

ombudsman news

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



Financial
Ombudsman
Service

where credit's due



Caroline Wayman
chief ombudsman

Credit – how much of it there is, and who's using it – is rarely out of the news at the moment. In this light – and with official figures showing how significantly this area has expanded – it's not surprising we've heard from growing numbers of people who've taken out loans or finance. Our *annual review*, published earlier in the summer, showed complaints about consumer credit rising by 89% in the year to April 2017, following a 40% rise in the year before that.

Of course, using credit can mean people have useful protection if things go wrong – including the option of asking for our help in putting things right. As our case studies highlight, some people contact us after things they've got on finance break down – and they're left dealing with the knock-on effects. Other complaints – such as disputes over car finance – often stem from issues with communication or administration.

The FCA's [recent research](#) into high-cost short-term credit suggests its tougher rules have made a difference. Overall, it seems fewer people are using this type of borrowing – with no significant evidence of a “waterbed” effect, or of a rise in illegal money lending. And debt charities report that fewer people are coming to them for help specifically with problems relating to high-cost short-term credit. In our

annual review, we explained that, while we'd seen a rise in complaints about payday loans, many involved issues that arose in the past. More complaints might also reflect a growing confidence to come forward, following high-profile regulatory action.

Even so, there's still work to do. Although not every credit complaint is about trouble with debt, we've continued to hear from people who are

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struggling. As preferences change – for example, from payday loans to instalment loans – we’ve seen that lenders still aren’t always making the right call in checking people will be able to repay what they owe.

The Bank of England has given lenders a clear warning against complacency. And the FCA has pointed to a number of concerns – including the cost of overdrafts – that it will take steps to address. As the picture continues to develop, we’ll keep on sharing what we’re seeing.

Caroline



... lenders still aren't always making the right call ...

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first quarter statistics

a snapshot of complaints in the first quarter of 2017/2018

Each quarter we publish updates about the financial products and services people have contacted us about. We include the number of enquiries and new complaints we've received, the number of complaints referred for an ombudsman's final decision, and the proportion of complaints we've resolved in consumers' favour.

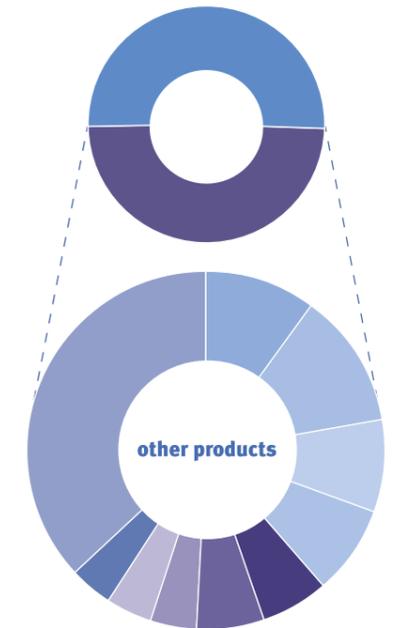
In this issue we show the new complaints we received during April, May and June 2017 – and for comparison, the complaints we received during the same period last year, and during the whole of 2016/2017.

In the first quarter of 2017/2018:

- We received 135,779 enquiries and 80,234 new complaints – with 8,414 complaints passed to an ombudsman for a final decision. On average, we upheld 35% of the complaints we resolved.
- PPI remained the most complained-about financial product, with 42,401 new complaints. Current accounts were the second most complained-about product, with 5,229 new complaints.

the financial products that consumers complained about most to the ombudsman in the first quarter of 2017/2018

- payment protection insurance (PPI) 53%
- complaints about other products 47%
- current accounts 6%
- car and motorcycle insurance 4%
- packaged bank accounts 4%
- payday loans 4%
- credit card accounts 3%
- house mortgages 3%
- overdrafts and loans 2%
- hire purchase 2%
- buildings insurance 1%
- complaints about other products 18%



	... in Q1 April - June 2017				... in Q1 2016/2017 April - June 2016				... in the whole of 2016/2017 April 2016 - March 2017			
	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld
payment protection insurance	57,186	42,401	1,675	40%	53,045	43,569	7,402	57%	213,418	168,769	16,443	52%
current accounts	7,772	5,229	684	27%	7,344	3,789	504	25%	31,128	17,434	2,188	27%
car and motorcycle insurance	6,435	3,137	537	29%	7,196	2,550	439	29%	29,154	11,844	1,871	30%
payday loans	4,384	3,126	564	68%	3,963	2,729	440	55%	15,007	10,529	2,225	59%
packaged bank accounts	5,269	3,097	219	13%	9,547	7,315	655	23%	29,310	20,284	1,641	19%
credit card accounts	3,712	2,640	384	30%	3,496	2,131	317	27%	15,253	9,104	1,371	29%
house mortgages	3,118	2,309	586	24%	3,729	2,620	467	44%	14,830	10,411	1,935	31%
overdrafts and loans	2,385	1,589	268	31%	2,372	1,496	297	26%	10,015	6,425	1,085	26%
hire purchase	1,944	1,334	255	36%	2,205	1,103	186	30%	9,035	5,029	911	34%

