ombudsman news

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

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.

In this *ombudsman news*, Steve Webb calls for clarity about the standards to which advisers will be held if a customer raises concerns with us. Throughout this edition, we've aimed to provide that clarity – illustrating some of the complaints we've seen about pension transfers, how we've looked into what's happened, and why we've reached the decisions we have. We've also brought together some key voices in the pensions landscape, who've given their views on how things stand and what they see as the challenges ahead.

We're always open to feedback about what more we can do to support advisers in preventing complaints. The good news is that most financial advisers I meet – and indeed most financial advisers – haven't ever had a customer contact us. The better the conversations we have – both about past mistakes, and also about the future – the more likely it is that things will stay that way.

Caroline

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pensions and pension transfers – what's next?

The FCA has recently published new guidance on pension transfers, as well as a joint strategy with The Pensions Regulator. In light of these recent changes – and ongoing conversation between the financial advice sector, regulators and the ombudsman around transfer complaints – we invited key pensions commentators to share their views about the current landscape and what's on the horizon.

Keith Richards

Keith is chief executive of the Personal Finance Society

Caroline Mitchell

Caroline is a lead ombudsman at the Financial Ombudsman Service

Steve Webb

Steve is director of policy at Royal London, and was Minister of State for Pensions between 2010 and 2015

Edwin Schooling Latter

Edwin is the Acting Markets and Wholesale Policy Director at the FCA

Lesley Titcomb

Lesley is chief executive of The Pensions Regulator

"Working together, we can make the challenge of DB pensions transfers a success story for our profession"
Keith Richards

"When we consider a complaint we'll be asking: did the adviser really know their customer, and all their relevant circumstances?"
Caroline Mitchell

"As old style defined benefit pensions become rarer in the private sector, individuals are increasingly having to take more responsibility for their own retirement planning"
Steve Webb

"While transfers will be suitable for some, there is a risk of considerable consumer detriment in this area"
Edwin Schooling Latter

"The pensions sector needs to ensure people are making decisions with their eyes open, with the right guidance and information"
Lesley Titcomb

what's your view of the current pensions landscape?

KR To transfer, or not to transfer – that is the question. Between £20-30bn is transferred out of defined benefit (DB) pension schemes every year, so the personal finance profession has a key role to play in helping consumers answer this vital question to ensure they achieve the best outcome in retirement.

SW The pensions landscape continues to change rapidly. Automatic enrolment has brought nearly ten million new people into pension saving, while pension freedoms have given people a wide range of new choices about what to do with their money. As old-style DB pensions become rarer in the private sector, individuals are increasingly having to take more responsibility for their own retirement planning and face greater uncertainty about the future. They may also be more vulnerable to ever-inventive pension scammers. The constant tinkering with the tax relief regime does little to help stabilise the system.

ESL Although pension freedoms have offered more options to consumers, we have maintained our guidance that an adviser should start from the assumption that a transfer will be unsuitable and that for most people, retaining their defined benefit pension is likely to be in their best interests. While transfers will be suitable for some, there is a risk of considerable consumer detriment in this area. We have therefore increasingly focused our attention on making sure that people who are considering transferring their money out of a DB pension pot get the right advice.

CM Pensions can be very valuable assets – and the decisions people make can have a major impact on their retirement. The nature of our service means that when people contact us about their pension, they're inevitably worried about it in some way. Often their relationship with their financial adviser or the provider of their pension plan has broken down and they want us to step in to help.

LT The introduction of pension freedoms has been one of the most significant changes in decades. We welcome the positive impact for members of "defined contribution" (DC) schemes who no longer have to buy annuities, which have often been poor value.

However, the pensions sector needs to ensure people are making decisions with their eyes open, with the right guidance and information and are aware of the threats posed by scammers.

We are working with the FCA, Government and industry to address the risks to retirement savers getting good outcomes. An example is our recent publication of a joint pensions regulatory strategy with the FCA.

what do you see as the key issues facing the sector?

KR With greater freedom comes greater complexity, and therefore greater risks for consumers and greater responsibility for professional advisers.

To include DB schemes within pension reforms required the introduction of mandatory regulated financial advice to ensure that all consumers could access greater freedom of choice but equally ensure protection against poor or emotionally-driven decisions.

