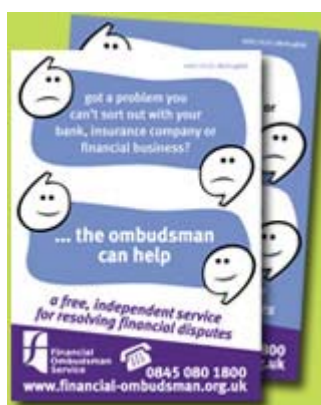




policy statement

improving service to our users:
our strategic approach to
accessibility



July 2008

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introduction

"Our service is for everyone. We aim to be accessible and to meet any particular needs our customers may have."

from our [aims and values](http://www.financial-ombudsman.org.uk/about/aims.htm) [www.financial-ombudsman.org.uk/about/aims.htm]

- 1 The Financial Ombudsman Service is committed to tackling barriers that might deter or disadvantage someone in their dealings with us. As this policy statement shows, we have already taken a wide range of significant steps to make ourselves accessible, but we actively seek ways to further improve accessibility.
- 2 The individual ability or background of our customers should not act as a barrier to having a complaint handled by the ombudsman service – where cases are decided on the facts, *not* on how well either side argues and presents the facts. Barriers to accessibility can include issues ranging from physical disability and mental health through to culture, technology and socio-economic differences.
- 3 Not all these barriers are matters that the ombudsman service itself controls. Some reflect broader social and economic issues. Others also involve matters relating to services provided by others. But in thinking about the service we provide, we need to recognise that a range of barriers to accessibility can exist for many of our users (particularly consumers and smaller businesses).
- 4 Our service deals each year with around three-quarters of a million contacts from consumers – and we formally consider around 100,000 complaints, involving hundreds of different financial businesses and products. We provide a service under a single roof that meets the needs of a stockbroker and its client, a motor insurer and its policyholder, and a consumer-credit provider and a borrower. Not to mention the disputes that can and do arise around the services provided by high-street banks, investment firms, debt collectors, electronic money providers, financial advisers, credit unions and many other types of business that now are included in our jurisdiction.
- 5 Given this broad range of products and businesses, our customers also reflect the diversity of the users of financial services. At one extreme, some are highly-educated, confident professionals. But others may find both basic literacy and numeracy a challenge. For increasing numbers of our customers, English is not their first language. Many of our customers may have disabilities or other particular needs that we must take into account in handling their complaint.

Whilst some are well-off, many others are in severe financial hardship. And it is not just consumers we need to consider – our role covers the needs of smaller-business customers too.

- 6 In thinking about the accessibility of our service for these diverse users, it is important to understand the context in which we work.
- 7 First, we are a national service based in London, relying heavily on written, phone and electronic communication, rather than face-to-face discussion. We routinely publish information in our annual review on where our customers live [www.financial-ombudsman.org.uk/publications/ar08/complained.html#a1]. All parts of the UK are well-represented in our user base. The location of people using the ombudsman service continues broadly to reflect the spread of the population across the UK as a whole. We continue to monitor the position closely, to ensure that levels of awareness are maintained in all parts of the UK. In his recent review of the Financial Ombudsman Service, Lord Hunt concluded [www.thehuntreview.co.uk/updates/publication-report.html] that we should not pursue the issue of regional offices (Lord Hunt's conclusion 12). Given the way in which we provide our service, we have no plans to do so in the foreseeable future.
- 8 Second, our subject matter is financial services, which shapes in part the demographics of our potential user-base.

| | AB managerial/professional | C1 supervisory and clerical | C2 skilled manual | DE unskilled manual/unemployed |
|---|--------------------------------------|--|-----------------------------|---|
| % of complaints to the ombudsman service | 42% | 20% | 20% | 17% |
| source: geodemographics market research report, December 2007 | | | | |

- 9 In addition to this data which we obtain from our customer satisfaction surveys, we also publish information in our annual review relating to what newspapers our customers read [www.financial-ombudsman.org.uk/publications/ar08/complained.html#a1]. The socio-economic background of the consumers who use our service in part reflects the fact that better-off customers are likely to hold a larger number of financial products. Also, until recently, complaints to the ombudsman service have been dominated by products such as mortgage endowments and split-capital investment trusts ("splits") which have their own distinct demographic base. But this is now changing, as our jurisdiction has extended recently to cover businesses with a consumer-credit licence – including, for example, debt-collectors and hire-purchase firms.