first quarter statistics
continued

	... in Q1 April - June 2017				... in Q1 2016/2017 April - June 2016				... in the whole of 2016/2017 April 2016 - March 2017			
	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld
buildings insurance	1,832	1,261	297	32%	2,108	1,255	274	37%	7,831	4,815	1,134	35%
“point of sale” loans	1,250	1,009	96	32%	1,114	550	91	32%	4,706	2,556	441	32%
travel insurance	1,082	763	148	39%	1,022	601	115	40%	5,047	3,191	656	38%
home emergency cover	722	568	113	45%	680	512	96	46%	3,163	2,117	396	47%
catalogue shopping	882	556	62	51%	716	358	37	49%	3,432	1,640	180	45%
self-invested personal pensions (SIPPs)	678	521	181	50%	427	328	113	66%	1,959	1,493	495	56%
term assurance	591	483	101	16%	752	610	95	18%	3,028	2,295	341	18%
deposit and savings accounts	667	460	67	30%	649	417	84	32%	2,644	1,740	306	29%
debit and cash cards	708	456	70	26%	496	277	41	26%	2,442	1,435	196	30%
contents insurance	650	439	89	27%	575	364	79	29%	2,440	1,555	353	26%
personal pensions	839	438	127	26%	965	461	79	30%	3,393	1,881	416	30%
specialist insurance	460	419	45	31%	292	166	16	42%	1,493	729	93	39%
pet and livestock insurance	616	408	82	25%	549	335	66	28%	2,487	1,508	289	30%
whole-of-life policies	457	349	81	20%	596	379	84	26%	2,374	1,580	326	20%
hiring / leasing / renting	548	328	47	30%	380	150	33	40%	1,819	920	131	32%
inter-bank transfers	473	322	47	27%	717	426	72	30%	2,820	1,645	231	26%
electronic money	861	290	41	32%	953	256	30	30%	3,909	1,183	163	30%
private medical and dental insurance	341	282	63	24%	400	293	66	30%	1,596	1,147	283	31%
mobile phone insurance	454	279	32	37%	376	159	18	38%	1,952	904	97	35%
investment ISAs	316	266	66	33%	381	292	56	36%	1,634	1,261	253	31%
debt collecting	752	263	39	28%	850	257	17	39%	3,057	1,027	113	32%
warranties	431	260	56	44%	696	278	58	39%	2,716	1,327	215	39%
mortgage endowments	476	258	49	15%	948	364	55	15%	2,973	1,511	236	15%
secured loans	317	236	56	21%	432	292	47	28%	1,694	1,147	190	24%
annuities	264	227	46	14%	144	128	32	13%	993	743	111	19%
portfolio management	265	227	87	40%	500	329	98	38%	1,702	1,216	348	41%
credit reference agency	449	217	15	33%	297	100	21	44%	1,461	579	82	35%
income protection	268	205	48	18%	364	274	67	26%	1,413	1,075	258	26%
critical illness insurance	266	204	49	20%	280	216	36	20%	1,185	849	150	18%
instalment loans	221	172	68	50%	175	185	50	35%	978	883	246	39%
legal expenses insurance	215	172	65	31%	264	174	63	22%	1,005	692	289	26%
roadside assistance	235	162	28	34%	315	173	35	39%	1,346	795	130	37%
share dealings	267	148	64	30%	312	152	46	40%	1,324	746	178	34%

