

ombudsman news

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



Financial
Ombudsman
Service

thinking ahead



Caroline Wayman
chief ombudsman

Retirement involves some of the most difficult choices people will ever make. At the same time as adjusting to giving up work, they need to look ahead to the type of life they'd like – and can realistically afford – in the next 20 or 30 years.

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And at the moment – as headlines report a rising state pension age, trouble at major pension schemes and the risk of scams – it might feel like a particularly worrying time for people making decisions about their future.

As Andrew Bailey, chief executive of the FCA, has pointed out, the responsibility for these decisions has shifted increasingly to individuals over the years – and it's essential that people are given the help they need to reach the right answers. And since the introduction of pension freedoms in 2015, the issue of people accessing their pension pots more flexibly – transferring from often valuable “defined benefit” (DB) schemes

to “defined contribution” (DC) ones – has been one of the most hotly-debated topics among financial advisers.

To put things into context, less than 2% of the complaints we received in the last financial year were about pensions, and DB to DC transfers represent just a fraction of our overall work. However, pensions account for a significant proportion of the complaints we receive about advisers. And given the sums of money involved in these transfers, it's understandable that advisers want to understand what they should do to prevent problems – and complaints – arising in the future.

These concerns are consistently raised with me at our roundtable events – whether we're in Brighton or Stirling. And yet, after lots of discussion about good practice, there's generally consensus that a tick-box approach to compliance isn't the right one. The FCA has now [set out](#) the next steps in improving pensions advice. As ever, the challenge for advisers isn't just to know the rules, but to apply them to real lives – understanding where people have come from, their hopes for the future, and what really matters to them.

second quarter statistics
continued

	... in Q2 July 2018 – September 2018				... in Q1 April 2018 – June 2018				... so far this year April 2018 – September 2018				... in the whole of 2017/2018 April 2017 – March 2018			
	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld
instalment loans	2,643	1,878	50	53%	289	224	69	60%	3,137	2,251	119	57%	1,554	1,122	393	58%
overdrafts and loans	2,640	1,570	261	24%	2,608	1,817	302	25%	5,347	3,330	564	25%	11,020	6,909	1,101	28%
buildings insurance	2,238	1,503	330	32%	2,187	1,695	327	39%	4,576	3,205	658	35%	7,503	4,726	1,144	34%
“point of sale” loans	1,292	841	165	52%	1,424	1,129	90	44%	2,782	1,930	253	49%	5,383	3,613	352	33%
self-invested personal pensions (SIPPs)	777	826	223	62%	1,107	922	137	59%	2,035	1,754	361	61%	3,215	2,051	591	52%
travel insurance	1,357	797	135	31%	1,167	798	147	37%	2,592	1,592	280	34%	5,120	3,165	671	36%
home emergency cover	846	568	174	42%	1,124	869	140	48%	2,037	1,449	312	45%	3,448	1,999	415	46%
hiring / leasing / renting	871	526	52	46%	826	547	73	40%	1,676	1,007	119	42%	2,611	1,587	248	31%
catalogue shopping	843	525	78	45%	951	679	68	45%	1,859	1,211	146	45%	3,992	2,191	225	45%
debit and cash cards	781	510	55	33%	705	480	50	34%	1,538	981	105	33%	2,979	1,844	332	26%
term assurance	593	439	90	11%	607	568	90	18%	1,300	1,031	181	15%	3,015	1,977	344	14%
deposit and savings accounts	605	422	60	32%	639	464	74	28%	1,299	887	136	30%	2,713	1,706	310	29%
contents insurance	666	376	98	27%	655	448	122	25%	1,336	818	223	26%	2,757	1,743	414	27%
whole-of-life policies	634	366	90	15%	566	414	71	19%	1,222	776	160	17%	2,130	1,304	280	16%
home credit	515	358	28	39%	337	308	22	40%	957	735	50	39%	1,223	808	102	34%
pet and livestock insurance	577	353	69	32%	566	422	46	29%	1,182	772	115	30%	2,507	1,544	310	27%
investment ISAs	487	337	81	40%	473	418	77	45%	981	744	155	43%	1,540	1,059	262	35%
personal pensions	955	336	100	33%	868	436	80	31%	1,802	759	180	31%	3,118	1,468	397	28%
electronic money	948	333	40	26%	896	368	40	26%	1,893	689	80	26%	3,742	1,155	163	32%
inter-bank transfers	566	293	37	32%	593	363	33	28%	1,176	647	70	30%	2,150	1,222	183	27%
debt collecting	828	271	33	32%	779	314	30	34%	1,630	564	64	33%	3,213	998	177	29%
mobile phone insurance	488	251	39	26%	403	217	37	32%	922	466	75	29%	1,829	977	110	39%
private medical and dental insurance	388	248	70	18%	406	364	69	20%	829	614	139	19%	1,620	1,115	269	24%
mortgage endowments	405	228	53	19%	489	283	48	24%	936	521	101	20%	2,213	1,078	218	14%
credit reference agency	472	225	44	71%	534	347	22	36%	1,002	534	64	59%	2,242	1,060	96	32%
share dealings	368	225	51	40%	322	273	55	45%	729	496	107	43%	1,449	763	209	32%
critical illness insurance	293	215	55	15%	312	255	67	15%	631	470	122	15%	1,278	861	197	19%
income protection	308	210	55	24%	338	276	52	23%	672	481	107	24%	1,300	865	195	20%
portfolio management	260	203	59	44%	230	198	76	41%	529	400	135	42%	1,112	815	364	37%
specialist insurance	299	196	42	49%	365	248	42	51%	669	429	85	50%	1,581	1,076	158	33%
warranties	408	182	38	59%	420	237	44	52%	871	417	82	56%	1,884	919	178	44%
occupational pension transfers and optouts	194	181	74	50%	180	184	52	32%	426	371	126	42%	817	553	240	30%
roadside assistance	490	180	33	42%	368	219	44	34%	890	395	77	38%	1,220	712	120	36%
cash ISA - Individual Savings Account	212	178	36	31%	228	172	19	25%	470	350	56	29%	718	484	89	29%
legal expenses insurance	191	164	53	25%	203	173	59	28%	428	344	111	26%	952	660	239	30%