- 10 So we constantly need to reassess our practices, to ensure we remain accessible to all consumers who may need to use our service. For that reason our board asked Lord Hunt to conduct a review [www.financial-ombudsman.org.uk/news/updates/openness_accessibility.htm] which focused on this aspect (and on transparency). The needs of our users are also changing, as are their expectations – and that will continue. So to keep pace with best practice, we need to modernise the way we do business – for example, by making better use of new technology and communications, to provide a prompt and high quality service, and continuously to adapt to changes in the way businesses and consumers communicate.
- 11 *This policy statement sets out decisions of principle that our board has now made on accessibility issues. Our next corporate plan and budget will cover the impact on resources and cost – and hence the timing of implementation. As we plan the implementation of these decisions, we will work with a consultative group representing both industry and consumers.*

promoting awareness of our service

awareness among the general population

- 12 The Financial Ombudsman Service benefits not just those who actually use our service, but also those millions who never need to do so, but derive additional confidence from the knowledge that we exist and that they could use our service should the need arise. So we conduct research regularly to find out the proportion of the population who are aware of our service. We reported on this in our latest annual review [<http://www.financial-ombudsman.org.uk/publications/ar08/complained.htm>].
- 13 Last year 13% of consumers named us, unprompted, as the organisation whose job it is to resolve disputes between consumers and financial services businesses (up from 10% in the previous year). This proportion was the same across all geographical areas of the UK, but varied significantly depending on age and socio-economic background. Awareness also varies depending on media coverage of the ombudsman service. During a period of extensive media coverage about bank charges, our awareness rating on an unprompted basis rose to 25%. On a prompted basis, 74% of consumers were aware of the Financial Ombudsman Service. More than half of consumers surveyed said that the existence of the ombudsman increased their confidence in financial services.
- 14 We also publish in our annual review information about how consumers hear about our service:
- 40% through the media
 - 21% from a friend, relative or colleague
 - 17% from a financial services business
 - 11% from the internet
 - 8% from a consumer advice agency (for example, Trading Standards or Citizens Advice)
 - 3% from some other source.
- 15 So almost three-quarters of consumers who came to the ombudsman service said they knew about us from the internet, media or by word-of-mouth.
- 16 There is no objective way to decide what level of awareness should be regarded as satisfactory. We do not set ourselves specific targets for general awareness of the ombudsman across the population as a whole – nor did Lord Hunt recommend that we should in his recent review of the ombudsman service. As is shown by the survey results above, awareness can vary significantly (even doubling) during times of intense media coverage. And it can fall during

times when the public focus is elsewhere.

- 17 Lord Hunt also concluded that a name change might help awareness. But public feedback indicated [www.financial-ombudsman.org.uk/news/updates/keep_the_name_ombudsman.html] that a new name for the ombudsman might sow confusion – in suggesting both that we may be a new and different body, and also that we are a front-line complaints organisation rather than a dispute resolver. Changing the name would require very significant investment by businesses, regulators, government departments and consumer agencies.
- 18 *We do not plan to change our name, but we will continue to monitor general awareness of it. We will consider investment in general awareness-raising programmes if baseline unprompted awareness falls substantially below 10%. We will continue a variety of routes to ensure that our messages reach consumers through trusted partners and local and national media (Lord Hunt's conclusions no.4 and no.10).*

targeted awareness

- 19 We plan to carry out more targeted awareness-raising activities in response to areas where we can see under-representation among our users. Last year, for instance, we identified under-representation among the Asian community – and so we targeted advertisements in ZEE magazine [www.financial-ombudsman.org.uk/news/updates/MELA-08.htm] and took sponsored stands at “melas” – Asian life-style events. This may have contributed to the two-fold increase in unprompted awareness of the ombudsman among this community.
- 20 We identified a need to produce more tailored materials in Polish [www.financial-ombudsman.org.uk/accessibility/polish/Twoje_zazalenie_a_rzecznik_praw_obywatelskich.htm] to be distributed among the UK-based Polish support networks. And prompted by figures showing that younger women were 10% less likely than their male peers to know about the ombudsman, we launched a specific awareness-raising initiative targeting women aged 25 to 45 [www.financial-ombudsman.org.uk/news/updates/vitality_show_08.htm]. This included producing advertorial and advertising for the women's press and taking part in women's lifestyle events and consumer shows.
- 21 We similarly targeted a campaign aimed at families with young children [www.financial-ombudsman.org.uk/news/updates/new-parents.htm], and a youth awareness initiative [www.financial-ombudsman.org.uk/news/updates/frogs_and_snowboarders.htm] aimed at raising perceived relevance of the ombudsman to younger people. This campaign also targeted teachers [www.financial-ombudsman.org.uk/news/updates/TES.htm] as the trusted individuals young people are likely to turn to for advice.

22 It is not always easy to evaluate the impact that these campaigns have, as Lord Hunt suggests we should. But we accept the general message that the board should approve clear programmes of targeted awareness-raising and be satisfied that they are appropriately aimed and resourced.

