

Inter-ombudsman protocol

This protocol

- 1 This protocol deals with handling complaints where there is a potential overlap of jurisdiction among the following ombudsmen:
 - 1.1 **FOS** = the **Financial Ombudsman Service**;
 - 1.2 **LeO** = the **Legal Ombudsman**;
 - 1.3 **OSC** = **Ombudsman Services: Communications**;
 - 1.4 **OSP** = **Ombudsman Services: Property**; and
 - 1.5 **TPO** = **The Property Ombudsman**.
- 2 This protocol is a procedural document. It does not affect the powers and responsibilities of the participating ombudsmen. It will be reviewed on 1 January 2013, and then every six months, in order to reflect: progress in relation to the issues mentioned below; feedback from stakeholders; and changes in external factors.
- 3 In this protocol:
 - 3.1 'consumer' includes any person or body making a complaint;
 - 3.2 'business' includes any person or body against whom/which a complaint is made; and
 - 3.3 'jurisdiction' means the:
 - compulsory and consumer credit jurisdictions of FOS;
 - the compulsory jurisdiction of LeO; and
 - the statutory jurisdictions of OSC, OSP and TPO.

Background

- 4 Though the relevant ombudsman is clear in many cases, erosion of boundaries between consumer sectors is likely to increase the areas of overlap between and among ombudsmen – for example:
 - 4.1 the provision of packaged services, such as a remortgage service combining finance, property and legal services;
 - 4.2 the ability for financial businesses to acquire/create legal businesses, as 'alternative business structures' under the Legal Services Act 2007; and
 - 4.3 the ability for telecommunications companies to provide electronic money under the European Electronic Money Directive.
- 5 Where there is a potential overlap, the position is complicated because:
 - 5.1 the jurisdiction of some ombudsmen is based on the activity involved and some on the entity involved;
 - 5.2 ombudsmen have been given differing scope and powers on, for example: territorial scope; complainant eligibility; time limits; and compensation limits; and so
 - 5.3 acceptance/referral of a complaint where there is an overlap between or amongst ombudsmen may have significant consequences for the outcome of the complaint.
- 6 The Department of Business, Innovation and Skills issued a call for evidence in the light of European proposals to require the availability of alternative dispute resolution across all consumer sectors from 2014.

- 7 Meanwhile, this protocol is intended to help the existing complex arrangements work in a proportionate way that is designed to minimise complexity for consumers and businesses where there is a potential overlap of ombudsmen.

Overlap scenarios and issues

- 8 Potential overlap scenarios include:
- 8.1 a business and activity covered by more than one ombudsman;
 - 8.2 two businesses, covered by different ombudsmen, involved in a single transaction; and
 - 8.3 interaction between acts/omissions by two businesses, covered by different ombudsmen.
- 9 Issues that arise from existing arrangements, where there is a potential overlap, include:
- 9.1 signposting of ombudsmen by businesses;
 - 9.2 acceptance/referral of complaints by ombudsmen;
 - 9.3 investigation of complaints where more than one ombudsman is involved; and
 - 9.4 how different ombudsmen independently approach the resolution of similar complaints.

Signposting of ombudsmen by businesses

- 10 Consumers are required to complain to the relevant businesses first, referring their complaint to the ombudsman only if dissatisfied with the business's response. The relevant business is required to signpost the consumer to the appropriate ombudsman.
- 11 A memorandum of understanding dated 3 May 2012 among various regulatory/professional bodies (listed in the annex) says they will work together to agree common standards on signposting consumers to the correct complaints or redress scheme.
- 12 The participating ombudsmen encourage the regulatory/professional bodies to progress this work as speedily as possible, in the interest of both consumers and businesses, and to engage with the ombudsmen on the workability of the new standards.