first quarter statistics
continued

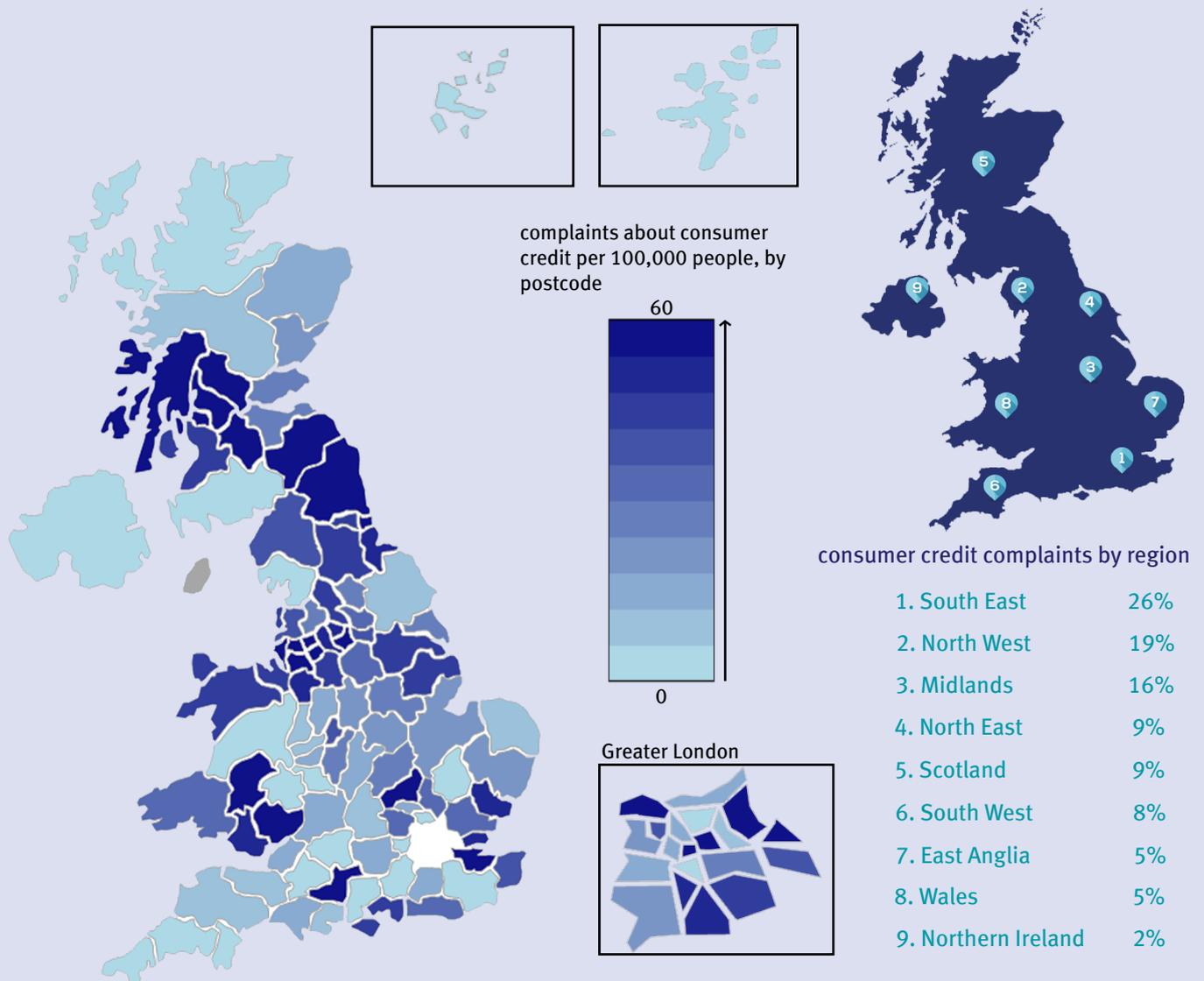
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direct debits and standing orders	268	135	29	33%	244	153	19	35%	937	581	84	30%
cash ISA - Individual Savings Account	203	133	21	24%	329	208	24	35%	1,007	716	107	36%
occupational pension transfers and opt - outs	160	124	63	29%	135	116	34	28%	673	496	143	27%
cheques and drafts	189	122	14	36%	219	118	13	33%	813	491	70	37%
merchant acquiring	189	115	16	23%	236	124	24	40%	979	515	82	35%
store cards	184	114	21	35%	228	112	10	37%	847	440	53	34%
conditional sale	144	111	31	34%	73	107	51	40%	587	550	208	36%
commercial vehicle insurance	212	109	27	27%	353	157	26	33%	1,447	620	127	32%
personal accident insurance	173	105	13	17%	184	191	43	22%	729	579	131	23%
money remittance	170	101	8	27%	-	-	-	-	608	255	26	38%
card protection insurance	178	94	7	34%	306	156	12	22%	978	493	38	20%
building warranties	119	89	28	29%	116	87	23	33%	598	487	200	30%
unit-linked investment bonds	86	73	32	39%	127	114	33	47%	587	484	148	39%
commercial property insurance	86	71	33	35%	160	124	41	38%	676	473	154	35%
home credit	82	68	15	20%	103	66	22	31%	490	328	94	30%
endowment savings plans	86	62	21	30%	142	105	26	16%	525	411	95	18%
guaranteed asset protection ("gap" insurance)	92	61	7	22%	113	58	5	31%	438	210	31	27%
investment trusts	113	61	8	44%	-	-	-	-	231	130	34	28%
business protection insurance	71	54	12	23%	147	80	14	33%	489	241	60	26%
"with-profits" bonds	73	52	19	19%	140	73	18	28%	379	256	61	29%
credit broking	86	50	14	33%	170	42	24	33%	665	228	81	32%
spread betting	66	50	37	15%	55	36	27	25%	320	202	87	21%
derivatives	50	49	39	28%	79	60	35	23%	379	268	114	21%
income drawdowns	46	45	15	35%	44	47	17	35%	200	172	59	37%
debt adjusting	89	44	9	26%	298	160	38	38%	886	560	248	23%
guarantor loans	63	34	11	20%	-	-	-	-	290	172	34	21%
capital protected structured products	22	30	14	19%	N/A	N/A	N/A	N/A	150	140	25	36%
caravan insurance	-	-	-	-	-	-	-	-	249	125	27	27%
children's savings plans	-	-	-	-	-	-	-	-	58	45	1	18%
crowdfunding (loan-based)	-	-	-	-	N/A	N/A	N/A	N/A	69	46	8	30%
debt counselling	-	-	-	-	-	-	-	-	512	342	121	16%
EPP - Executive Pension Plans	-	-	-	-	-	-	-	-	39	39	13	42%
foreign currency	-	-	-	-	-	-	-	-	252	118	26	36%

