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# Claims Management Companies and Financial Services Complaints

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A note from the Claims Management Regulator (Ministry of Justice), the Financial Conduct Authority, the Financial Ombudsman Service and the Financial Services Compensation Scheme.

A guide for consumers, financial service providers and claims management companies on how consumers' complaints should be handled where they choose to use a claims management company.



This note will assist consumers, financial service providers and claims management companies (CMCs) to:

- understand the role of CMCs in complaints against financial services or products, including payment protection insurance (PPI) complaints;
- provide information on related topics of concern and answer frequently asked questions;
- understand what behaviour is expected from financial firms and CMCs through the complaints handling process;
- explain the roles of the Claims Management Regulator (CMR), the Financial Conduct Authority (FCA), the Financial Ombudsman Service (ombudsman service) and the Financial Services Compensation Scheme (FSCS).

### Claims Management Companies

A CMC is a business that handles certain types of complaints (i.e. in personal injury claims or mis-sold financial products and services such as payment protection insurance and investments).

CMCs charge consumers a fee for doing this – sometimes only if they “win” the case and get compensation for the consumer. In some cases fees can be significant – one quarter of the total compensation awarded or more. These are fees that the consumer has to pay from the compensation awarded.

### PPI (payment protection insurance)

Since 2011 the number of complaints about mis-sold PPI has grown sharply. A significant proportion of these complaints have been made via CMCs, who have advertised widely about the issue.

In some cases there has been criticism that some CMCs are not submitting complaints in an appropriate manner and are clogging up the system for banks trying to resolve their consumers' complaints. This continues to be robustly investigated and addressed by the Claims Management Regulator by the introduction of new rules setting the required standards of handling financial services complaints.

### Financial services complaints

Complaints about most kinds of financial products are covered by FCA rules. Financial firms are obliged by these rules to handle the complaints fairly, consistently and promptly.

### The Financial Ombudsman Service

The ombudsman service was set up by Parliament to sort out individual complaints that consumers and financial service providers aren't able to resolve themselves. It is an independent service for settling complaints which is free to consumers. The financial service provider must be given the chance to look into a problem first – and they have eight weeks to do it. If the financial service provider does not respond within eight weeks, or does not respond to the consumer's satisfaction, the consumer can go to the ombudsman service.

### The Financial Services Compensation Scheme

If a financial firm against which a complaint is made has gone bust a complaint may be made to the Financial Services Compensation Scheme (FSCS). FSCS does not charge individual consumers for using its service. There are limits to the cover the FSCS can provide, whether a complaint is brought by an individual or through a CMC.

# Information for Consumers

## Information for those using, or considering using, the services of a CMC

### 1. Should I use a claims management company (CMC)?

- There is no need to use a CMC to reclaim mis-sold PPI. It is straightforward to complain to financial firms directly, and if necessary to the ombudsman service or FSCS, without using a CMC. Complaining yourself is free, and you will keep any compensation you receive without any fees being deducted.
- If you want independent advice on your options you can contact your local Citizens Advice or trading standards team, or visit [www.moneyadvice.service.org.uk](http://www.moneyadvice.service.org.uk) for impartial information on money matters.
- As with most businesses, the quality of service offered by CMCs can vary significantly so if you are considering using a CMC, it is advisable to shop around and think carefully before agreeing to any financial contract. Make sure you understand the fees the CMC will charge.

### 2. Are CMCs regulated?

Yes. Any business that offers claims management services in England and Wales must be authorised by the Ministry of Justice's Claims Management Regulator under the Compensation Act 2006, unless they are covered by an exemption (such as charities and advice agencies such as Citizens Advice, and solicitors who are regulated by the Solicitors Regulation Authority). CMCs should refer to the regulator in their paperwork as the Claims Management Regulator, so they do not suggest that they are endorsed or recommended. The Ministry of Justice does not endorse or recommend any CMC.