While the regulatory starting position is that most members of DB pensions will be better off sticking with the guarantees, some schemes have been offering extremely attractive, enhanced transfer values, making the temptation to transfer even greater.

But despite this regulatory starting position, advisers know that they cannot simply dismiss the possibility of a transfer out of hand, so as a profession, this is not a subject we can avoid socialising.

SW There is a lack of confidence and understanding about pensions. Gone are the days of fixed state pension ages or salary-related pensions about which members had to make few active choices. People will increasingly have multiple DC pensions, much more choice about how their money is invested, and what they do as they get closer to retirement. They also need to think about things like paying for care, possibly phasing retirement and perhaps using part of the value of their home to help fund their retirement. Access to good quality advice and guidance is more important than ever.

LT Transfers from DB to DC schemes are unlikely to be in the best interests of many members. Therefore, we want those requesting a cash equivalent transfer value (CETV) to have the information they need to make an informed decision.

We are working with the FCA and The Pensions Advisory Service to support trustees and scheme members where there is uncertainty around the future of a DB scheme. This includes providing letters for trustees for members, alerting them to the risks of transferring and giving information. Since the summer we have sent letters to 24 trustees.

We welcome legislation to ban cold calling but scammers are not going away. Our new ScamSmart campaign with the FCA urges the public to be on their guard when receiving unexpected offers about their pension.

CM It's important that people only transfer their money when it's right for them – and that they're aware of the risks of scams and dubious promises. It can be hard to keep a cool head when large sums of money are involved – and investments that promise stellar returns are understandably appealing. But making a hasty decision in response to a cold call is unlikely to end well. And as we've seen in examples that have made the news, people who've been told they need to make arrangements quickly may be especially vulnerable to being pressured into making unwise and usually irreversible decisions.

how can complaints be prevented?

LT Our guidance makes clear that trustees must check that members with a CETV of above £30,000 obtain appropriate independent advice before transferring to a DC scheme.

Large DB scheme restructurings are rare but we and the industry need to be vigilant when it comes to risks from unscrupulous financial advisers and introducers. Earlier this year, we commissioned former chief executive of the Money Advice Service Caroline Rookes to carry out a review of the British Steel Pension Scheme's member communications, after members were targeted. We expect her recommendations to inform our future guidance and support to trustees.

KR It is important to acknowledge the pressure advisers are under when they give advice in this changing landscape. Frequently, consumers will already have been tempted by six-figure sums and will only be going to an adviser as a means to unlocking that fund.

"Insistent clients" is just one area where advisers need to recognise and mitigate the risk of conflicts of interest to protect client interests and themselves.

In response, the Personal Finance Society has established a Pensions Advice Taskforce (PAT). I have been hugely encouraged by the number of senior experts who have wanted to take part, including representatives from regulated firms, consumer groups and public bodies. Together, we are developing a code of conduct for advisers that establishes good practice beyond the minimum legal and regulatory requirements, as well as a consumer-facing guide to help consumers understand what they can expect from a PAT member and how they can find one.

CM The pension freedoms give scope for people to think differently about how they use their retirement pot. And so we've had to develop our own thinking about looking into complaints involving the freedoms.

While people can have more control over their pension funds, financial advisers remain responsible for ensuring the advice they give is suitable. When we consider a complaint we'll be asking: did the adviser really know their customer, and all their relevant circumstances? Did they understand what their customer was trying to achieve? And were there any better ways they could have helped that customer get what they want from their retirement, rather than accessing their pension funds?

And whether or not a transfer goes ahead, our case studies show that financial advisers need to keep their customers up to date and manage expectations throughout the process.

SW Many complaints will relate to advice given years ago, especially in the case of DB transfers, so a flow of complaints seems inevitable, especially if/when the stock market turns down. It may be that advice firms should be proactively reviewing past cases to make sure that everything is in order and considering a conversation with clients before a complaint arises. More needs to be done to help consumers spot scammers, with a clampdown on unregulated 'introducers' almost certainly overdue. Similarly, a ban on cold calling would help to constrain one favourite tactic of the scammers.

ESL We've identified a number of issues within the DB transfer advice market – our October 2017 supervisory update found that less than half the advice we examined could be shown to be suitable. Our recent policy work has taken these findings into account.