first quarter statistics
continued

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	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld	enquiries received	new cases	ombudsman	% of cases upheld
FSAVC – free standing additional voluntary contributions	-	-	-	-	-	-	-	-	187	127	40	27%
interest rate hedge	-	-	-	-	84	88	42	36%	273	250	147	35%
logbook loans	-	-	-	-	-	-	-	-	172	103	16	32%
Non-Structured Periodically Guaranteed Fund	-	-	-	-	-	-	-	-	70	73	29	42%
OEICs (open-ended investment companies)	-	-	-	-	50	34	10	38%	221	243	42	32
pawnbroking	-	-	-	-	-	-	-	-	97	44	12	30%
PEP - personal equity plans	-	-	-	-	-	-	-	-	97	85	22	37%
premium bonds	-	-	-	-	-	-	-	-	159	82	15	24%
safe custody	-	-	-	-	-	-	-	-	89	66	17	39%
savings certificates/bonds	-	-	-	-	-	-	-	-	115	67	7	16%
state earnings-related pension (SERPs)	-	-	-	-	-	-	-	-	163	112	18	9%
structured deposits	-	-	-	-	-	-	-	-	47	33	6	41%
unit trusts	-	-	-	-	-	-	-	-	189	139	34	33%
sub total	114,358	79,666	8,261	35%	116,757	81,029	13,508	48%	469,132	320,651	42,191	43%
other products and services	21,421	568	153	30%	20,635	680	126	34%	74,321	632	126	35%
total	135,779	80,234	8,414	35%	137,392	81,709	13,634	48%	543,453	321,283	42,317	42%

problems with credit

complaints about consumer credit, Q1 2017/2018



In 2016/2017 we saw an 89% rise in complaints about consumer credit – which includes products and services such as payday loans, hire purchase, and catalogue shopping. Excluding PPI, this area accounted for 17.5% of the complaints people brought to us – compared with 9% in 2015/2016. In addition, having fallen slightly the year before, complaints about credit cards rose by 17%.

As we explained in our [annual review](#), we’ve continued to hear from people who’ve fallen into debt – who may argue they shouldn’t have been lent to at all. Another significant proportion of people are unhappy with the quality of the goods or services they’ve got on credit, frustrated by administrative issues, or caught out by charges they hadn’t expected. These case studies illustrate the breadth of the problems we see – and how we approach putting them right.

In addition to our regular quarterly snapshot (p3), we’ve looked at where in the UK the approximately 7,500 complaints about consumer credit came from. Unsurprisingly, areas with larger populations generally account for more complaints in terms of numbers. However, if complaints from each postcode area are shared among the people there, some areas with relatively few people have a relatively high density of complaints.

Mr S complains that bank hasn't helped with credit card debt

Mr S told us his bank had treated him unfairly after he'd fallen into financial difficulties. He'd been struggling to keep up with repayments on his credit card – and a debt charity had advised him to ask the bank for help.

Mr S said he'd provided the bank with details about his income and expenditure. He said he'd told them he could only afford to pay £1 a month towards his credit card and had asked them to reduce or freeze the interest while he was struggling. But he hadn't managed to reach an agreement with the bank – and they'd issued a default notice on his account.

After Mr S complained, the bank had refunded some interest and charges. But they'd then passed his account to a debt collection agency to recover the money he owed. Mr S thought this was unfair and asked us to look into it.

putting things right

We contacted the bank to ask for their side of the story. They sent us notes from their system showing they'd been trying to contact Mr S about his debt for some months before he'd sent them the income and expenditure form. And after they'd received it, they'd written back to say he'd missed out information they needed – but they hadn't received a response

Mr S said he hadn't received the bank's request for information. In light of this, the bank had offered to refund the interest and charges on his account from the point when he'd first contacted them. They'd also said they'd send him another income and expenditure form.

We told Mr S that we thought the bank's offer was fair. He'd be in the position he would have been in if the

interest had been frozen when he first got in touch with them. So he wouldn't have to pay any more interest than he'd originally owed.

Mr S felt the bank had caused him a great deal of frustration, anxiety and stress at an already difficult time. We explained that, given that the bank had been trying to sort things out for some time, we didn't necessarily think it was unfair that they'd passed his account to a debt collection agency. But we encouraged him to contact the agency to set up a suitable repayment plan, with the help of the debt charity who'd helped him complain.

case study 141/1

catalogue shopping
pawning **payday loans** credit broking
debt collecting hire purchase
store cards point of sale loans
debt management

Ms B complains that finance provider won't repair phone bought on hire purchase

Ms B contacted us about the mobile phone she'd got on a hire purchase agreement. She said it had developed a fault not long after getting it, and she'd contacted the finance provider to get it repaired. But they'd refused to repair it, saying it wasn't the same phone she'd been sold.

After Ms B complained, the finance provider had offered to end the finance agreement – but still wouldn't repair the phone. Ms B insisted it was exactly the same phone and asked for our help to resolve the situation.

putting things right

We asked the finance provider for their version of events. They said the model didn't match their records – and insisted that the phone she was trying to get repaired wasn't the one they'd sold her.

We asked the finance provider to give us some evidence of the phone they'd supplied to Ms B – including the serial number. They said they hadn't recorded the serial number of the original phone – so they weren't able to verify the details.