Authorised CMCs that offer to help consumers make a complaint must follow strict conduct rules. For example, they must:

- > not engage in unsolicited electronic marketing, face-to-face 'cold calling' or in any form of high-pressure selling;
- > where they give advice, the CMC must tell you about ombudsman schemes or other official means of obtaining compensation;
- > give written information on how to pursue a complaint and the costs involved before a contract is agreed;
- > allow a 'cooling off' period of at least 14 days;
- > operate a consumer complaints scheme.
- > agree a contract in writing, before they take any fees;

- > inform you if they are suspended or restrictions placed on it within 14 days of the enforcement action being taken; and
- > not offer or market any inducement to persuade clients to bring a complaint.

### 3. Will my complaint be decided any differently if I use a CMC?

Your complaint won't be decided any differently by either the ombudsman service or FSCS if it reaches them. Under FCA rules financial firms should investigate your complaint fully, whether or not a CMC is involved. The CMC cannot increase your compensation or speed up how quickly your complaint will be looked at by the ombudsman service or FSCS.

### 4. When do I pay a CMC for their service and how much will it cost?

In most cases, a CMC will charge a fee which will reduce the amount of compensation you receive. The CMC should tell you about its fees or any costs, the percentage charge and how this relates to the actual compensation you will receive, in the written information they must provide before you enter into a contract.

Where the charge is a percentage of compensation, this must include an example, like the one given below.

If a CMC charged 30% (including VAT), and you were awarded a claim of £1000, you would pay £300 in fees to the CMC – leaving you with £700.

You should not pay any money, provide credit card details or agree a verbal contract until you have seen the written information, have had a reasonable time to consider and signed a contract.

A CMC must allow you to withdraw from a contract at any time; however the CMC may charge reasonable costs for work already undertaken. Any charge made should be limited to what is reasonable in the circumstances and should reflect work actually undertaken by the CMC.

#### i. Advanced fees

Some CMCs will ask you to pay an advance fee – which may not be repayable if your complaint was not successful. Make sure you check the terms and conditions of the contract carefully as paying for any service in advance carries risks. Consumers should 'shop around' for their best option.

It is important that you fully understand the implications of paying an advance fee and that you do not pay this until you have seen and signed a contract. Most CMCs that charge an advance fee (after you have

signed a contract but before your complaint is decided) will still require a percentage of any compensation you receive at the end of the complaint.

## ii. Fees above compensation

You should understand that if you complain successfully but are awarded compensation in the form of a reduction on the amounts that you owe (loan arrears, for example) you may still need to pay the CMC a fee. This would mean that you end up with no cash compensation, only a reduction of your debt, but you would still have to find the cash to pay the fee to the CMC. In some cases a CMC's fee could even be higher than the compensation received.

## 5. What can I do if I believe my CMC has acted unfairly?

The regulator requires all CMCs to have a complaints handling procedure, and you should complain to them directly in the first instance to give them a chance to put things right. You can obtain a copy of your CMC's complaints handling procedure from the business or their website.

If you need help making a complaint, you will find advice on writing a letter of complaint on the Trading Standards website ([www.tradingstandards.gov.uk/advice/ifyouareindispute-sum2.cfm](http://www.tradingstandards.gov.uk/advice/ifyouareindispute-sum2.cfm)), or you can contact Citizens Advice Consumer Service on 08454 04 05 06.

## 6. Will consumers be contacted even if they have appointed a CMC?

Possibly. A financial firm may still need to contact the consumer directly, for example to make further reasonable requests concerning evidence or details about the complaint.

The Financial Ombudsman Service and the Financial Services Compensation Scheme will usually contact a CMC first, but there may be occasions when they need to contact a consumer directly.

If you use the services of a CMC it does not necessarily mean you will not have to engage in the process. Your instructed CMC may give you updates or ask for more information.