As this is such a complex area, advice on pension transfers must be provided or checked by an adviser with a specialist Pension Transfer Specialist (PTS) qualification. To provide suitable pension transfer advice, advisers need to give full and proper consideration to the client's circumstances and the various options. Among other things, they should bear in the mind the points set out in our recent policy document.

Advisers need to make sure they gather enough information from their client. This includes establishing both the client's needs and their objectives. Where these conflict, advisers should be able to show that these have been considered and prioritised appropriately.

Advisers should ensure that they cover the advantages and disadvantages of existing schemes in a balanced way. For example, they should not overplaying the risks of sponsor insolvency as most DB pensions benefit from being covered by the Pension Protection Fund (PPF). The PPF will provide the majority of members with most of the benefits they have built up in their scheme.

"It is important to acknowledge the pressure advisers are under"
Keith Richards, PFS

When assessing a transfer, the advice must take into account the proposed destination of the transfer funds if a transfer proceeds, including both the proposed scheme and the proposed investments in that scheme. This applies even in a two-adviser model, where one firm is providing investment advice and a different firm is providing the specialist pension transfer advice.

where are things heading?

SW A big concern is a surge of complaints over DB to DC transfers. With the average PPI complaint yielding less than £3,000 compared with potential six-figure compensation for transfer complaints, the claims management industry will be licking its lips. Advisers are already facing hikes in premiums as professional indemnity insurers start to fear the worst. The Financial Ombudsman Service needs to urgently clarify whether it expects the same things of advisers as the FCA or whether it could still uphold a complaint even where an adviser has ticked all of the FCA's boxes.

CM We know that complaints about pension transfers are a big concern for the pensions industry as a whole – advisers, professional indemnity insurers and pension providers. We'll continue to engage with financial businesses to talk about the issues involved – sharing what we've seen go wrong to help prevent problems arising. And we'll continue to provide reassurance – and to demonstrate – that we'll look into pensions complaints in light of the standards that applied at the time, and that we and the FCA are on the same page when it comes to those standards.

LT DB consolidation is an opportunity to improve security for members, but we need to make sure members are protected by well-governed schemes, run by fit and proper people and backed by adequate capital.

With the impact of pension freedoms and the industry working on a dashboard, we expect there to be greater focus on member engagement. TPR supports the recently launched the simplified DC pension statement and encourages trustees to use it.

ESL We have recently updated our rules on pension transfer advice to protect people saving for their retirement. We published two sets of new rules aimed at improving the advice people receive when considering transferring. This set out a number of changes.

By October 2020, PTSs will be required to obtain the same qualification as an investment adviser alongside the existing PTS qualifications. We have issued guidance to clarify our expectations that advisers should explore clients' attitudes to the general risks associated with a transfer, in addition to their attitude to investment risks. With effect from 1 October 2018, we replaced the analysis used to assess transfer values with a new version which will be easier for consumers to understand and will help better to frame their decisions.

We have continued our supervisory work in this area and we plan to report back on the latest stage of our work later this year. The next phase of work will involve collecting and analysing data from all regulated firms that hold the pension transfer permission. This will allow us to build a detailed picture of the entire UK market. We have also sought views on whether to intervene in relation to charging structures.

"We need to make sure members are protected by well-governed schemes"
Lesley Titcomb, TPR

This could include banning contingent charging, which is when a fee for advice is only paid when a transfer goes ahead. As this is a complex area, we need to carry out further analysis of the issues drawing on our supervision work before deciding on next steps.

KR I am confident that the vast majority of financial advisers are supporting pension freedoms by delivering suitable, government mandated advice on Safeguarded Benefit pension Transfers, but we need to be vigilant that unsuitable advice given by a minority doesn't impact negatively on the public perception of the majority.

Working together, we can make the challenge of DB pensions transfers a success story for our profession, retain the increased levels of trust that advisers have won from the public since the RDR and, most importantly, continue to put consumers in the strongest possible position for their retirement years.

case studies:
complaints involving "defined benefit" to "defined contribution" pension transfers

Over the years, we've received small but steady numbers of complaints from people who've transferred out of their workplace pensions into private schemes. This includes people giving up their "defined benefit" (DB) pension – based on their salary and years of service – in return for a cash value.

