ombudsman news

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essential reading for financial firms and consumer advisers

Financial Ombudsman Service

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about this issue

In this issue we take a look at the right of 'set off'. A bank or building society might decide to exercise this right if a customer has several different accounts with it – for example, a current account, a savings account and a credit card account – but has insufficient money in one of these accounts to meet a particular payment when it becomes due. The right of 'set off' allows the firm to look at the customer's overall position and to settle the outstanding amount by transferring money from one of the customer's other accounts. Our article on page 3 outlines the conditions that have to be met before a firm can do this, and provides some recent case studies where customers have complained to us when their bank or building society has exercised this right.

On page 7 we focus on the rule changes that the Financial Services Authority has introduced, relating to the time limits for consumers who wish to refer mortgage endowment complaints to us. In essence,

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these changes mean that firms must now warn mortgage endowment customers that there is a time limit and a 'final date' for making a complaint about their policy – and that once this 'final date' has passed, the complaint becomes 'time barred'. Our article sets out how we are interpreting the rule changes and how we now regard complaints made to us during the periods affected by the changes.

Finally, on page 11, we examine the term '*any occupation*' – used in policies that offer benefits if the policyholder is so disabled by an accident or illness that they are unable to carry on 'any occupation'. Our article illustrates how we view disputes that are referred to us involving the term, which is one that the Court of Appeal has held to be ambiguous.

our **external liaison team** can

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phone **020 7964 1400**
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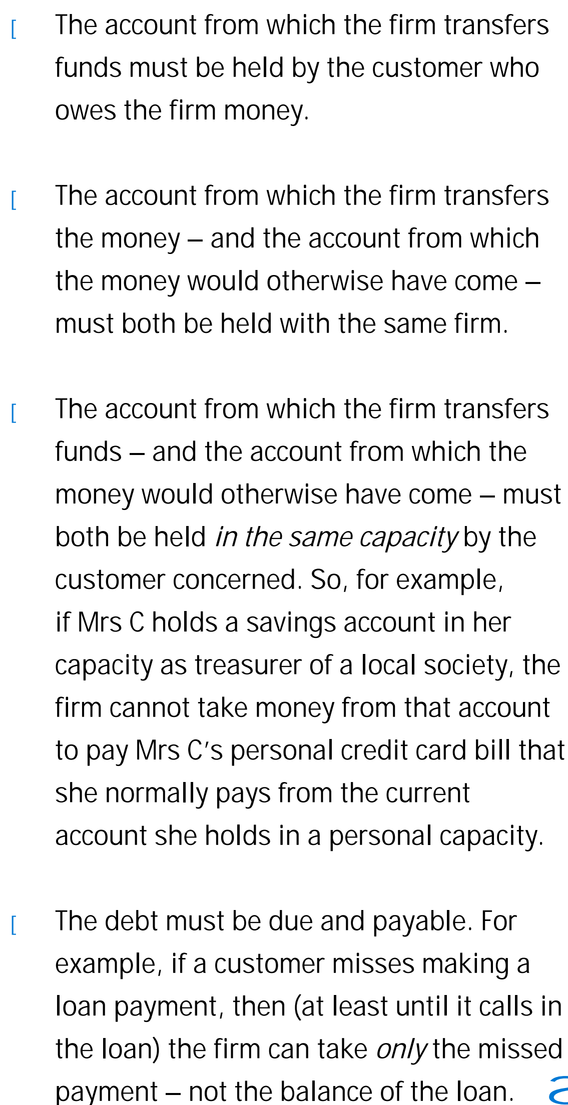
1 banking: firms' right of 'set off'

It is not unusual for a customer to have a current account, a savings account and a credit card account – all with the same bank or building society. The same customer might also have a loan, an ISA and a mortgage with that firm. And some of those accounts might be held jointly with someone else, usually a spouse or business partner.

In this article we look at what the firm can (or should) do where a customer does not have enough money in a particular account to make payments due from that account, but *does* have sufficient funds in one of their other accounts with the firm.