## General information for consumers

If you are considering using a CMC to complain about mis-sold PPI you should:

- Not be pressured into making any on-the spot decisions.
- Consider carefully if you are prepared to give up part of your potential compensation to have their help, when you could easily complain directly yourself.
- Make sure you understand the fees the CMC will charge – they should send you full written information about the service they are offering and what it will cost, and they should sign a contract with you before taking any money
- Check the CMC is authorised; for this and further information about the regulation of CMCs visit [www.justice.gov.uk/about/cmr.htm](http://www.justice.gov.uk/about/cmr.htm)
- Always think carefully before handing over money in advance or giving your credit or debit card details out to anyone.
- Ensure that the contract you sign with the CMC lets you withdraw at any time. Any charge made to you after you have withdrawn should be limited to what is reasonable in the circumstances and should reflect work undertaken by the CMC.
- Seek independent advice about making your complaint:
- Visit the Financial Ombudsman Service website at: [how to complain - the first steps](#) for information about how to make a complaint yourself or phone them for free on **0300 123 9 123 8am to 8pm**, Monday to Friday or 9am-1pm on Saturdays. This number is free to call from landlines and they are happy to phone you back
- Visit the Financial Services Compensation Scheme website at: [www.fscs.org.uk](http://www.fscs.org.uk) for information about how to complain yourself against a financial firm that has gone bust or phone them on **0800 678 1100** or **020 7741 4100** Monday to Friday, **8.30am to 17.30pm**. This number is free to call from landlines and they are happy to phone you back.
- Contact your local Citizens Advice or Trading Standards for advice on the best way to deal with financial problems and complaints or
- Visit: [www.moneyadvice.service.org.uk](http://www.moneyadvice.service.org.uk) for impartial information and guidance about your money to help you work out what's right for you

### Further information is available at:

[Claims Management Regulation - Information for consumers](#)

# Information for Financial Services Providers

## Information for financial services providers receiving complaints from CMCs

### 1. Should I deal with complaints from CMCs differently?

FCA rules require that financial service providers must operate effective procedures for the prompt and fair handling of expressions of dissatisfaction from, or on behalf of, a consumer about a firm's provision of, or failure to provide, a financial service.

FCA rules also provide that a complaint may be brought by a third party on a consumer's behalf. Your investigation of the complaint, and the outcome of the complaint for the consumer, should be exactly the same regardless of whether the consumer uses a third party representative or not.

A complaint may be generated because a CMC has brought a particular issue to a consumer's attention. This does not mean that the complaint is any less valid than any complaint that has been brought directly by a consumer.

You must assess each complaint on its merits, regardless of the process by which it was initiated. If a CMC-backed complaint is subsequently referred to the Financial Ombudsman Service it will be assessed in the same way it would if the consumer had brought the complaint directly.

### 2. Some CMCs just send me a list of consumers and ask if we have ever dealt with them – is that a complaint?

No. The FCA rules about complaints only apply when there is an expression of dissatisfaction about a product or service that you have provided (or failed to provide). Simply asking whether or not a service has been provided is not a complaint.

Where you receive a request for information about a consumer, the Data Protection Act 1998 may also apply. The CMC may request a Subject Access Request (SAR). This is a request for all relevant information you may hold on the consumer. Again, this is not a complaint either.

### 3. What is being done to stop CMCs bringing frivolous complaints?

The ombudsman service has the power to dismiss complaints which are considered to be 'frivolous or vexatious', but in practice they find such cases to be relatively rare.

The Claims Management Regulator is strengthening its regulation to tackle poor behaviour among CMCs by tightening the rules of conduct that CMCs abide by,

shutting down non-compliant firms and by seeking to introduce a power to fine. You can provide information to the Claims Management Regulator to help it identify and remedy poor practice.

The ombudsman service and the FSCS monitor submissions from CMCs and if either has concerns about how CMCs are handling cases they also refer these onto the Claims Management Regulator.