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secured loans	186	160	40	17%	224	165	36	24%	449	343	75	21%	1,174	781	187	25%
annuities	166	151	33	16%	146	148	29	19%	339	301	62	18%	940	744	188	16%
commercial vehicle insurance	192	151	28	36%	230	158	33	46%	483	332	63	41%	1,002	523	113	32%
merchant acquiring	177	132	20	32%	225	141	13	35%	432	274	33	33%	889	510	67	31%
store cards	247	132	9	45%	204	137	17	37%	460	262	26	41%	889	508	67	37%
cheques and drafts	183	122	19	39%	191	135	17	44%	381	252	36	42%	740	447	85	35%
conditional sale	124	110	32	49%	130	118	31	46%	280	251	66	47%	731	533	151	38%
direct debits and standing orders	254	105	17	33%	291	162	18	35%	539	251	34	33%	1,079	501	79	31%
guarantor loans	164	99	8	28%	107	70	12	34%	277	172	20	32%	368	210	48	22%
building warranties	113	87	26	34%	97	87	24	33%	227	178	50	35%	472	290	106	32%
personal accident insurance	116	77	13	20%	145	95	18	15%	267	170	32	17%	630	410	76	23%
card protection insurance	110	59	6	21%	132	81	4	25%	260	144	10	22%	751	347	24	26%
FSAVC – free standing additional voluntary contributions	40	54	18	22%	-	-	-	-	105	113	38	19%	170	116	33	27%
unit-linked investment bonds	64	54	29	36%	56	82	33	41%	140	146	63	38%	388	306	117	31%
commercial property insurance	66	53	19	42%	94	88	20	38%	170	149	40	40%	422	269	113	30%
endowment savings plans	79	53	10	39%	59	43	18	38%	153	102	27	39%	380	263	80	25%
“with-pro its” bonds	53	52	19	29%	57	55	20	25%	120	103	38	27%	266	188	75	23%
money remittance	101	48	12	37%	107	49	9	31%	209	100	21	34%	610	305	50	29%
guaranteed asset protection (“gap” insurance)	107	47	15	36%	103	68	9	20%	216	117	24	29%	421	209	36	24%
investment trusts	64	47	8	43%	-	-	-	-	139	92	16	40%	364	199	48	38%
caravan insurance	74	41	8	19%	-	-	-	-	146	74	13	27%	213	119	32	28%
income drawdowns	37	37	13	58%	48	55	8	47%	98	97	21	52%	202	169	54	36%
derivatives	-	-	-	-	49	67	19	11%	93	95	41	13%	290	183	94	19%
business protection insurance	-	-	-	-	58	53	10	25%	127	94	19	26%	314	189	53	25%
spread betting	-	-	-	-	51	44	27	13%	124	79	44	13%	289	179	89	22%
unit trusts	-	-	-	-	-	-	-	-	90	73	26	47%	175	121	38	34%
logbook loans	-	-	-	-	-	-	-	-	132	72	21	28%	178	113	32	37%
OEICs (open-ended investment companies)	-	-	-	-	-	-	-	-	57	72	19	42%	153	110	45	18%
credit broking	-	-	-	-	-	-	-	-	128	59	9	31%	403	202	49	25%
capital protected structured products	-	-	-	-	-	-	-	-	24	48	32	57%	169	137	59	29%
savings certificates/bonds	-	-	-	-	-	-	-	-	83	58	15	33%	180	99	17	23%
premium bonds	-	-	-	-	-	-	-	-	92	57	5	28%	206	98	15	21%
debt adjusting	-	-	-	-	-	-	-	-	138	56	10	39%	315	135	26	28%
foreign currency	-	-	-	-	-	-	-	-	143	55	9	16%	308	132	20	19%
safe custody	-	-	-	-	-	-	-	-	41	36	9	47%	132	98	21	45%