In our view, it wasn't fair

for the finance provider to refuse to repair the phone when they weren't able to provide evidence that it wasn't the one they'd sold Ms B. We told them to repair the phone and to refund the payments Ms B had made under her hire purchase agreement while they'd delayed doing so.

case study 141/2

1 April 2014

Regulation of consumer credit transfers from the OFT to the FCA – and everything moves from our consumer credit jurisdiction to our compulsory jurisdiction.

1 July 2014

The FCA puts in place new tougher rules for high-cost short-term credit restricting loan “rollovers” and the use of continuous payment authorities.

2 January 2015

The FCA introduces a cap on payday loan fees and charges.

29 November 2016

The FCA launches a call for input on high-cost credit and overdrafts.

31 July 2017

The FCA publishes feedback to its call for input and sets out the next steps.

2014

2015

2016

2017

Mrs H complains that trouble with kitchen loan has left mark on her credit file

Mrs H contacted us about a default marker on her credit file in connection with a point of sale loan she'd used to buy a kitchen. She explained she'd decided to cancel the kitchen order with the retailer, and had assumed the finance had also been cancelled. But she'd later discovered the finance agreement was still in place – and the business had put a default entry on her credit file for non-payment.

Mrs H had contacted the retailer – who'd apologised for the error and cancelled the agreement with the finance company. The finance company had agreed to remove the default marker, but it had later reappeared on her credit file. After Mrs H complained, the finance company offered her £150 to reflect the upset they'd caused. But Mrs H didn't think they'd gone far enough and asked for our help.

putting things right

Mrs H told us she'd been unable to get a buy-to-let mortgage due to the default marker, losing out on considerable rental income. We phoned the finance company and asked if they'd now removed the default from her file. They explained they'd put in a request for it to be removed from her credit file, and they were waiting for confirmation of the change from the credit reference agencies.

We also considered whether the offer made by the finance provider was fair. To help us, we asked Mrs H for more information to show why she believed she was out of pocket. Mrs H sent us paperwork and correspondence relating to her mortgage application. Having carefully reviewed this, we concluded there wasn't any evidence that she'd lost out directly as a result of the default marker that had been applied to her

account.

We explained to Mrs H that – although the situation was clearly frustrating – we thought the finance provider had done enough to put things right. After hearing our opinion, she agreed to accept their offer of compensation.

case study 141/3

Mr K complains that finance provider won't repair hire-purchase TV

Mr K called us after a TV that he'd got on hire-purchase had developed a fault. He said he'd asked the finance company if they would repair or replace it under the terms of their service plan, but they'd said they wouldn't.

Mr K said he'd then tried to get the TV repaired by a local firm – but had been told it was unrepairable. Not sure what to do next, he asked us to look into the problem.

putting things right

We asked Mr K for more detail about the TV and how he'd been paying for it. He explained he'd paid off the hire-purchase agreement early, and a couple of months later the TV had stopped working properly. This was when he'd first

contacted the finance company to ask if they could help.

We asked the finance company to explain their side of the story. They said that, as Mr K had fully paid off the hire-purchase agreement, he was the full owner of the TV – which meant the service plan was no longer valid and he was now responsible for any repairs. They said that staff had explained this to Mr K when he'd gone into their store to ask about repairs.

We asked the finance provider for more details about their service plans. They told us that the service plan covered delivery and installation of goods, and that anything beyond that would be an optional extra that a customer would have to choose to take out.

When we looked at the service plan documents we could see that Mr K hadn't selected any extra cover. So he hadn't ever had a service plan in place that would have covered the kind of repairs he needed. And he wouldn't have had any protection under the hire purchase agreement to fall back on either, as he'd already paid off the agreement in full.

When we explained the position to Mr K, he was disappointed to have to give up on the TV – but accepted the finance provider wasn't at fault.

case study 141/4

Mr W complains that catalogue shopping company won't refund faulty tablet

Mr W got in touch with us about a number of issues with his catalogue shopping account. He said a tablet he'd bought through his account had developed a fault after only two days. But the business wouldn't agree to collect it from him and refund the cost. He also wanted a refund of the insurance he'd bought to cover it.

Mr W was also upset that the business had closed his account and passed it to a debt collection agency. He said he'd then found they'd put a default notice on his credit file because he'd missed payments – and hadn't sent him statements when he'd asked for copies of ones he hadn't received.

putting things right

Mr W told us he'd emailed the business about the faulty tablet two days after receiving it. But in their response to his complaint, the business said that Mr W hadn't contacted them about it until over a year after he'd received it – which meant it was outside the manufacturer's 12-month warranty. So they'd recommended he contact his insurance provider.

However, when we asked to

see the business's records, we could see he'd sent an email two days after receiving the tablet, as he'd said. There was another email soon after in which he'd complained that the business wasn't responding to him. It seemed there'd been some confusion as Mr W had been corresponding about several items around the time. But as for the tablet, there was clear evidence for Mr W's version of events.

We also needed to resolve the dispute about the statements. The business's records showed that Mr W had said he was going to cancel his direct debit and send all his statements straight back – because of the unsatisfactory service he'd received.

The business' records confirmed that post they sent to Mr W was often returned. So they'd flagged Mr W's account as "gone away" and stopped sending things to him.

In our view it was reasonable for the business to stop sending post in these circumstances – as they couldn't be sure the correct person was receiving it. And Mr W could have accessed his account and seen how

much he owed online .