### 4. Why can't a CMC be charged if they take a complaint to the ombudsman and subsequently lose?

Consumers can refer disputes to the ombudsman service free of charge if they are unhappy with the way a financial service provider has dealt with a complaint. A financial service provider cannot claim back the costs of dealing with the complaint from the consumer. This applies whether or not the consumer has appointed a representative.

FSCS deals with complaints if an authorised financial firm is no longer trading. Consumers with a complaint against these firms can apply for compensation from the FSCS free of charge. FSCS also provides assistance to claimants entirely free of charge.

### 5. CMCs keep sending me standard template letters – do I have to treat them as proper complaints?

Ideally, consumers – and especially CMCs acting on their behalf – should identify the relevant points of their complaint as clearly as possible when they make a complaint. But the FCA's rules require financial service providers to consider complaints fairly, consistently and promptly – regardless of how they are made. Even if you receive a standardised complaint, it does not alter the fact that the consumer has expressed some form of dissatisfaction about the product or service provided. What matters is the relevant information provided which allows you to judge whether the complaint is valid. You can approach the CMC and/or consumer to make reasonable further information requests of them. If a consumer, or a CMC, is only asking whether PPI was sold, this should be treated as a request for information and need not start the complaints process.

### 6. We feel we are being unfairly targeted by a CMC, what can we do about it?

If you believe that a CMC is not acting in accordance with the Conduct Rules with which they must comply as a condition of their authorisation, you can inform the Claims Management Regulator. This will help the Claims Management Regulator to prioritise and target enforcement work to tackle breaches of its Conduct Rules, in particular where the services provided by a CMC do not meet the needs of the consumer, causing consumer detriment.

# Information for Claims Management Companies

## Information for businesses making complaints on behalf of consumers

### 1. What do I need from the consumer?

Obtain as much relevant documentation/information as possible and supply this to the firm you are complaining to. In PPI cases carefully check documents such as credit card statements or loan agreements to establish if PPI was sold. You are expected to substantiate both evidence of a contract and evidence supporting the validity of the complaint.

### 2. What do I need to submit to the financial services provider?

The financial service provider will need enough information to conduct a comprehensive search of its systems. You should include the name and address of the consumer, any previous names and addresses, account or policy details and anything else you feel may help identify financial products, and you should comply with any reasonable requests for additional information.

### 3. What do I need to submit to the Financial Ombudsman Service?

Without key information about a complaint, the ombudsman service cannot look into it. The ombudsman service expects CMCs to provide at least the following key documents whenever you refer a consumer's complaint:

- a fully-completed complaint form;
- a fully-completed PPI consumer questionnaire;

*Both of the above two documents must be signed by your client. If more than one person is bringing the complaint, they must all sign. If an insolvency practitioner is involved, you should also get their consent to bring the complaint, and their signature.*

- copies of all correspondence about the complaint between you (or your client) and the financial services provider. As an absolute minimum, we need a copy of the original complaint and the financial service provider's final response letter;
- copies of significant documents that are relevant to the arguments you are presenting – such as your client's credit agreement or application form; and
- supporting evidence, where appropriate, about a consumer's circumstances at the time of sale – for example, their employment status – especially if the financial service provider has conflicting evidence.

### 4. What do I need to submit to the Financial Services Compensation Scheme?

Provide a fully completed application form provided for the specific complaint by FSCS together with copies of all documentation relating to the complaint, the consumer's contact information, a signed copy of the contract the consumer signed with you and copies of all correspondence you have had with the consumer. If you are able, also provide a summary of the consumer's own account of the disputed sale and if a loan was involved, the reasons it was needed.

### 5. Is there anything I should avoid?

Standardised text does little to assist either the financial service provider or the ombudsman service or FSCS. The complaint must be individual and as specific as possible. Also avoid referring complaints to the ombudsman service before you have had an initial response from the financial services firm. According to FCA rules, a financial service provider has eight weeks to respond to a complaint before it can be referred to the ombudsman service. This is often known as the "the eight week rule". If there have been delays, it may well be in your client's best interests for you to contact the financial service provider again, allow it longer to respond, or to take some other course of action.