Since the introduction of pension freedoms in 2015, we've heard from growing numbers of people who have – or who want to – transfer their pension into a "defined contribution" (DC) scheme. This enables them to access their pension pot more flexibly than they could have done before 2015, when the majority of people either had to buy an annuity, giving them a regular income for life, or enter into income drawdown, which still had withdrawal limits.

The benefits that people are entitled to under DB schemes are generally very valuable. If the "guaranteed", or "safeguarded", benefits are worth more than £30,000, people *have* to get financial advice before being able to give them up. And the FCA has said that financial advisers should start from the position that people will be better off *not* transferring – something it's repeated in its feedback and final rules and guidance on pension transfer advice, published in October 2018.

Many of the complaints we receive about pension transfers centre on delays – with people telling us they missed out on higher transfer values because a financial adviser didn't act quickly enough. The next biggest areas of complaint are administration and the suitability of advice.

We also hear from small numbers of people who've responded to cold calls from unregulated pension "introducers". These complaints often fall outside our remit, meaning we don't have the power to look into them – and can't help people get back money they've lost.

These case studies are aimed at providing clarity about how we approach the complaints we see – illustrating the range of issues involved, and the types of factors we consider when reaching our decision. In general, if we uphold a complaint, we'll tell the adviser to make sure their customer is, as far as possible, in the position they would have been in if the error hadn't happened. This might mean making up any investment losses caused by unreasonable delays, or by an unsuitable transfer.

Pension transfer redress calculations can be complex, and the assumptions businesses need to use are published by the FCA. We'll also consider whether a business should pay compensation to reflect the non-financial impact of their actions – such as any upset or inconvenience their customer experienced.

... the FCA has said that financial advisers should start from the position that people will be better off *not* transferring ...

146/1 “I thought I’d get cash from my pension to start my new business – but then my adviser refused to do the transfer”

Mo contacted us after a dispute with her financial adviser about accessing the cash value from a defined benefit pension scheme.

She explained her previous employer had offered an enhanced transfer value (ETV) to transfer her pension to an alternative pension arrangement. The pension trustees had paid for a financial adviser to advise Mo on the suitability of the transfer.

Mo told us that, at the first meeting with the adviser, she’d said she wanted to withdraw the full ETV amount as cash to help set up a new business. She remembered the adviser saying they would be able to arrange this.

Then, in the adviser’s suitability report, they’d said that the transfer wasn’t suitable for Mo’s circumstances. So they wouldn’t help her with the transfer, or provide the confirmation needed for the trustees to approve the transfer.

Mo felt the adviser had led her to believe the transfer would go ahead. She said she’d already made important decisions relating to setting up her new business – including leaving her part-time job and buying a new small van. Upset she couldn’t take her plans forward, she asked us to look into her concerns.

how we helped

We explained to Mo that the adviser was only responsible for advising whether to take the ETV or not. They weren’t responsible for the initial decision to allow the transfer, or to allow the cash withdrawal of its value.

We looked carefully at Mo’s circumstances and the factors the adviser had taken into account when they considered the suitability of the transfer. We could see they’d advised against the transfer on the grounds that Mo’s existing pension offered valuable guaranteed benefits. The adviser thought there was a high risk that her proposed business venture wouldn’t succeed, in which case she’d lose her pension fund. They’d noted she was approaching the scheme’s retirement age, and only had one other small private pension.

In light of all Mo’s circumstances, we didn’t think the adviser’s conclusions were unreasonable.

Mo had clearly wanted to withdraw the full cash amount of the ETV. And we thought it was likely she would have wanted to go ahead in spite of receiving advice against it. Because this would have presented risks – both for Mo and for the adviser – we also didn’t think it was unreasonable for the adviser to decide not to carry out Mo’s transfer as an “insistent client”. And they were under no obligation to do so.

We then looked into Mo’s concerns that she’d been given the impression in her first meeting with the adviser that the transfer would go ahead. Mo said that, in that meeting, they’d told her she’d need to sign waiver forms if she chose to go against their advice. She also told us that the adviser had said they were treating her case as urgent, as they recognised she needed the money from the transfer for her new business. Mo said she’d continued to be told this even after being told the adviser had concluded the transfer was unsuitable.