23 *We will continue to plan and resource these initiatives in response to research that tells us in what directions to aim. It is likely that this will involve a significant increase in investment in communication. The board will develop programmes, aimed at both baseline awareness and targeted communities. Our corporate plans will identify this work and the resources planned to be devoted to it (Lord Hunt's conclusions 1 and 2).*

our website

24 Last year we recorded 44 million hits on our website, with an average of 160,000 visitors a month. There is no doubt about the value of our website as a means of access and information for many consumers, and last year [we surveyed how people accessed our website](http://www.financial-ombudsman.org.uk/publications/ar08/complained.html#ar3) [www.financial-ombudsman.org.uk/publications/ar08/complained.html#ar3]. 43% of people were first-time users. 35% were under 35. 70% said they would definitely visit the site again. It is not surprising that Lord Hunt pointed to the continuing need for development of our website as a point of access.

25 *We will continue to devote resources to the development of our website and to ensuring that it is user-friendly and welcoming (Lord Hunt's conclusion.5).*

ensuring our services are accessible

contacting us

- 26 During 2007/08 we received nearly 800,000 initial enquiries from consumers – 54% by phone, the rest by letter or email. We encourage phone contact because our experience shows that some of those who send in written complaints turn out *either* to have grievances that we could have dealt with swiftly by a simple oral explanation, *or* not to have made a formal complaint to the financial business first, *or* to be outside our remit. This can lead to protracted correspondence.
- 27 So our preference is for consumers to contact us by phone so that we can identify what their grievance really is; whether we can help; what stage they may be at, in registering their dissatisfaction with the business; and whether a discussion with one of our consumer consultants may lead to the consumer not needing to pursue a complaint at all.

caller access hours

- 28 Since the Financial Ombudsman Service first started, and our customer contact division was set up, our opening hours have remained 9.00am to 5.00pm. Most customer-facing businesses – and many public bodies – now offer a service beyond these “traditional” office hours. The aim to move in this direction was outlined in the chief ombudsman’s first report in 2000 [www.financial-ombudsman.org.uk/publications/first-annual-report/index.htm]. It was only the challenge of having to deal with huge volumes of mortgage endowment disputes between 2002 and 2007 – and the vast call on resources that this involved – that delayed our intentions. The case for change has now been powerfully made by Lord Hunt in his review.
- 29 *We intend to extend the opening hours of our customer contact division to ensure we can be contacted by those who find it difficult to reach us during “office hours”. This will be a significant operational change for our customer contact teams – and will need careful planning and piloting before full implementation (Lord Hunt’s conclusion 13).*

caller access cost

- 30 Given that we want to encourage the phone as the first point of contact – and that this is largely the preference of consumers – is there a cost barrier involved in phoning the ombudsman service? Our main contact number for new enquiries is a subsidised 0845 number which offers access for most users at the price of a local call from a landline. We have recently

introduced a main 0207 number as an alternative to our 0845 consumer helpline [www.financial-ombudsman.org.uk/contact/index.htm]. This may be a cheaper option for mobile-phone users and customers of network providers other than BT.

- 31 0800 numbers are completely free for most callers, and the entire cost is borne by the receiving organisation. A “free-phone” 0800 service remains the exception rather than the rule for complaints-handling bodies and similar public services, but would put us on the same footing as many claims-management companies. Introducing a new main contact-number would involve important changes to public-service information and publicity-material produced and distributed widely across the industry and the consumer-advice sector. And for people using certain mobile tariffs, a “free-phone” number can be significantly more expensive (around one in eight consumers now contact us by mobile phone).
- 32 *We will research the costs and benefits for our customers before deciding whether any changes should be made to our phone numbers (Lord Hunt’s conclusion 15). We have also reinforced internally and externally the message that we will always “phone customers back if they are worried about the cost of a call” (Lord Hunt’s conclusion 16).*
- 33 *As part of the development of our casehandling system, we are also considering further enhancements to our website, to enable customers to register complaint enquiries round the clock. We believe this is a more effective route for providing out-of-hours contact than voice messaging, which we have tried previously and has significant service disadvantages (Lord Hunt’s conclusion 14).*

complaint forms

- 34 Before we can investigate a complaint, our process requires that the consumer must first give the business itself a chance to resolve the problem – and then the consumer has to complete and sign our complaint form. We try to make this as easy as possible, by sending complaint forms to consumers pre-populated with any information they may already have given to us about themselves and their complaint.
- 35 The consumer has to return the signed complaint form [www.financial-ombudsman.org.uk/consumer/complaints.htm#3] – along with the final response letter from the business. The consumer’s signature serves a number of purposes. In signing, consumers are acknowledging that:
- we will need to handle sensitive personal information about them;
 - we will need to exchange information with the business they are complaining about;

- we handle disputes by making phone calls and writing letters rather than by holding hearings; *and*
- we may publish anonymised case studies based on real-life complaints.

Their signature also confirms the truth of the information they have provided – and confirms to the business (to whom we copy the form) that a complaint has indeed been made and that the business is entitled to release information to us.

36 It is for consideration whether these signed acknowledgments are still necessary, and whether the completion of a complaint form in this way represents an unnecessary barrier to access. This is not a matter Lord Hunt specifically addressed.