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PEP - personal equity plans	-	-	-	-	-	-	-	-	33	32	15	58%	112	92	33	23%
children's savings plans	-	-	-	-	-	-	-	-	-	-	-	-	66	33	10	20%
state earnings-related pension (SERPs)	-	-	-	-	-	-	-	-	-	-	-	-	148	92	16	8%
debt counselling	-	-	-	-	-	-	-	-	-	-	-	-	205	88	15	21%
executorships/trusteeships	-	-	-	-	-	-	-	-	-	-	-	-	97	56	14	40%
pawnbroking	-	-	-	-	-	-	-	-	-	-	-	-	93	55	12	49%
banker's refernce	-	-	-	-	-	-	-	-	-	-	-	-	109	47	5	37%
interest rate hedge	-	-	-	-	-	-	-	-	-	-	-	-	53	40	41	21%
non-structured periodically guaranteed fund	-	-	-	-	-	-	-	-	-	-	-	-	31	30	11	24%
sub total	149,025	97,671	10,226	31%	150,656	106,995	11,180	35%	311,668	204,724	21,654	33%	540,591	339,112	39,847	35%
other products and services	33,794	675	177	32%	32,543	832	191	34%	54,350	654	116	33%	72,276	855	173	30%
total	182,819	98,346	10,403	31%	183,199	107,827	11,371	35%	366,018	205,378	21,770	33%	612,867	339,967	40,020	34%

The cumulative figures for Q1 (April 2018 to June 2018) and Q2 (July 2018 to September 2018) don't match the total figures provided in the table for the year so far (April 2018 to September 2018.) This is due to end of period adjustments for each quarter.

Q? &A what's on the table?

Each year we meet small regulated financial businesses across the UK to share our experience of complaints handling and to answer questions about our role.

In 2016, following the FCA's *Financial Advice Market Review*, we started running regular roundtable discussions specifically for financial advisers, hosted by our chief ombudsman and attended by representatives from the FCA.

Building on our existing engagement with the advice sector and its trade associations, these events provide a forum for discussion about financial advisers' perspectives on

the ombudsman – as well as about wider issues affecting their sector.

Anna Whitelock – a manager in our stakeholder team – gives an overview of the issues that often come up at our roundtables, and answers the questions we're most commonly asked.

“what support do you provide for financial advice businesses?”

While we've met thousands of advisers at our UK-wide events over the years, some have only recently become aware of our engagement work – and don't know about the full range of support we offer.

For many years, we've run introductory workshops across the UK for businesses who have very few, if any, complaints referred to the ombudsman service – which often includes financial advisers, but also small lenders and brokers. In contrast, our roundtable discussions are aimed specifically at financial advisers, helping to focus on what really matters to them. They're a chance to talk to our chief ombudsman face to face, and have the ombudsman and FCA together in the discussion.

We've also created a [page](#) for businesses, which brings together links to the online resources we have available, including our technical notes about different financial products and services we cover, and our database of ombudsmen's final decisions. If you're interested in meeting us, it's worth keeping an eye on our website, where we list our upcoming [events for businesses](#).

And if businesses have a question about a particular complaint that hasn't yet been referred to us, or about the ombudsman service more generally, they can contact our [technical advice desk](#) for informal support. It's open Monday to Friday from 9am to 5pm, on 020 7964 1400 or at technical.advice@financial-ombudsman.org.uk.

Q? &A

“how do you make sure your decisions are consistent?”