▶

The adviser told us they never accepted business on an "insistent client" basis. And we thought that if Mo had told the adviser about what she was planning to do in anticipation of getting cash from her pension, they would have advised her against taking any action before the transfer decision was made. So we didn't think the adviser was responsible for Mo's decision to leave her job or buy a new van.

However, the adviser didn't dispute Mo's recollection of the conversations they'd had throughout their engagement with her. We didn't think these conversations were consistent with the adviser's stated approach of not accepting insistent clients.

In our view, the adviser hadn't managed Mo's expectations for a good couple of months – which had led to even greater disappointment when she was eventually told they wouldn't help her access the money to put toward her business.

We thought that, while the adviser hadn't caused any unreasonable delays in the process, they should have been clearer from the very first meeting about how far they'd be willing to help Mo with her pension. So we told them to pay compensation in our moderate band in recognition of the upset caused.

"In our view, the adviser hadn't managed Mo's expectations for a good couple of months"

146/2 “I lost four years’ worth of income because I listened to my adviser and didn’t transfer my pension”

Dina told us she’d lost out because of financial advice she’d received about her pension. She explained the advice had been arranged by her employer, after they’d offered her an ETV to transfer out of their defined benefit scheme.

Dina said she’d told the adviser she wanted to take a low-risk approach, and that she’d intended to work for another six years. The adviser had said the transfer could leave her worse off in the long term and had advised her against it. They’d been prepared to arrange the transfer on an “insistent client” basis, but Dina explained she hadn’t wanted to take that option.

Now, four years on and even closer to retirement, Dina thought she might have made the wrong choice. She thought she would have been better off if she’d bought an annuity back then, and been getting income from that in the meantime. So she asked us to look into the advice she’d received.

how we helped

We explained to Dina that, both at the time she’d got advice and currently, the regulator said that advisers should start with the assumption that a transfer wouldn’t be in her best interests with a pension like hers.

We looked at all the documentation the adviser sent us relating to the conversations they’d had with Dina and their analysis of her circumstances. We could see they’d set out very clearly the point at which the benefits she’d receive from her employer’s scheme would “catch up” with those she’d have got if she’d bought an annuity. And they had explained why, given her financial position and good health, they thought staying put was the better option. While Dina might have been better off in the short term, the yield the transfer value needed to achieve to match the scheme benefits was greater than the level of risk she’d said she could accept.

We acknowledged there would always be a trade-off between someone receiving money while they were still working, and receiving it later once they’d retired. In Dina’s circumstances, we agreed with the adviser that, based on the evidence available, it had been in her best interests to advise against the transfer. We were satisfied the adviser had applied the regulations as they should, and had set out their thinking clearly and fairly.

We explained our conclusions to Dina and didn’t tell the adviser to take any action.

146/3 "I lost £50,000 because an adviser took too long to tell me they wouldn't help me"

Saul told us about the problems he faced when his financial adviser took too long to tell him they wouldn't give him advice about his final salary pension.

Saul said he'd been given a guaranteed cash ETV of over £650,000 if the transfer completed within 90 days. He'd then approached an adviser for help. But after waiting for an answer – chasing up in the meantime – the adviser had said they wouldn't give him advice and suggested he approach someone else.

Saul explained he'd only got the adviser's answer two weeks before the guarantee period ended. And he hadn't thought there was enough time to find another adviser. So he'd instead asked the adviser to reconsider – but five days before the guarantee expired, they'd said again that they wouldn't help.

Saul said he'd eventually found another adviser, but it was after the 90-day deadline. And when he'd asked for an updated ETV, the cash value of the transfer had dropped by more than £50,000. Saul had then proceeded with the transfer through another adviser at the reduced value.

Saul said he'd complained to the original adviser, but they'd replied that they hadn't done anything wrong. He now wanted our help to put things right.

how we helped

The adviser told us that following the pensions freedoms legislation in 2015, they'd seen a major increase in people asking for transfer advice. As a result, they'd needed to revise their service agreements to cope with demand.

We acknowledged this was consistent with what we'd heard from other firms – and relevant guidance didn't set out a specific timeline for transfers.