For example, when an overdraft facility on a current account runs out and the customer fails to pay the amount owed, can the firm take money from the customer's savings account to reduce or clear the debt? Or, if a customer fails to make credit card or mortgage payments, should the firm use available funds from that customer's current or savings account to make the missing payments, thereby helping the customer to avoid extra interest or charges?

The basic position is that a firm has a right – but not a duty – to look at a customer's overall position and to 'combine' the accounts held by that customer. This is sometimes called a right of 'set off' or a right to 'combine' accounts. A firm has this as a general right, whether or not it mentions the right in the account terms. So, in the examples above, the firm *can* transfer money from an account that is in credit in order to make payments due on another account. But it does not have to do this.



Certain conditions must be met before the firm can exercise its right of 'set off'.

- The account from which the firm transfers funds must be held by the customer who owes the firm money.
- The account from which the firm transfers the money – and the account from which the money would otherwise have come – must both be held with the same firm.
- The account from which the firm transfers funds – and the account from which the money would otherwise have come – must both be held *in the same capacity* by the customer concerned. So, for example, if Mrs C holds a savings account in her capacity as treasurer of a local society, the firm cannot take money from that account to pay Mrs C's personal credit card bill that she normally pays from the current account she holds in a personal capacity.
- The debt must be due and payable. For example, if a customer misses making a loan payment, then (at least until it calls in the loan) the firm can take *only* the missed payment – not the balance of the loan.

We would not usually expect a firm to warn customers before it exercises its right of 'set off'. A warning might prompt customers to move their money to an account with a different firm. But we think that it is usually good practice for a firm to tell a customer as soon as possible after it has made a transfer.

We would not generally expect a firm to use 'set off' before giving the customer a reasonable opportunity to pay the debt. However, what is '*reasonable*' might depend on the customer and the history of the account.

The general position can be modified by agreement between the firm and its customer. This might include:

- an agreement that 'set off' be available to a firm's mortgage arm, where it is a separate legal entity;
- an agreement to regularly 'sweep' any money over a certain balance out of a current account and into a savings account;
- an agreement that money held by a customer in one capacity can be used to pay debts owed by the same customer in a different capacity.

The following case studies illustrate how this works in practice.

case studies: banking – firms' right of 'set off'

40/1
transfer from joint account to pay debt on sole loan account

Mr G, an elderly widower, needed help with his financial affairs. He decided to make his daughter, Mrs B, a joint account holder on his current account. In that way, she could pay bills for him. It would also be easier for her to tie up his affairs after he died.

Some time later, Mrs B took out a personal loan with the same firm. Her father was quite unaware that she had difficulties paying the monthly instalments, and that the firm eventually called in the loan. Because Mrs B was unable to repay the money, the firm transferred funds into her loan account from the joint account she held with her father.

... what is 'reasonable' might depend on the customer and the history of the account.

... customers must be given personal notice of any terms that are to their disadvantage.

When she discovered what had happened, Mrs B was extremely upset because it meant that she had to tell her father about her financial problems. This was not only an embarrassment for her – it became a serious worry for her father.

When she complained, the firm defended its actions, telling her that the *terms and conditions* of the joint account allowed it to transfer the funds from the joint account. Unhappy with this, Mrs B then brought her complaint to us.

complaint upheld

The edition of the *terms and conditions* that the firm referred to was the most recent version. It had been issued some years after Mr G had opened his current account – after Mrs B had become a joint account holder *and* after Mrs B had taken out the loan.

Mrs B did not recall seeing the leaflet containing the updated *terms and conditions*. However, she accepted that she might well have received a copy as part of a regular mailing from the firm – probably with her monthly statement.

We noted from the latest version of the *terms and conditions* that there *was* a term allowing the firm to take money from the joint account to pay debts owed solely by Mr G or by Mrs B, as well as to pay debts owed by them jointly. However, we thought that this was such a radical departure from the normal position that it was an '*unusual*' term. It was also an '*onerous*' term, because its effect was to make Mr G liable for Mrs B's debts.