37 *We will research the extent to which we could do away with the need for a signed complaint form, and we will discuss the legal and practical aspects of this with consumer organisations and businesses.*

the “8-week rule” – working with businesses

38 However accessible we ourselves become, we are only a part of the overall picture. It is important that consumers are able to access good complaints handling and redress mechanisms – but this is not something we can achieve in isolation. Indeed, given that consumers must normally have first exhausted the financial business's own complaints-handling process *before* accessing the ombudsman service, the accessibility of our service must inevitably reflect in part the accessibility of the complaints processes in place across the financial services industry itself.

39 We believe there is a need for a greater focus on complaints-handling issues in the industry. Too often, complaints processes are not well sign-posted and can still involve too many stages and other barriers to consumers – particularly those less confident in making complaints.

40 We also recognise that for some consumers, the 8-week period – during which a business is entitled to investigate a complaint *before* it can be referred to the ombudsman service – might be a significant barrier to accessing our service. We have referred this to the FSA (Lord Hunt's conclusion 20). The recently updated complaints-handling rules require financial businesses to be “prompt”.

41 *We will provide feedback to both the business concerned and the relevant regulator where we see examples of particularly good and bad practice in complaints handling. We will ask major businesses to share with us their own assessment of the accessibility of their service, and work*

with them and the FSA to identify ways of ensuring common pathways to complaint systems, particularly for disadvantaged consumers (Lord Hunt's conclusion 21).

consumers who contact us early – but never return

- 42 One impact of poor complaints handling by financial businesses is that a significant number of consumers contact us initially *before* raising their complaint with the business concerned. Where this happens, we help the consumer direct their particular concerns to the relevant business – and we help both the consumer and the business by setting out briefly in a letter to the business the headlines of the consumer's complaint. The business can then investigate the complaint in its normal way.
- 43 Our present practice is to invite the consumer to return to us, if they remain dissatisfied once the business has considered their case. While many consumers do so, it also seems that a large number of cases are effectively resolved by the businesses concerned at this early stage. Writing to follow-up all these cases could add significant costs – and may have the effect of cutting across a sensible discussion between the business and its customer about the resolution of the complaint.
- 44 However, we have little readily available data about these consumers and the outcome of their complaints, following our early involvement. Similarly, we do not routinely collect data on the identities of the businesses concerned. This could help, for example, in identifying those businesses that had inadequately signposted complaints-systems, or those where different standards applied depending on whether or not the ombudsman service had been involved at an early stage.
- 45 *We will conduct research with consumers who contact us at the early stage of their complaint, to see what impact we have on these cases – and whether further assistance or follow-up would be of benefit to consumers. More generally, we need to do more to monitor the scale and impact of the work we carry out at this preliminary stage – and to feedback this information to stakeholders (Lord Hunt's conclusion 19).*

earlier resolution

- 46 Another way of enhancing our initial contact with consumers is to improve our ability to respond promptly to more straightforward complaints. This remains a central objective of our complaints-handling processes. It should benefit both parties if matters can be resolved early. Businesses, in particular, will welcome any moves to resolve more complaints before they reach the stage where a case fee is incurred.
- 47 *We will invest more in early dispute-resolution, by enhancing the training for our customer contact staff and providing more direct access to ombudsmen for cases that require urgent intervention. We will also provide further information for stakeholders about our early interventions.*
- 48 But there are limits to our ability to resolve matters at the initial-contact stage. We do not necessarily have access to the full picture without making further enquiries. And either the consumer or the financial business may be reluctant to accept our early informal views. We consider these issues in more detail at paragraph 77 below.

responding to the needs of users

- 49 Our service is about much more than people's initial contact with us. More widely, we need to ensure that the diverse needs of our users are taken into account in *all* aspects of our work.
- 50 Our processes seek to deal with issues at the earliest possible opportunity, consistent with the complexity and relevant individual features of each complaint. If the parties are unhappy with the initial views expressed by our customer contact division – or more formally by our adjudicators – they can “appeal” and have the case considered by one of our ombudsmen. The diversity of consumers who get in touch with our customer contact division at the initial stage is maintained right up to the most formal part of our process – an ombudsman decision. In other words, our present processes do not have the effect of discriminating unfairly between different groups of consumer.

response style

- 51 But as our customer base widens, we need to look again at the way we communicate with our customers. Clear language is important. The financial services industry uses more than its fair share of impenetrable jargon. We can help cut through this, so that all users understand the points we make.

52 *Whether in our adjudications or formal decisions by our ombudsmen, we need to communicate with our users in a way they understand and can best respond to. So we will review the style of our communications with this in mind (Lord Hunt's conclusion 24). We need to make more use of the phone and face-to-face discussions where this seems particularly important to the parties or to the effective resolution of the case (Lord Hunt's conclusion 27). But we should not change our basic approach of impartiality and fairness.*

53 Nevertheless, as Lord Hunt points out in his report, some consumers find the prospect of representing themselves worrying or difficult. Advertising material which emphasises "we are on your side" inevitably forms a key component of the marketing of commercial claims-management companies – and is a significant factor in the decision some consumers take to use these companies, despite their costs.