We explained to Mr W that he'd breached his original credit agreement by stopping his direct debit. So we didn't think it was unfair for the business to have closed his account and passed on his debt.

However, we didn't think it was fair that the business had applied a default notice to Mr W's credit file – because they hadn't even tried to give him notice that they were going to do so. This meant he hadn't had the 28 days he should have had – which would have allowed him time to make a payment or agree a repayment plan.

To draw a line under what had happened, we told the business to collect the faulty tablet, and to refund the cost of the tablet and the insurance policy. We also told them to remove the default notice from Mr W's credit file.

case study 141/5

Miss N disputes excess mileage charge on car finance

Miss N phoned us after getting into a dispute with a car dealership. When her car finance agreement had ended after three years, she'd given back the car. But the dealer had said she owed £600 because she'd driven more than 7,000 miles in that time.

Adamant she hadn't been told about this limit, Miss N had complained – and had been offered a small discount as a “gesture of goodwill”. But Miss N didn't think she should have to pay anything at all – and asked for our help to sort things out.

putting things right

We needed to establish what had happened when Miss N took out her car finance. In particular, we needed to find out whether the mileage limit and charges had been

made clear to her.

We asked the car finance company for paperwork relating to her agreement. They sent us a document headed up “Personal Contract Plan Quotation”, which explained that the finance company could claim an excess mileage charge if someone drove more than 7,000 miles a year.

We asked Miss N what she remembered from when she signed up for the car. She said she'd told the dealer she'd be using the car to get to work, and that this would involve driving around 6,500 miles over the course of the year. She said she remembered being told the mileage limit was 10,000, which she'd judged to be enough to cover any extra driving she did at the weekends. She pointed out she'd been careful to do less

than 30,000 miles over the three years she'd had the car.

Miss N said she hadn't seen the document setting out the 7,000 mile limit – and we noted the document wasn't signed. When we told the finance company what Miss N remembered, they didn't challenge her account.

On balance, we decided she hadn't been told about the mileage limit of 7,000 – and that she wouldn't have agreed to it if she'd known about it. So we told the finance company they shouldn't apply the excess mileage charge.

case study 141/6

Mr A complains credit card company didn't apply default – so debt-management plan is still on credit file

Mr A wrote to us about information he didn't agree with on his credit file. He explained he'd been in financial difficulties seven years previously – and the defaults his creditors had applied had elapsed after six years. The exception was his credit card account, which hadn't been marked as in default – meaning his debt-management plan was still on his records.

Mr A said he'd complained to the credit card company – but they'd stood by their decision not to mark his account in default. They told him he needed to clear his debt with the third party it had now been sold to. Mr A felt he'd been treated even worse than someone who hadn't even tried to pay back what they owed – and wanted our help.

putting things right

We asked the credit card company for more information about the history of Mr A's account. They explained they'd frozen the interest for a year after

he'd said he was in financial difficulties. He'd then been charged a reduced interest rate during the years he was on his debt-management plan. And the interest had been frozen again at the point they'd sold the debt to the third party.

The credit card company said they hadn't been obliged to do these things, but they'd wanted to help Mr A. They'd thought that keeping his account open, rather than putting a default marker on it, had been better for his credit file.

Mr A had stuck to his debt-management plan for the most part – so a default hadn't been triggered. However, while he'd been on the plan, his repayments had barely covered the interest being added. By our calculations, it would have taken him over 100 years to repay the debt. And even now that his debt had been sold on and the interest frozen, it would take him around 20 years to pay it back at the current rate of interest.

When we pointed this out to the credit card company, they offered to refund the interest Mr A paid in the months he hadn't paid £1 towards his debt. But in our view, this wasn't enough.

We explained to Mr A that the credit card company weren't obliged to put his account into default. But we thought he'd been charged a disproportionate amount of interest. And, overall, the credit card company hadn't treated him sympathetically and positively, as they'd been required to.

In light of everything we'd seen, we told the credit card company to refund all the interest Mr A had paid while he was on his debt-management plan.

case study 141/7

Mr G complains he shouldn't have been given flexi-credit loan

Mr G contacted us about a flexible credit loan – a credit facility that works like a standalone overdraft with a credit limit. He explained he'd had the loan since 2013, and his debt had just been getting worse and worse. He said had other loans with payday lenders, and was borrowing to cover his monthly expenses. And he thought the business, a payday lender, should have noticed there were problems – both when they carried out their affordability checks, and during the time he'd had the loan.

putting things right

Given what Mr G had said, we wanted to know more about the checks the lender had carried out when deciding whether to lend to him. But the lender wouldn't share these checks with us – and said they didn't think Mr G's other borrowing made him ineligible for the flexible credit loan. They only told us that they'd asked him for details of his monthly income and carried out a credit check.

Because the lender wouldn't cooperate, we looked for evidence that would have been available about Mr G's financial circumstances at the time – for example, his bank statements. And we decided, based on this information, that the lender

should have been aware of his other borrowing.

We accepted this other borrowing didn't automatically make Mr G *ineligible* for the credit. But it did mean the lender should have then carried out further and more rigorous checks – to make sure Mr G would be able to meet his repayment commitments.