A firm can only rely on terms that are '*unusual*' and '*onerous*' if they have been brought fairly to the customer's attention. *The Banking Code* says that customers must be given personal notice of any terms that are to their disadvantage. We did not think it enough for a firm simply to include the revised edition of the account terms when it sent out routine statements to its customers, which is what had happened here.

We also thought that the term was '*unfair*' within the meaning of the *Unfair Terms in Consumer Contracts Regulations 1999*. This was because it created a significant imbalance in the parties' rights and obligations, to the detriment of customers. Specifically, it had the effect of making Mr G a guarantor of Mrs B's debts – but without giving him the information that a guarantor should usually be given.

We told the firm to transfer the money back to the joint account – leaving it to find other ways of recovering the money that Mrs B still owed.

40/2
transfer from savings account to daughter's credit card account

Mrs J had a current account and a savings account with the firm, as well as a credit card account. She was also an 'additional cardholder' on the credit card that her daughter had with the same firm.

Mrs J decided to set up a standing order to pay £100 a month from her current account into her credit card account. Unfortunately, a mistake by the firm resulted in the money going instead to her daughter's credit card account.

Then because no payments were being made into *Mrs J's* credit card account, the firm decided to transfer money into that card account from her savings account. When the firm refused to uphold her complaint about this, Mrs J came to us.

complaint upheld in part
Mrs J had not paid the bill for her credit card. The card was issued by the firm and held by Mrs J in a personal capacity. She held a savings account with the firm, also in a personal capacity. So the firm *could* use money from Mrs J's savings account to pay her card bills.

However, it was clear that if the firm had set up the standing order correctly in the first place, there would have been no arrears. And Mrs J was not liable for her daughter's card bills, even though she was an additional cardholder. So we told the firm to reverse the entries and to make any necessary adjustments to the interest and charges that Mrs J had been asked to pay.

Mrs J's daughter remained liable to pay her own credit card bill.

40/3
transfer from sole savings account to pay arrears on joint mortgage

Mr D and Miss T had a joint mortgage with the firm. Mr D also had a savings account with the same firm. He was often a few weeks late in making his mortgage payments and, on a number of occasions, he had to pay fees for being in arrears.

A couple of weeks before the couple were due to go on holiday, Mr D visited his local branch of the firm. He intended to withdraw some money from his savings account in order to pay a few bills and get some spending money for his holiday.

... if the firm had set up the standing order correctly in the first place, there would have been no arrears.

... the firm had transferred most of his savings to pay the arrears on his and Miss T's mortgage.

However, he was very shocked to find that the balance on his savings account had been reduced almost to nothing. The firm had transferred most of his savings to pay the arrears on his and Miss T's mortgage.

complaint rejected

The mortgage was held on a 'joint and several' basis. That meant that Mr D and Miss T were *both* liable to make payments on it – both individually and together. So, Mr D did owe the mortgage arrears to the firm.

Mr D held the savings account in a personal capacity. So the firm could transfer money from Mr D's savings account to pay the arrears he owed on the mortgage. It did not matter that Miss T also owed those arrears, because that did not make any difference to Mr D's liability for them. We therefore rejected the complaint.

2 mortgage endowment complaints – time limit changes

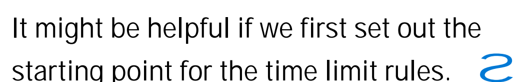
In an earlier edition of *ombudsman news*, we noted that the Financial Services Authority (FSA) had introduced rule changes relating to the time limits for consumers wishing to refer mortgage endowment complaints to us. In essence, these changes mean that firms must now warn mortgage endowment customers that there is a time limit and a 'final date' for making a complaint – and that once this 'final date' has passed, the complaint becomes 'time-barred'.

This article sets out:

- how we are interpreting these rule changes; *and*
- how we now regard complaints made to us during the periods affected by the changes.

We also address some of the concerns that have been expressed to us about this complicated area of our work.

It might be helpful if we first set out the starting point for the time limit rules.



... once this 'final date' has passed, the complaint becomes 'time-barred'.