54 As an impartial service, we cannot fully recreate the offer made by commercial claims-management companies. Of course, we look pragmatically and constructively at a consumer's complaint, seeing it first and foremost as a general statement of dissatisfaction rather than as a specific set of legal claims. We consider whether the consumer has reasonable grounds for complaint, not whether they have used the right legal terms in their letters.

consumer assistance where particular needs are apparent

55 But some consumers may have particular difficulty in accessing our service. This might arise, for example, because of a physical disability or mental health problem, or simply because of language barriers. We provide information about our service in a range of different formats for people with specific needs [www.financial-ombudsman.org.uk/accessibility/index.htm].

56 We also provide information about our service in over 20 languages [www.financial-ombudsman.org.uk/accessibility/languages.htm]. And we provide translations (including a simultaneous phone-based translating service) for people who are not comfortable using English. In the past year we have worked in 30 languages – including handling correspondence in Romanian, phone calls in Tigrinya and e-mails in Kurdish.

57 *Building on our work in this area, we will pilot a process where named members of staff will provide an ongoing source of assistance where individual consumers have specific needs (Lord Hunt's conclusion 17).*

58 As now, our adjudicators and ombudsmen will consider individual cases on their merits. But the pilot will enable us to look at ways of communicating with consumers in a manner that better meets their individual needs.

59 In the meantime, we will also continue to work constructively with local consumer-advice centres [www.financial-ombudsman.org.uk/news/wt_ca.htm] and other national and locally-based agencies that can help consumers bring cases to us. Already 8% of consumers who use our service say they first heard about us from a consumer-advice centre. There is more information about this area of our work at paragraph 67 below.

60 *We will continue to ensure that consumer-advice organisations are aware of our work and have access to advice and support through a named contact on our technical advice desk (Lord Hunt's conclusion 6).*

the impact of claims-management companies

61 Most consumers come to us directly, rather than using a claims-management company to bring their complaint on their behalf. But around 19% of our cases now involve commercial companies acting for consumers. As we showed in our most recent annual review, the involvement of claims-management companies [www.financial-ombudsman.org.uk/publications/ar08/received.html#a7] is most likely in areas such as mortgage endowments and complaints about bank charges. Their success rate, in cases referred to us, is about the same as that of consumers who come to us direct.

62 Regulation of the claims-management sector is now in place through the Ministry of Justice, and the way in which claims-management companies carry out their activities and advertise their services is a matter for the regulator (Lord Hunt's conclusion 3). We continue to work with claims-management companies and the Ministry of Justice, to share our experience of claims-management in practice.

63 One theme of Lord Hunt's review was that we should actively seek to compete with claims-management companies. He suggested that we should monitor the levels of marketing activity by claims-management companies and seek to develop specific responses – with a range of advertising vehicles (including TV advertising) to ensure that the message is heard about the free availability of the ombudsman service (Lord Hunt's conclusion 4).

64 But the Financial Ombudsman Service does not have the same function as a claims management company. The Financial Ombudsman Service is a free and impartial service – providing an alternative to the courts – for consumers who are unable to resolve a dispute with a financial business. If consumers decide to seek assistance in the early stages of their dispute from a solicitor, a free consumer-advice agency (for example, their local Citizens Advice Bureau) or a commercial claims-management company, that is not a matter for us.

- 65 We will, however, continue to emphasise that our service is free to consumers – and that consumers do not require legal or other assistance to bring a complaint to the ombudsman service. Where our research identifies particular consumer groups with lower levels of awareness of our role, we will carry out targeted campaigns which may include advertising (for example, our recent advert in *Jump*, the parenting magazine [www.financial-ombudsman.org.uk/news/updates/new-parents.html]).
- 66 *We will keep developments in the claims-management sector under review and maintain close links with the regulator (Lord Hunt's conclusion 4).*

working with others

working with third parties to reach consumers

- 67 Our communications team has developed an outreach strategy that involves close working-relationships with national and local consumer bodies [www.financial-ombudsman.org.uk/faq/consumer_advisers.htm] in their front-line activities. Our policy team also links with consumer organisations in their work formulating policy. This means we connect both with community-based advisers when they need guidance in helping individual consumers, and with consumer-policy specialists working on policy initiatives. Lord Hunt recommends that we intensify our existing activity in these areas and initiate some work which is new.
- 68 We have developed input to training schemes for consumer bodies – including our handbook for consumer advisers [opens in PDF format www.financial-ombudsman.org.uk/publications/consumer_advisers_handbook.pdf] – and we also provide access to our technical advice desk [www.financial-ombudsman.org.uk/contact/tech-advice.htm] for those advisers who need immediate support.
- 69 *We will continue to develop our links with consumer organisations, helping them to be more effective both in supporting individual consumers and in developing their own training strategies (Lord Hunt's conclusion 6).*