Looking at Mr G's circumstances more closely, we didn't think further checks would have uncovered anything to suggest Mr G wouldn't have been able to make repayments. However, the guidance around this type of borrowing says a business should monitor a borrower's repayment record and offer help if they seem to be in financial difficulty. And we didn't think the lender had done this in Mr G's case.

For example, the loan paperwork explained that it was designed to be repaid over a maximum of 10 months – and warned it wasn't suitable for long term or regular borrowing. But Mr G's loan ran for 17 months – and he frequently withdrew funds taking him up to his credit limit, just as his monthly repayment was due. In the first month, he'd already taken out the maximum amount.

We could see that Mr G had been relying on further borrowing to make his repayments – and the more he borrowed, the further he got from the original repayment schedule. In fact, the lender had increased his credit limit, enabling him to take on more borrowing. This meant that after 10 months, Mr G owed the lender more than he'd originally borrowed – at a time when the loan should have been fully repaid.

We thought it was obvious Mr G was in difficulty from the way he'd been managing his account – but the lender had failed to act as they should.

Taking all this into account, we told the lender to refund all the interest and charges applied to Mr G's loan when he wasn't using the account as it was supposed to be used – that is, when he was allowed to draw down further funds even though it looked like he might have been in financial difficulty. We told them to [add 8% simple interest](#) to this amount – and to remove any adverse information recorded on his credit file.

case study 141/8

Mr L complains that payday lender shouldn't have agreed to give multiple loans

Mr L told us he'd got into debt with several payday and instalment loans. He explained that the lender had already offered compensation for two loans – following a review of lending decisions, after FCA regulation began.

Mr L had complained that he shouldn't have been given his last two loans either – but the lender had said they hadn't done anything wrong. Mr L disagreed and asked us to look into things further.

putting things right

We contacted the payday lender to find out more about the checks they'd carried out before lending to Mr L. They said all of Mr L's applications had been automatically approved by their systems – and nothing had been flagged to suggest further checks were required.

It appeared the lender had asked Mr L about his income and expenditure before approving these last two loans. Based on what he'd told them, we didn't necessarily think the loans would have been unaffordable. But we noticed Mr L's answers were different to those he'd given when he'd taken out previous loans.

The lender also argued it had been several months since Mr L last *applied* for a loan with them. But there was virtually no break between his *repaying* the previous loan and taking out the further loans. So Mr L had been consistently in debt with the lender during that time.

In our view, based on Mr L's history of borrowing with the payday lender, it was clear he was dependent on borrowing. And just because the lender's computer system had approved the loans, it didn't mean they should have automatically lent him more money.

From what we'd seen, we decided the lender hadn't carried out proportionate checks before making their lending decision. If they had, they'd have realised the loans were unaffordable – and wouldn't have lent to Mr L. We thought they'd needed to do more to check what he'd said about his expenditure – and to get an up-to-date understanding about his financial commitments.

We saw from Mr L's bank and loan records that he'd been regularly borrowing from other short-term lenders around the time he'd taken out the loans he was

complaining about. He was also paying significant fees for having an unarranged overdraft and having direct debits declined.

If the lender had carried out proportionate checks, they'd have realised that Mr L wasn't likely to be able to repay more credit without borrowing more. In other words, the loans were unaffordable – and, as a responsible lender, the lender shouldn't have given them to Mr L.

Mr L wanted the lender to pay back all the money he shouldn't have been given. We explained that, since he'd had the money and used it, we didn't think this would be a fair outcome. However, we told the lender to refund all the interest, fees, and charges Mr L paid for the loans, adding [8% simple interest](#). And because it wouldn't be fair for Mr L's credit file to be negatively affected by the lender's poor decisions, we told them to remove the adverse entries relating to these loans.

case study 141/9



PPI – latest update



Richard Thompson
principal ombudsman and
quality director

On 29 August 2017, the FCA's new rules and guidance for PPI complaints come into effect – beginning a two-year timeframe for complaining about mis-sold PPI.

On 29 August 2017, the FCA's new rules and guidance for PPI complaints come into effect – beginning a two-year timeframe for complaining about mis-sold PPI. Richard Thompson, principal ombudsman and quality director, gives an update on what's been happening at the ombudsman in the run-up to this date.

in your recently-published *annual review*, you said there was ongoing uncertainty around PPI. Why was that?

When we published our *annual review*, the FCA had recently published its new PPI rules and guidance – and said there'd be a two-year deadline for complaining about mis-sold PPI. This all followed a Supreme Court judgment in late 2014, in the case of *Plevin v Paragon Personal Finance Ltd*. The judgment, and the FCA's rules, deal with a number of complex issues. But basically, what it all means is that some people may have a reason to complain – based on the amount of their PPI premium made up of commission and profit share, and whether this was disclosed by the lender. It also

depends on the type of credit the PPI was sold with, and when it was taken out and ended.

The FCA needed to consider what *Plevin* meant for future PPI complaints, which involved consulting on new rules and guidance. While the consultation process was ongoing, we worked hard to meet our commitment of giving everyone who'd complained to us an initial answer about whether we thought their PPI policy had been mis-sold. It did mean though that we didn't finally resolve as many PPI complaints we would have otherwise – so we ended the financial year 2016/2017 with around 170,000 PPI complaints, of which 140,000 were affected by the *Plevin* judgment.

what's the position now?