Our jurisdiction for considering a complaint is determined by the Dispute Resolution Rules (DISP Rules) laid down by the FSA in its *Handbook*. The time limits for referring a complaint to us are set out at DISP Rule 2.3.1. This states (at DISP Rule 2.3.1R(1)(c)) that:

'The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service ...

(c) more than six years after the event complained of or (if later) more than three years from the date on which he became aware (or ought reasonably to have become aware) that he had cause for complaint, unless he has referred the complaint to the firm or VJ participant or the Ombudsman within that period and has written acknowledgement or some other record of the complaint having been received.'

The new rules apply where the complainant's time for referring the complaint to the Ombudsman had not expired on or before 31 May 2004 (under the rules as they stood at the time), or had not begun to run before that date.

To ascertain whether the complaint could have been considered on 31 May 2004, we need first to apply the 'old' rules. If the complaint is time-barred under the 'old' rules, it remains so and is not brought into time by these changes.

The new rules are an exception to DISP 2.3.1R (1)(c), (the 'six and three year rule' above). In essence, this rule says that the complaint must be brought three years from when the complainant knew, or ought reasonably to have known, that they had cause for complaint.

The three-year time limit for referring the complaint to us starts to run from the date the complainant first receives a letter or equivalent (usually from the product provider), warning them that their policy will only be on track to meet its target maturity value if – from the date of the letter until the policy matures – it achieves a growth rate of over 8% per annum. This letter is usually referred to as a 'red' re-projection letter.

Under the new rules, the time period still ends three years from that date, (on a date now called 'the final date'). But under the new rules, that 'final date' only takes effect when the complainant has also received – (within the 3 year period, and at least six months before the final date) – an explanation that the time within which their complaint can be referred to us will expire on a specified 'final date' [DISP2.3.6R (1) (a) & (b) and (2)].

... our jurisdiction ... is determined by the Dispute Resolution Rules, laid down by the FSA.

... in most cases, the product provider will send the warning in its re-projection letter.

Under DISP 2.3.6R (3), if notification of the 'final date' is either:

- incorrect; *or*
- sent late, so that the complainant receives it more than 2½ years after receiving the first 'red' letter (or its equivalent);

then the time for referring a complaint continues to run until a (later) 'end' date is specified in an explanation sent to the complainant. This later date must not be less than 6 months after the date on which the notice is sent.

Transitional provisions are in place for complaints where the three-year period from the date when the complainant receives the first 'red' letter (or its equivalent) expires on or before 30 November 2004. In these cases, the explanation must stipulate a final date, which must not be less than two months from the date on which the complainant is likely to receive the explanation.

It is important to note that the rules do not require the firm against which the complaint has been made to send the customer the warning about the 'final date'. It is envisaged that, in most cases, the product provider will send the warning in its re-projection letter. However, this does not prevent an independent adviser, who sold the policy, from relying on a 'final date' given to the complainant by the product provider, as long as that 'final date' is correct.

The two main exceptions to this new time limit are if:

- the Ombudsman Service is of the opinion that, in the circumstances of the case, it is appropriate for the six-year/three year rule in DISP 2.3.1R (1)(c) to apply, (for example, because a previous policy review letter was issued with an individual projection, a forecast shortfall and an encouragement to the customer to take action). [2.3.6R (5)]; *or*

- the complainant's failure to comply with the time limits in DISP 2.3.6R was the result of exceptional circumstances. [DISP 2.3.1R (2)].

And, as before, the time limit has effect only if the firm formally objects to our considering the complaint [DISP 2.3.1R (2)]. We always ask a firm to confirm to us – within 21 days of our converting a complaint into a 'case' – whether it wishes to raise any objections, on jurisdiction grounds, to our considering the case.

The rules must be applied strictly where time bars are concerned, and, as already noted, there are only very limited circumstances where we can look at a case that falls outside of the time bars.