However, we pointed out that in Saul's case, there *was* a clear timeline indicated by the guarantee period. The adviser knew the transfer needed to be completed within 90 days. And in our view, they should have realised that delaying giving Saul their answer would leave him with very little time to find another adviser, and *then* to complete the transfer. This was especially the case given that other advisers might well have had similar pressures on their time and resources.

The adviser had the right to refuse to advise Saul about his transfer. But we didn't think it was fair or reasonable, given they knew the clock was ticking, for them to have taken so long to reach that decision.

We told the adviser to pay Saul the difference between the two ETV values, taking both investment growth and income tax deductions into consideration. We also told them to pay compensation in our moderate band to reflect the trouble they'd caused.

146/4 "I was given wrong information about my pension to persuade me to transfer"

Sally contacted us about a pension transfer that had taken place several years ago. She had a number of pensions from previous employers – and had asked for financial advice about possible transfers and consolidation of her funds.

Sally told us that the adviser had recommended she leave most of her pensions as they were. But they'd said that one of the funds, which had been closed by the employer in question, had a significant shortfall. She remembered the adviser saying this could lead to losses in the long term – and recommending that she transfer the cash value into a personal pension.

It was now a few years later, and Sally had recently met one of her ex-colleagues. He'd told Sally that the shortfall had been put right, and that additional payments had been made to clear the deficit.

Sally had realised that this had happened before her pension transfer took place. She was upset that the financial adviser hadn't told her about this – or about the availability of the Pension Protection Fund (PPF), which could have compensated her if the scheme had become insolvent.

Sally told us she'd complained to the adviser, but they'd stood by the recommendation of the transfer – and said she hadn't suffered any financial loss. But Sally felt she'd been misled and asked us for help.

how we helped

We looked at the details of Sally's original pension and the concerns about the shortfall in funds. We agreed the deficit would have been worrying – especially for someone with a cautious attitude to risk, which Sally had, according to the "attitude to risk" questionnaire she'd completed with the financial adviser. Sally had also told the adviser she was prepared only to accept small losses to her pension.

We considered the circumstances leading up to the transfer. And in our view, the commitment to clear the shortfall, along with the prospect of recourse to the PPF, were important details that could have affected Sally's decision to go ahead with the transfer.

The financial adviser argued that, because Sally had other pensions, she ought to have known about the protections available.

However, we pointed out that the fact Sally had a number of pensions didn't automatically mean she knew – or should be expected to know – all about pensions and how they might be protected. She'd gone to the IFA for professional advice because she needed help with making the best of her retirement.

We compared the guaranteed benefits of Sally's occupational pension to those offered by the new scheme. We could see that the occupational pension offered a guaranteed monthly payment – whereas the pensions she'd transferred into didn't. We also noted that Sally was nearly 15 years away from her pension at the time of the transfer – and that a lot could happen to her finances in that time.

We decided, on balance, that the advice Sally had received on the transfer hadn't been appropriate for her. So we told the financial adviser that they needed to pay redress in line with the FCA's guidance.

We also told the financial adviser to pay Sally compensation in our moderate band to reflect the upset they'd caused.

146/5 "My pension was transferred overseas. Was I given good advice?"

Chris contacted us with concerns about what had happened to her pension. She told us she'd received a cold call from a pension "introducer", who'd offered to refer her to "specialists" who would be able to make her pension "work harder" for her leading up to her retirement. She'd agreed for her details to be passed on to two separate financial advisers – the first for advice on her pension transfer, and the second for advice on the investment of the transferred funds.

Chris told us she was currently a foster carer, but had previously worked for her local council for over 20 years, during which time she'd been a member of its pension scheme. The first adviser had recommended Chris transfer her funds out of the council scheme, saying she'd get better death benefits and flexibility elsewhere. The second adviser had then arranged for the funds to be invested in a Qualifying Registered Overseas Pension scheme (QROPS).

Chris said that, following the completion of the transfer, she'd met face-to-face with a local adviser and told them what had happened. They'd told her she'd been given bad advice, because the guaranteed benefits from the council's pension would have far outweighed the potential return from the QROPS investment. Worried, Chris asked us to look into her concerns.

how we helped

When we looked at all the paperwork Chris sent us, we saw that the introducer and the adviser who'd arranged for her funds to be invested worked for the same company. This company wasn't regulated by the FCA, which meant we didn't have the power to consider a complaint against it.