In the last three months, we've received a further 20,000 or so complaints about PPI – and there are now around 150,000 complaints waiting for the answer they need from us about *Plevin*.

Since the FCA's announcement this March – and the greater certainty that brought – we've seen financial businesses focused on getting ready for the new rules and guidance. And at the ombudsman service, we've been making sure we're in a position to move things forward as quickly as we can – both for people who've already contacted us, and those who might do in the future.

For example, the FCA's *Plevin* rules say that if commission and profit share made up over half the cost of someone's PPI policy, then they should be refunded the difference. So we've been talking to businesses to make sure they're clear about the information we'll need from them.

We've also been making sure we're ready for the FCA's upcoming communications campaign, which will run up until the complaints deadline of 29 August 2019. This is funded by a levy on the 18 of the largest financial businesses – and is intended to prompt consumers to check if they might be affected by PPI mis-selling. But it's still the

case that we don't know exactly how many people will decide to complain, and at what point in the next two years they might do so. Apart from the FCA's deadline, other time limits apply to complaining. So it's important people check their own situation and get things started if they think there's a problem with their PPI – rather than waiting to do so till just before the deadline.

In the meantime, we've been making sure we're geared up to deal with what's likely to be a significant increase in demand. We'll also be updating our website to reflect all the latest developments – and to make it easier for people concerned about PPI, and for businesses handling complaints, to find the information they need from us.

Also, as part of the FCA's [response to *Plevin*](#), it's told businesses they need to write to some customers whose complaints were originally rejected, but who could now complain about the issues raised in *Plevin*. By the FCA's estimate, that could be 1.2 million people – but there's uncertainty around how many people will go onto complain, how many complaints businesses will be able to resolve themselves, and how many will need our involvement. In addition, we don't yet know how far claims management companies are going to ramp up their activities around PPI.

do most PPI complaints still come to you through claims management companies?

Yes, it's still a majority of PPI complaints – over eight in ten at the moment. We've always highlighted that it's easy and free to complain directly – to businesses and to us. But the reality is that, in the past, it's often been text messages and ads from claims managers that have prompted many people to complain about PPI.

Claims management companies have a regulator and have a clear code of conduct. What's most important is that the consumer involved gets an answer about their PPI as soon as possible – which means claims

managers working cooperatively with us to provide the information we need.

so what are the next steps for PPI at the ombudsman?

We've been keeping in touch with people who are waiting for our answer about what Plevin means for their PPI complaint – and we'll move things forward as soon as we can. We'll need to look at the particular circumstances of each individual complaint to let people know exactly where they stand.

Longer term, it's clear we're still going to be dealing with PPI for some time. As I've said, people who think they've got a complaint have until 29 August 2019 to let the business know – though other time limits may apply, so it's best to act sooner rather than later. If people then have six months from the business's final response to contact us, that takes us into 2020 and beyond. Between now and then, we're likely to be very busy.

In the autumn, we plan to use *ombudsman news* to share some of our early insight into what we've been seeing since the new PPI rules have been in place. And we'll obviously carry on talking to all our stakeholders – so we're all working together to draw an important final line under PPI as quickly, fairly and efficiently as we can.



Q? &A



Financial
Ombudsman
Service

I saw earlier this year that you were recruiting for board members. How's that going?

We mentioned in our *directors' report and accounts* that there have been some changes to our non-executive board. Following a public recruitment exercise, Jenny Watson CBE joined the board on 1 June 2017 – and Baroness Warwick and Sienna Veit will be appointed from 1 September 2017.

Biographies of all our board members are available [on our website](#).

As part of its responsibility to ensure our service remains effective, the board has commissioned Cass Business School (part of City, University of London) on a project to help us understand emerging trends – from new

technology to sustainable workplaces – and what they might mean for us. We'll continue talking to our stakeholders about this work over the summer.

aren't you eventually going to be responsible for complaints about claims management companies?

Following Carol Brady's independent review of claims management regulation in 2016, the Government decided a new regulatory framework was needed. [The Financial Guidance and Claims Bill](#), which is currently going through Parliament, will mean the FCA will regulate claims management companies – a responsibility that currently sits with the Ministry of Justice.

As a result of this, it's expected that the Financial Ombudsman Service will look into complaints from people who are unhappy with the service they've received from a claims management company. Currently the Legal Ombudsman handles these concerns. The Legal Ombudsman's figures show that around 95% of its current claims management company workload involves financial services claims –

and a significant number of these involve PPI.

There's obviously a lot for us to be thinking about before these proposals come into effect – and we've already been talking to the FCA, HM Treasury and the Legal Ombudsman about the next steps. We'll keep on updating our stakeholders as things develop.

Financial Ombudsman Service

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consumer helpline

Monday to Friday 8am to 8pm *and*
Saturday 9am to 1pm

0800 023 4 567

technical advice desk

020 7964 1400

Monday to Friday 9am to 5pm

email

complaint.info@financial-ombudsman.org.uk

Just let us know if you need information in a different language or format (eg Braille or large print).

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