working with elected representatives

- 70 We receive a significant amount of correspondence from MPs and members of the devolved parliaments/assemblies on constituency cases involving complaints against financial businesses. We have a constructive relationship with the All-Party Group on Financial Services and with the Treasury Select Committee. Lord Hunt recommends that we could do more to help elected representatives with their constituency business in relation to financial disputes.
- 71 *We will identify a relationship manager with specific responsibility for elected representatives (Lord Hunt's conclusion 6).*

working with a range of financial businesses

- 72 The businesses we cover are as varied as the consumers we deal with. Some are household names employing thousands of staff – typically FTSE-100 financial-services groups covering a broad range of retail business. Other businesses may be smaller – perhaps specialising in a

single area of financial services. Some are sole traders. For increasing numbers, financial services are not their core business.

- 73 Most financial businesses we cover have no complaints referred to the ombudsman service. Others may have hundreds referred on a single topic. We publish figures in our annual review showing the distribution of complaints across the businesses we cover [www.financial-ombudsman.org.uk/publications/ar08/who.html#ar3].
- 74 While the overwhelming majority of complaints that are referred to us involve the largest high-street financial groups, it is important that our systems and processes recognise the particular needs of smaller businesses too. Typically a smaller business will not be familiar with our rules and procedures. So we need to provide our infrequent users – at the point of need – with a clear explanation of how we work.
- 75 We have streamlined the initial information we send to smaller businesses when a case is first referred to us – and we have produced a range of quick guides for businesses on key subjects [www.financial-ombudsman.org.uk/publications/technical_notes/quick_guides.htm]. Our website has a dedicated section for smaller businesses [www.financial-ombudsman.org.uk/faq/smaller_businesses.htm]. And our technical advice desk [www.financial-ombudsman.org.uk/contact/tech-advice.htm] provides a valuable service for financial businesses of all sizes.
- 76 *In further developing the way we work with smaller businesses, we will actively seek input from a range of smaller businesses and their representatives (in addition to the consultative group mentioned in paragraph 11).*

handling cases

early checks

77 Once we have identified a complaint as broadly within our remit, we carry out some jurisdiction checks before the case is assigned to one of our adjudicators. These include checks on whether:

- the consumer is an “eligible complainant”;
- the financial business complained about is covered by our scheme;
- the consumer has received a “final response” from the business (or whether no such response has been received within eight weeks of complaining); *and*
- we received the complaint within the relevant time limits.

While these matters may sound easy to check – and are for the vast majority of complaints – in a small number of disputes, deciding jurisdiction issues can prove difficult. The time-limit rules on mortgage endowment complaints are, for example, particularly complicated and can require the ombudsmen to make finely-balanced decisions.

78 The rules set a very wide range of complaints as eligible to be handled by the ombudsman service. At the same time, the rules also give us power to dismiss those cases likely to be unsuitable for decisions by an ombudsman. For example, we can dismiss without consideration of their merits (under DISP rule 3.3.4 [<http://fsahandbook.info/FSA/html/handbook/DISP/3/3>]) complaints about:

- the performance of investments (rarely the fault of the adviser);
- the commercial judgement of businesses (which may disappoint a consumer but represent a legitimate business decision – for example, increases in insurance terms offered on renewal); *or*
- issues that have already been decided by an ombudsman (dismissal).

79 These early jurisdiction checks are carried out by consumer consultants in our front-line consumer contact division. After these early checks, a decision is made as to whether the case is apparently within our remit and should be passed to one of our case-handling teams of adjudicators for attention.

80 We plan to invest more in the early resolution of complaints by our front-line consumer-contact staff – by enhancing their training and empowerment. But, at this early stage of our process,

we may still have heard only half the story and have only half the facts. So we cannot screen out at this initial stage all the complaints which will ultimately be unsuccessful. It would clearly be wrong to dismiss some complaints without investigation, if there were any risk of unfairness.

81 *While accepting the objective to increase the impact of early screening of complaints, we will broadly maintain the current system that has served well.*

82 From the point of view of a business, what it sees as a misconceived complaint, destined to be rejected by the ombudsman service but referred to us nevertheless, may seem a vexatious imposition – and because it is cost-free for the consumer, an act of near frivolousness. But even if their complaints may be unlikely to succeed, we see very few consumers exhibiting a malicious intent to harass the business (the proper definition of acting vexatiously) – and very few who refer complaints to us frivolously.

83 *We will continue to apply the proper tests for deciding whether complaints are made vexatiously or frivolously; and we will make available the relevant statistics.*

allocation of cases

84 We allocate cases to adjudicators according to their field of expertise and the apparent complexity of the dispute. This means that cases are not allocated in strict rotation of time – and there will be different allocation times for different types of cases.

