

The leaflet explains our role in simple terms – setting out what we can and cannot do. We re-print the leaflet every few months, depending on demand. This enables us to review it regularly – making minor changes to the text or design to take account of feedback we have received or of any changes to the rules and procedures.

As part of this review process, we approached our industry panel for their comments on the leaflet. The panel comprises around 200 financial services practitioners and officials from 30 trade associations. We asked for their views on the leaflet's length, content, the language used and the overall design.

We also asked how they felt the standard version of the leaflet compared with our '*easy read*' version (which uses graphics and pictograms to help people who are less comfortable with written English).

And we have carried out face-to-face research with consumers, to see what they liked about the leaflet and what they felt could be improved.

The broad consensus of opinion – among consumers and businesses – was that people wanted fewer words, less detail, and more graphics and colour to help focus attention. So our next re-print of the leaflet will reflect these findings.

The leaflet will remain the same size (DL size – 99mm × 210mm) and the structure and content remain broadly the same as in previous versions. But we have reduced the number of words by 20% so that there are now fewer pages. We have also included full-colour graphics, to help 'signpost' people through the document. We are working with the disability charity, the Shaw Trust, to make sure the leaflet is fully accessible and readable.

We will be introducing this new version of the leaflet gradually – and older versions remain valid. So there will be no need for businesses to order any new supplies from us until they have used up their existing stock of leaflets.

The arrangements for ordering copies of the leaflet are unchanged. Details of how to order, as well as information about the online version and about printing the leaflet under licence, are in our online technical resource, '*telling consumers about the Financial Ombudsman Service*', in the publications section of our website.

We provide supplies of our consumer leaflet free of charge to libraries and consumer organisations (for example, Citizens Advice Bureaux and trading standards departments). It is also available in other languages and in different formats (audiotape/CD, Braille, large print *etc*).

designed, edited and produced by the communications team, Financial Ombudsman Service ref: 641