When we’re looking into a complaint, we want to reach an answer that’s fair and reasonable in the individual circumstances. As you’ll know from your own customers, while some people’s circumstances may have similar qualities, no one’s life is exactly the same as someone else’s. And those individual differences may mean that we suggest different outcomes in complaints that, on the face of it, involve the same broad issues.

When we resolve complaints, we keep our approach consistent. This involves the key questions we ask, the way we investigate, and the context and background to each case. As well as publishing guidance

on our website and regularly sharing illustrative case studies, we publish all our ombudsmen’s final decisions – so people can see how our approach plays out in real-life individual circumstances.

We put considerable resources into monitoring the quality and consistency of our case handling at all stages. Our practice groups, made up of experts from across our service, also help ensure we’re approaching issues in a consistent and fair way – which is especially important where the financial products and services involved are new, or where we’ve spotted new trends in an existing area.

“I’m concerned you apply today’s standards to advice given in the past – and why isn’t there a long stop to prevent old complaints?”

Our rules require us to take account of the law, regulators’ rules, and industry good practice *at the time of the events concerned*. If you don’t think that’s happened, then please talk things through with us – so we can explain our thinking and point you to the rules or guidance we’re looking at.

Financial products are often long-term contracts. And a problem – for example, with suitability – might not come to light until much later down the line. Even so, there are time limits for bringing a complaint. Generally, we can’t look into events that happened more than six years ago – unless the person involved contacts us within three years of realising they might have a reason to complain.

It’s understandable that the prospect of dealing with a complaint about an event that happened some years ago could be worrying. However, we weren’t able to consider more than half the 300 or so complaints we received last year that involved events that happened more than 15 years ago – which would have been caught by a “long stop”. And of those we did investigate, we upheld just 27% – less than the average proportion we upheld against financial advisers.



“my customer complained to you – and even though they didn’t win their case, I still had to pay a case fee”

In summary, businesses don’t pay a case fee for the first 25 cases they get in a year. And so it’s unlikely that you’ll have paid a case fee for your customer’s complaint. In fact, each year more than nine in ten of the businesses whose customers complain to us don’t pay any case fees.

We’ve always tried to ensure our funding arrangements are fair, with the businesses who account for most of our work paying relatively more towards running our service. We [consult publicly](#) on our plans and funding before each new financial year begins. And you can read more about how we used the funding we receive in our *annual report and accounts*.

“if my suitability report isn’t perfect – or I can’t find a certain bit of evidence – am I certain to lose the case?”

Clear documentary evidence of advice, such as a suitability report, is generally going to be a very useful piece of evidence if it’s available. But it’s only part of what we’d consider when reaching a decision in a complaint about financial advice.

We recognise that – for all sorts of reasons – certain paperwork might not be available, or isn’t as robust as, in hindsight, you would have wanted it to be. We’ll take into account the relevant law, rules, guidance and good practice at *the time of the events concerned*, and build a picture of

your customer’s circumstances. And then we’ll decide whether – weighing *everything* up – your customer has been treated fairly.

There’s no solution to “complaint-proof” every piece of advice a business gives. But if they’re giving appropriate, tailored advice, treating customers fairly and clearly documenting the conversations they’re having with customers, there should be no problems with the ombudsman.

“what’s your approach to complaints involving financial advice and new products like social impact investing?”

In the FCA’s call for input about social impact investing in 2016, some respondents expressed concern about the possibility of complaints coming to the ombudsman. We’ve been asking advisers about their experiences involving these types of investments – although most advisers we speak to haven’t advised customers about them. But we’ll continue to monitor this area and share any insight we have.

In general, however, as with other suitability-related complaints, key factors include how the risks or benefits of an investment option or strategy have been explained. So if we were to receive a complaint about this type of investment, we’d consider whether the advice given was clear, fair and not misleading.

Q? &A

what do advisers say about our roundtables?

“Having representatives from both FOS and FCA gave an insight into how both organisations view a case/situation which was really valuable.”

“Generally very open and honest views from both FCA and FOS.”

“I would happily have continued the discussion for much longer because it was so interesting and beneficial.”

“I thought going round the room asking for input was again very brave but handled extremely well by Caroline Wayman, and enjoyed that format.”

“It was a useful insight into how you work and think.”

“I would like to see more of these types of workshops; anything that builds relationships between the two “sides” has to be a good thing.”



Financial
Ombudsman
Service

meet us in ...

♦ Kent, 6 December 2018

[Check our website](#) for details of further upcoming events as they're announced