85 For example, when we first started to receive very large volumes of complaints about mortgage endowments, we took the decision to prioritise disputes where losses had *already* materialised, while we expanded our staffing to deal with the mortgage endowment cases where potential losses had *not yet* crystallised. We developed queue-management and communication policies, to keep in touch with those consumers waiting for cases to be dealt with – setting their expectations appropriately and identifying priority cases.

86 Among our cases there are clearly some that require more urgent attention. Health insurance claims, for example, are often more time-critical than disputes about pensions not yet in payment. Consumer credit cases, as Lord Hunt points out, may need to be fast-tracked if they are urgent (Lord Hunt's conclusion 20).

87 Ideally, our capacity (the number of adjudicators ready to investigate complaints allocated to them) would at all times exactly match demand (the number of complaints we receive). But as we explained in our corporate plan for 2006/07 [www.financial-

ombudsman.org.uk/publications/pb06/2.htm], the demand-led nature of our business does not make resource-planning easy.

- 88 Lord Hunt's recommendations about the need for regulatory action – to prevent our service from being affected by surges of similar disputes involving the same products (Lord Hunt's review: paragraphs 78 and 79) – would, if acted on, help to even-out our caseload. But even so, from time to time it may take longer to allocate new cases to our adjudicators than we would like. Predicting exactly how long it may take to allocate a new case is not necessarily simple. However, we accept the need to be clearer about this in our communication with consumers and businesses. In our annual reviews we already report on the timeliness with which we deal with cases [*www.financial-ombudsman.org.uk/publications/ar08/dealt.html#ar5*]. We will examine ways in which we might be able to report in more detail on this.
- 89 As recommended by Lord Hunt, we constantly re-evaluate staffing levels (Lord Hunt's conclusion 22) and we are increasing the flexibility of our resources by a range of techniques, including secondments and a pilot outsourcing-project.
- 90 *We will increase the sophistication of our arrangements for prioritising cases – and we will be clearer in our communication with consumers and businesses about the expected time-scale for dealing with cases.*

compensation awards

- 91 When we resolve a complaint in a consumer's favour, requiring the business to make appropriate redress, we are not always able to quantify in monetary terms the amount of compensation that will be required. This can cause problems if consumers are unsure of the amount and whether they should therefore accept the decision. There is a particular difficulty in cases where the compensation might exceed our £100,000 limit on awards. Lord Hunt was not the first to point to the difficulties here (Lord Hunt's conclusion 25). Michael Barnes CBE, our independent assessor, commented on this issue in his 2004/05 annual report [*www.financial-ombudsman.org.uk/publications/ar05/ar05-assessor.htm*] and suggested that a much higher limit on awards would help.
- 92 Typically these cases fall into three broad categories:
- In some banking cases, we direct the business to reconstruct an account as if a particular event had occurred (or had not occurred). It would not be practicable for us to carry out these calculations ourselves, as it involves access to the business's own computer systems.

Such cases have very seldom proved problematical in practice (though we will need to keep this under review in relation to smaller-sized consumer-credit lenders).

- In some insurance and some investment cases, we direct the business to return premiums plus interest. While it would be practicable for us to carry out these calculations, such cases have very seldom proved problematical in practice. Consumers know, when they are asked whether or not they accept the decision, that they are going to get all their premiums back plus something extra. And the calculations are relatively easy for businesses to carry out.
- In some investment and pension cases, we direct the business to calculate a sum according to a formula – often calculating the difference between how a particular investment or pension has performed and what would have resulted from an *alternative* course of action. These cases can be problematical. The consumer can find the formula confusing, and a smaller business can find it difficult to carry out the required calculation (although we do provide calculations where we anticipate difficulty).

- 93 Calculating a quantified award, rather than simply providing a formula, would mean adding an additional stage to the process (involving both a time-delay and extra cost). And carrying out the calculation may require us to obtain additional data from the business.
- 94 Our internal smaller-businesses taskforce is looking at the cost – and the effect on timeliness – of calculating quantified awards, rather than simply providing a formula. In those pension cases where we currently already provide calculations that quantify the award, the outsourced cost to us is considerably higher than the average cost of our handling cases ourselves. We are currently well advanced in carrying out a review of the internal and external resource that would be required for providing these calculations.
- 95 It is tempting to suggest that the extra costs involved in calculating redress should be recovered from the business involved by way of an additional case fee. But this would add to the complexity of our charging arrangements. Our case fee is not a fee for a particular defined service. It is a broad method of allocating costs. Making a direct cost-related charge would not be consistent with that approach. While the average cost of a case may be £650, inevitably some cost more and some less. Cases involving complex calculations of redress would cost more than average.
- 96 We accept the case for ensuring that calculations are provided, before a consumer has to decide whether to accept a compensation award where this might exceed the current £100,000 limit set by the FSA. And we have drawn to the attention of the FSA the impact of the current £100,000 limit in cases like this.