… these letters are described as 'green', 'amber' or 'red'

When considering cases where the time bar might apply, we examine all the facts of the individual case very carefully. In particular, before we time-bar a case:

- the firm concerned will have made a formal objection to our considering the merits of the case (If a firm does not raise the issue of a time bar we cannot apply it);
- in the light of that objection, we will have made sure that, because the time limits that apply to endowment mortgage cases have not been met, the case falls outside our jurisdiction; *and*
- we will be satisfied, on the basis of all the information available to us, that we have seen no evidence of the sort of exceptional circumstances that might be sufficient for us to waive the time limits.

The FSA has required firms to write to all endowment policyholders telling them how their policies are progressing. These review letters must contain certain information and, in particular, must say whether or not the policy is 'on track' to meet its target amount. These letters are described as 'green', 'amber' or 'red', depending on how likely it is that the policy will meet its target. The firm will send 'red' letters if it considers it very likely that a policy will fail to meet its target amount unless it grows by more than 8% in the future.

'Red' letters contain strong recommendations to the consumer to take action, and are deemed to put the consumer in a position where they '*know or ought to know*' that the policy may fail to do what they want it to do and pay off their mortgages.

Some firms representing complainants have said that they do not think that these letters are sufficient to '*start the clock running*' for time bar purposes. However, DISP Rule 2.3.6R states clearly that the time for referring a complaint to the Financial Ombudsman Service starts to run when a complainant receives a 'red' letter and that these rules apply where they are more advantageous to the complainant than the application of the normal time limit rules at R2.3.1.

3 *'any occupation'* – an unfair contract term in personal accident/critical illness insurance?

You can insure yourself against the risk of an accident or illness leaving you totally and permanently disabled and preventing you from carrying on:

- your own occupation;
- any occupation for which you are suited (for example, because of your education, training or experience); *or*
- any occupation whatsoever.

The most expensive level of cover is that which pays you benefits if you are unable to continue with your '*own occupation*'. As long as your disability prevents you from continuing in the occupation you had before the accident or illness (your '*own occupation*'), you will get benefits – even if you are still able to carry out some alternative form of paid employment.

The cheapest form of cover is that which pays you benefits if you become so disabled that you are unable to continue with '*any occupation*'. Insurers usually interpret this to mean that you will receive policy benefits only if you are unable to carry out any occupation at all. It is a high threshold to pass, since few people are so disabled that they cannot, ever again, carry out any occupation at all.

However, the Court of Appeal has indicated that the term '*any occupation*' is ambiguous, so it should be interpreted in favour of the policyholder rather than the insurer. In the case of *Sargent v GRE (UK) Ltd* (reported 16 April 1997 on www.lawtel.co.uk), Mr Sargent had '*any occupation*' cover and suffered a serious hand injury. The insurer argued that benefit was payable only if the injury meant that Mr Sargent was now unable to undertake any occupation at all. And since Mr Sargent was still able to do *some* manual labour, even though this was at a less skilled level than the work he had done before the accident, the insurer said he was not entitled to any benefit.

Mr Sargent thought that the term '*any occupation*' in his policy meant that if, as a result of his accident, there was *any* occupation that he was now physically incapable of doing, even if this was an occupation for which he had received no training or shown no previous aptitude (such as being a concert pianist), then he should receive the benefit.

The Court of Appeal found unanimously in favour of Mr Sargent: '*the potential width of the expression* 'any occupation' *is circumscribed by its context and implicitly limited to any relevant occupation. The evident purpose of personal accident insurance against permanent disablement of a person... is to provide for the event that he is permanently disabled from attending to his occupation as at the time of his disabling injury and not just to provide for the more drastic and remote event that he would not be able to attend to any occupation of any kind at all ever again.*' (Lord Justice Mummery).

... the Court of Appeal has indicated that the term '*any occupation*' is ambiguous.

The outcome of the Court of Appeal's judgment broadly corresponds with our 'fair and reasonable' approach to such cases. We feel it is very harsh to limit benefits to those rare situations where a policyholder is completely unable to carry on any occupation whatsoever (unless, of course, the policy clearly and unambiguously states this — and the limited nature of the cover has been adequately explained to the customer at the point of sale).