Acceptance/referral of cases by ombudsmen

- 13 If a consumer refers a complaint to an ombudsman and it is apparent that the complaint is *outside* the jurisdiction of that ombudsman, it will refer the complaint or the consumer to the appropriate ombudsman.
- 14 If a consumer refers a complaint to an ombudsman and it is apparent that the complaint is potentially *within* the jurisdiction of that ombudsman, and none of the other participating ombudsmen, it will deal with the complaint in the usual way.
- 15 If a consumer refers a complaint to an ombudsman and it is apparent that the complaint is potentially *within* the jurisdiction of that ombudsman *and* another participating ombudsman, the first ombudsman will deal with the complaint in the usual way – unless the complaint (or some aspect of it) is better covered by the scope and powers of another participating ombudsman.
- 16 The same applies if, during the course of a participating ombudsman investigating a complaint, it becomes apparent that the complaint (or some aspect of it) is better covered by the scope and powers of another participating ombudsman.
- 17 A complaint is better covered by the scope and powers of another participating ombudsman where (for example):
- 17.1 the complaint is outside the territorial scope of the first ombudsman but inside that of the second ombudsman;

- 17.2 the consumer is outside the 'eligible complainant' scope of the first ombudsman but inside that of the second ombudsman;
- 17.3 the complaint is outside the time limits of the first ombudsman but inside those of the second ombudsman; or
- 17.4 the amount of potential redress is above the award limit of the first ombudsman but within the award limit of the second ombudsman.
- 18 Each of the participating ombudsmen will nominate at least two contacts for other participating ombudsman that wish to check for these purposes: the businesses and activities it covers; and the extent of its jurisdiction and powers.

Investigation and harmonisation

- 19 So far as they can lawfully do so, and with the consent of the parties where that is legally required, the participating ombudsmen will cooperate with one another in relation to:
- 18.1 investigation of complaints where more than one ombudsman is involved; and
- 18.2 how different ombudsmen independently approach the resolution of similar complaints.
- 20 Future reviews of this protocol will consider whether, in the light of practical experience, further guidelines are appropriate in relation to these two issues.

Annex

The memorandum of understanding dated 3 May 2012 referred to in paragraph 12 was entered into by:

- Solicitors Regulation Authority
 - Bar Standards Board
 - Council for Licensed Conveyancers
 - ILEX Professional Standards Limited
 - The Intellectual Property Regulation Board
 - Financial Services Authority
 - The Law Society of Scotland
 - Royal Institution of Chartered Surveyors
 - National Federation of Property Professionals
 - Institute of Chartered Accountants of Scotland
 - Institute of Chartered Accountants of England and Wales
 - Claims Management Regulator
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Note: Broadly –

FOS jurisdiction:

- *businesses covered: those carrying on specified financial services and consumer credit activities*
- *territorial scope: services provided in or from the UK (but not Isle of Man nor Channel Islands)*
- *complainants covered: consumers and micro-enterprises*
- *time limit: within six years of act/omission or (if later) three years of knowledge*
- *maximum award: £150,000*

LeO jurisdiction:

- *businesses covered: lawyers and legal businesses authorised in England and Wales*
- *territorial scope: services provided worldwide*
- *complainants covered: consumers and micro-enterprises*
- *time limit: within one year of act/omission or (if later) one year of knowledge*
- *maximum award: £30,000*

OSC jurisdiction:

- *businesses covered: some telecommunications businesses*
- *territorial scope: services provided in the UK, Isle of Man or Channel Islands*
- *complainants covered: consumers and micro-enterprises*
- *time limit: one year of knowledge*
- *maximum award: £5,000*

OSP jurisdiction:

- *businesses covered: chartered surveyors, some estate agents, managing agents and letting agents*
- *territorial scope: services provided in the UK, Isle of Man, Channel Islands and chartered surveyors operating in EU member states*
- *complainants covered: consumers and micro-enterprises*
- *time limit: one year of knowledge*
- *maximum award: £25,000*

TPO jurisdiction:

- *businesses covered: some surveyors, estate agents and letting agents*
 - *territorial scope: services provided in the UK, Isle of Man or Channel Islands*
 - *complainants covered: consumers and micro-enterprises*
 - *time limit: one year of knowledge*
 - *maximum award: £25,000*
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