97 *We will estimate the overall budgetary impact of providing calculations in compensation awards that involve a formula – before reaching a final conclusion on whether and when to do so.*

other aspects of our process

98 Our process of alternative dispute-resolution is not necessarily familiar to all our users, and so we have to explain as much as we can at the outset of each case. One of the great values of the process is its flexibility – allowing for simple cases to be resolved quickly, and for more fiercely disputed cases to be the subject of more intense scrutiny. Unlike the courts, we cannot predict by defining fixed stages the exact course that any particular complaint will take.

99 Over 90% of our cases are resolved without the need for us to use our statutory powers by way of an ombudsman's determination – and these cases can be concluded by our adjudicators. Where our adjudicators cannot resolve the matter to the satisfaction of both parties, the case can be considered by an ombudsman. This constitutes an effective *internal* form of appeal that makes an external appeal unnecessary. Lord Hunt supported this aspect of our model (Lord Hunt's conclusions 30 to 33).

100 We already make clear to those disappointed by an adjudicator's view their right to refer the matter to an ombudsman. But it is clear that our model would come under strain if everyone requested an ombudsman decision. We therefore rely on the reasonableness of most of our users who accept the independence, expertise and authority of our adjudicators.

101 Ombudsmen are involved in internal advisory work as well as decision-making in individual cases. They can offer views to an adjudicator on particular aspects of a complaint, where technical and specialist knowledge, or knowledge of past practice, is held by the ombudsman. Ombudsmen and adjudicators are clear that advice or guidance from an ombudsman offered in any individual case *prior* to the final-decision stage is *provisional* – and will need to be revisited when all the relevant facts and information can be assessed by the ombudsman.

102 We benefit from preserving the position where there are two stages in our overall process – with an ombudsman normally providing a fresh view at the second stage. That will be the position for the majority of our cases. But we also need to provide for a small number of cases where there would be clear benefit in an ombudsman giving early guidance. This might occur, for example, if the case raises an issue that is novel or significant.

103 The ombudsmen consider, in the individual circumstances of each case, whether any earlier personal involvement makes it preferable that they should not deal with that case at the formal

decision stage, in order to maintain the confidence of the parties in our process. In such circumstances, another ombudsman is appointed to determine the matter.

- 104 Under the terms of the Financial Services and Markets Act, an ombudsman decision, once accepted, is final and binding on both parties, with no further appeal. There is no scope in law for re-opening decisions that have been accepted. Moreover, any attempt to do so would be seen as unfair by one or other of the parties.
- 105 *We do not propose any changes to the status of ombudsman decisions – or to the current system involved in delivering ombudsman decisions.*

in conclusion

106 The decisions of principle set out in this paper will set our direction of travel on accessibility for the next few years. Some involve expanding things we already do. Others are new. Many will take time to implement fully – not least because of the resource implications – but the end result should include:

- monitoring general awareness of our name, and investing in awareness raising where appropriate;
- ensuring that our messages reach consumers through ‘trusted partners’, and through local and national media;
- continuing to develop our website and to ensure that it is user-friendly and welcoming – including increasing sound and video content for users less comfortable with text;
- extending the opening hours of our customer contact unit;
- commissioning specialist external research into the advantages and disadvantages, for different users, of an 0207 number, 0845 or 0800 as a consumer helpline;
- reinforcing the message that we will ‘phone our customers back if they are worried about the cost of a call’;
- enhancing our web-based service so that consumers can draw our attention to complaint enquiries around the clock;
- researching the extent to which we could do away with a signed complaint form;
- providing feedback to financial businesses and relevant regulators where we see examples of particularly good or bad practice in complaint-handling by businesses;
- working with major financial businesses, involved in the large majority of our cases, and the FSA to simplify the end-to-end complaint process;
- researching whether further assistance or follow-up is required by consumers who contact us before their complaint has been submitted to the financial business;

- enhancing training in early dispute resolution for the staff in our customer contact unit;
- improving our use of phone contact and continuing to avoid jargon in our written material;
- training staff to more easily recognise the impact of different levels of literacy and numeracy on our various users – and to respond appropriately;
- piloting an in-house scheme to ‘hand-hold’ consumers with specific needs or disabilities through our casehandling process;
- promoting our training materials for the consumer advice sector – to help front-line consumer advisers guide consumers;
- providing named relationship managers for elected representatives and consumer advice agencies;
- keeping developments in the claims-management company market under review and maintaining close links with the regulator;
- seeking input from a range of smaller businesses and their representatives;
- promoting our technical advice desk more widely, particularly among smaller businesses;
- continuing to identify complaints that are frivolous or vexatious, and make statistics available;
- increasing the sophistication of our arrangements for prioritising particular cases and being clearer about any expected delays; and
- estimating the cost of providing calculations in cases where we currently make formulaic awards ...

... whilst continuing to ensure that our work on accessibility does not change our basic approach of impartiality and fairness to all parties.