If a policy is just restricted to '*any occupation*', we interpret this as meaning 'any *relevant* occupation', that is, any occupation for which the complainant is suited by reason of their education, training, experience, social standing, *etc*. Much will turn on the individual facts of the case — in particular the medical evidence and, to a lesser extent, the evaluation made of the policyholder's 'functional capacity'. However, we would not usually consider it reasonable to expect an unskilled manual worker to retrain as a skilled professional and vice versa.

… the outcome of the Court of Appeal's judgment broadly corresponds with our 'fair and reasonable' approach to such cases

case studies: '*any occupation*' – an unfair contract term in personal accident/critical illness insurance?

40/4
critical illness – '*any occupation*' cover – whether firm correct to reject claim solely on the basis of video evidence

Mrs T put in a claim under her critical illness policy for permanent total disability resulting from fibromyalgia. The insurer rejected her claim, saying she was not disabled from carrying out '*any occupation*'. It based its view on the video surveillance it had carried out. This showed Mrs T walking and moving normally. Mrs T was unhappy with the firm's decision and she complained to us.

complaint rejected
We did not think it was fair for the insurer to reject the claim solely on the basis of a short piece of video footage, so we asked the insurer to show the video to Mrs T's doctors.

The doctors agreed that the way in which Mrs T was seen to be moving on the recording was not consistent with the manner in which they had seen her moving during consultations. This cast some doubt over Mrs T's claim.

... unlike some policies, this one was written in very clear terms.

The policy covered Mrs T if illness prevented her from performing '*any occupation*'. We were satisfied that, even applying the more generous '*Sargent*' interpretation, the weight of the medical opinion established that Mrs T's condition did not prevent her from performing *any* occupation for which she was suited by reason of her education, training or experience. We therefore rejected her complaint.

[**40/5**

personal accident – '*any occupation*' cover – whether policyholder '*unable to carry out any occupation whatsoever*'

Miss G, a professional dancer, suffered a serious injury while performing in a West End show. The injury effectively ended her career as a dancer and she put in a claim under her '*any occupation*' cover.

Although Miss G was receiving state incapacity benefits, the insurer refused to pay her disability claim. It said that she did not fulfil the policy definition of disability: '*unable to carry out any occupation whatsoever*'. Miss G then complained to us, arguing that the insurer's decision was unfair and discriminatory.

complaint rejected

We noted that, unlike some policies, this one was written in very clear terms. Indeed, because of the nature of her occupation, the firm had required Miss G to sign a specific endorsement as part of her application for the policy. This confirmed that '*benefit will only be payable if Miss G is unable to perform any occupation whatsoever.*'

Having carefully reviewed all the medical evidence and 'functional capacity' reports, we concluded that Miss G was certainly so disabled that she was unable to continue working as a dancer. However, she was an educated and intelligent person, and was not disabled from *any* occupation for which she was suited, let alone from any occupation whatsoever.

The fact that Miss G was classed as 'disabled' for the purpose of state benefits did not necessarily mean that she was also disabled within the terms of the policy. We decided that the insurer's decision was neither unfair nor unreasonable in all the circumstances. There was no evidence to support Miss G's allegation that the insurer had contravened the Disability Discrimination Act 1995. We therefore rejected the complaint.

40/6

personal accident '*own occupation*' insurance – whether insurer's actions after receiving consultant's report were correct

Mr D, a motor mechanic, developed a phobia about germs. He felt compelled to wash his hands so frequently during the day that, eventually, he was unable to complete any of his tasks and he had to give up work altogether.

He was covered for illness that prevented him from carrying out his '*own occupation*', and he put in a claim to his insurer. The insurer paid him disability benefits for a few months. However, it stopped the payments as soon as it received a report on Mr D's condition from a consultant psychiatrist.