If you refer a complaint too early, without evidence that you have given a financial service provider the required eight weeks to respond, then it is likely that the ombudsman service will return the complaint to you and ask the financial service provider to get in touch.

## How should financial firms and CMCs interact?

Anecdotal evidence suggests that CMCs and firms do not always work collaboratively in the best interests of their customers. Below are some ways they should interact:

### Interactions between CMCs and financial services firms

#### 1. Letters of Authority

A CMC should ensure it has a valid letter explaining it is authorised to represent a client and the exact nature of the authority granted to it.

Financial services firms should act in accordance with DISP 1.3.1R – 'effective and transparent procedures for the reasonable and prompt handling of complaints must be established, implemented and maintained'. Again, firms should note that this applies equally to complaints made by consumers direct as to those made by a representative.

## 2. Obtaining information about the customer's details

Many CMCs choose to undertake a Data Subject Access Request from a firm to ascertain what products or services their client received from a firm. Financial services firms should ensure they comply with their obligations under the Data Protection Act in a timely and reasonable manner, but this need not start the complaints process.

## 3. Complaints submissions and complaint handling

CMCs should ensure that they provide as much information as possible to the firm, about the underlying product (s) or service(s) being complained about and also the reason why their client believes the firm is at fault. Doing so will enable a firm to assess and determine the complaint as quickly and as effectively as possible.

In turn, firms must investigate the complaint competently, diligently and impartially, obtaining additional information as necessary and in accordance with DISP 1.4.1R.

## The Roles of the Claims Management Regulator (Ministry of Justice), Financial Conduct Authority, Financial Ombudsman Service and the Financial Services Compensation Scheme

**The Claims Management Regulator (CMR)** is part of the Ministry of Justice and is responsible for regulating the activities of businesses providing claims management services in England and Wales under the Compensation Act 2006. Authorised businesses that offer to help consumers make a complaint for a mis-sold financial product must follow strict Conduct Rules.

Further information about the role of the Claims Management Regulator is available at: [www.justice.gov.uk/about/cmr.htm](http://www.justice.gov.uk/about/cmr.htm)

**The Financial Conduct Authority** is the regulator of most financial services in the UK. Its role includes setting and overseeing the rules about how firms handle complaints. It requires the financial service providers it regulates to have procedures for the prompt handling of complaints and to assess complaints promptly and fairly, whether these are brought on behalf of consumers by a third party such as a claims management company, or directly by a consumer.

The FCA sets rules to ensure that financial service providers deal with complaints promptly and fairly. If the consumer does not agree with the financial service provider's response to their complaint they can ask the Financial Ombudsman service to consider the case.

Further information about the role of the FCA is available at: [www.FCA.org.uk](http://www.FCA.org.uk)

**The Financial Ombudsman Service** is free for consumers and is an impartial service established by government to settle individual complaints between consumers and businesses providing financial services and is a straightforward alternative to courts. Its decisions are binding on financial service providers up to £150,000.

Further information about the Financial Ombudsman Service is available at: [www.financial-ombudsman.org.uk/](http://www.financial-ombudsman.org.uk/). If you have already complained about a financial firm or want advice about how to complain then the leaflet, 'your complaint and the ombudsman', gives more details.

**The Financial Services Compensation Scheme** is the UK's statutory fund of last resort for customers of authorised financial services firms. This means that FSCS can pay compensation to consumers if a financial services firm has gone bust (if it is unable, or likely to be unable, to pay claims against it). FSCS is an independent statutory body. It does not charge individual consumers for using its service. There are limits to the cover FSCS can provide.

Further information on the protection FSCS provides is available at: [www.fscs.org.uk/](http://www.fscs.org.uk/)