The insurer told Mr D that it would not pay him any further benefits because the psychiatrist had concluded, '... *once Mr D receives cognitive behavioural treatment for his phobia, it is likely that he will be able to return to work and have a relatively normal life within six months of the start of the treatment.*'

Mr D felt his benefits should continue, at least for the time being, but the insurer disagreed, so Mr D complained to us.

complaint upheld in part

We felt that the insurer's interpretation of the medical evidence was rather harsh. We were satisfied that, at present, Mr D's illness was preventing him from carrying out his '*own occupation*' of motor mechanic.

The psychiatrist had *not* said that Mr D could now return to work. She had said that it was likely he would be able to return to work:

- if certain conditions were satisfied (about the overall hygiene standards of the workplace); *and*
- after he had successfully completed six months of cognitive behavioural treatment.

The consultant indicated that a premature return to work would probably cause a recurrence of Mr D's underlying depression and anxiety.

We were satisfied that, at present, Mr D's illness was preventing him from carrying on with his occupation as a motor mechanic. We decided that the fair and reasonable solution was for the firm to reinstate benefits, at least until Mr D had completed the six months' cognitive behavioural treatment. After that, Mr D would have a medical reassessment. Future benefits would depend on the outcome of that reassessment and of the cognitive behavioural treatment.

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meet the Financial Ombudsman Service

As FSA-regulation approaches, we are running a series of events around the country for firms in the mortgage and general insurance sectors.

The events, which include an informal question and answer session, give you the chance to learn more about the ombudsman service. There's no need to book – just check out the details below and turn up on the day at the venue that's most convenient for you.

You and your colleagues will be most welcome at any of these events. No need to book – just turn up!

Each event starts at 10.50am, with a presentation at 11.00am (lasting around 50 minutes), followed by an informal question and answer session.

3 Nov	Edinburgh	Apex European Hotel, 90 Haymarket Terrace, Edinburgh EH12 5LQ
10 Nov	Gloucester	Holiday Inn, Crest Way, Barnwood, Gloucester GL4 3RX
16 Nov	Coventry	Britannia Coventry Hotel, Fairfax Street, Coventry CV1 5RP
24 Nov	Croydon	Croydon Park Hotel, 7 Altyre Road, Croydon CR9 5AA
1 Dec	Chester	The Queen Hotel, City Road, Chester CH1 3AH
8 Dec	Sheffield	Marriott Hotel, Kenwood Road, Sheffield S7 1NQ
15 Dec	Oxford	The Randolph Hotel, Beaumont Street, Oxford OX1 2LN

If you have any queries, contact us by email at technical.advice@financial-ombudsman.org.uk or phone 020 7964 1400

ask ombudsman news

telling customers about complaints and the ombudsman

Q My firm is about to be covered by the ombudsman service for the first time. Are there any rules we need to follow when we tell customers about how we deal with complaints – and about the ombudsman service?

A Firms regulated by the Financial Services Authority (FSA) have to comply with a set of complaints-handling rules – set out by the FSA in its handbook, in a section called *Dispute resolution: complaints*.

If you look in the publications section of our website – www.financial-ombudsman.org.uk – you'll find a technical briefing note for firms – *telling your customers about the Financial Ombudsman Service*. This briefing note outlines, among other things, what you have to tell your customers about the ombudsman service and how you can obtain copies of the leaflet you need to send consumers at the appropriate stage of the complaints procedure.

what should our notice say?

Q Can you help, please? I am aware that my firm is required to put up a notice in our branches/sales offices to show we are covered by the ombudsman service. However, I'm not sure quite what the notice should say, or what it should look like.

A The FSA's rules require firms to display a notice in their branches or sales offices, showing that they are covered by the Financial Ombudsman Service [rule reference DISP 1.2.9(3)]. This rule does not prescribe the format, size or wording of the notice, so firms have the scope to produce the notice in their own house style, to fit in with their own marketing.

A number of firms have chosen to show they are covered by the ombudsman service by displaying a Financial Ombudsman Service window sticker in their offices. The technical briefing note *telling your customers about the Financial Ombudsman Service*, mentioned in our reply to the previous question, tells you more about the window stickers and how to obtain them.