The adviser who'd arranged the transfer *was* FCA-regulated. Initially, the adviser disputed whether we could consider Chris's complaint, saying it was outside our remit. We explained that from 6 April 2015, the *Regulated Activities Order* had been amended to allow us to consider complaints about the advice to transfer from DB occupational pension schemes to DC occupational pension schemes.

As the advice Chris was complaining about took place after this date, we were able to look at her complaint about the transfer.

The adviser maintained they'd had nothing to do with the QROPS investment, so they couldn't be held responsible for what Chris did with her funds. However, we concluded they'd known, or at least should have known, about the overseas investment when they'd considered the suitability of the transfer. The adviser should have been aware of Chris's objectives in transferring her pension funds – including what she was planning to do with the money.

Chris wasn't due to retire for a few more years. We noted that she hadn't actively been looking to change her pension arrangements – and had only taken action following the cold call from the unregulated introducer.

We asked the adviser why they'd reached the conclusion that the transfer was suitable.

They told us that that Chris had wanted to get maximum flexibility from her pension, and that this had been a key objective of the transfer. They also pointed to the enhanced death benefits that she'd have been entitled to under the new arrangement.

We reviewed the information Chris had provided about her circumstances. She was due to retire in a few years – and the estimates the adviser had used showed she had a very high probability of surviving to this date. So we weren't sure why the adviser had put such emphasis on the enhanced death benefits. In addition, the risk profile questionnaire the adviser had completed showed Chris had a moderate attitude to risk. We didn't think the high-risk overseas scheme the adviser had recommended was consistent with this profile.

Given everything we'd seen, we didn't think there was any reason for Chris to have transferred her pension when she did – rather than waiting until she actually retired, when she could consider her options in view of her circumstances then. So we decided she shouldn't have been advised to transfer her pension.

We told the adviser to put Chris in the position she would have been in if she hadn't received the unsuitable advice, using the regulator's redress guidance.

"Given everything we'd seen, we didn't think there was any reason for Chris to have transferred her pension when she did"

146/6 "I took advice to transfer my pension – now I'm losing money and can't contact my adviser. What should I do?"

Hazel contacted us after receiving a letter about the self-invested personal pension (SIPP) she'd taken out a couple of years previously. This letter said the fund administrators had gone into administration, and a new one was taking over – and set out options for what she could now do with her funds.

Hazel told us she was concerned that the SIPP hadn't actually been the right option. She explained she'd retired early on medical grounds from the school where she'd worked, and taken financial advice at the time from an adviser based in her hometown. She said the adviser had recommended she transfer from her employer's pension scheme into the SIPP, so she could get a tax-free lump sum to clear her debts.

Now she'd turned 60, Hazel had been expecting a statement with more details about how much her pension was worth – so she could begin to draw a regular income from it. But all she'd received was the letter about the new fund administrator.

Hazel said she'd tried to get in touch with the companies listed on her paperwork, but hadn't yet had a response. Worried she'd lose all her money, she asked us to contact the companies involved, and to tell her whether they'd done the right thing.

how we helped

We looked closely at the paperwork Hazel sent us relating to the advice she'd been given when she retired. We noticed that, although the advice firm seemed to have an office in Hazel's hometown, its head office – which was clearly listed on its letters and the application form Hazel signed – was in Cyprus.

We asked the advisers for their records about Hazel's pension, as well as more details about their status. From the information they sent us, we established that they were regulated by the Cyprus Securities and Exchange Commission. We checked this information against the FCA's records. The FCA didn't have details of any UK establishment for the advice firm. It confirmed that as the adviser firm had an "EEA authorised" status, they could operate in the UK under Cypriot supervision.

Based on what we'd seen, we decided the adviser didn't fall within our remit. We explained to Hazel that we didn't have the power to look into her complaint. But we put her in touch with the Cypriot ombudsman service, so they could investigate her concerns.

Hazel was still unsure what to do about her pension, in light of the letter she'd received. We suggested she discuss her options with the new scheme administrators – and that she might want to consider getting further independent financial advice.

146/7 "I did half of the work on my pension transfer. Why should I have to pay the full price to my adviser?"

Nic contacted us about the cost of getting advice about a pension transfer, saying he'd received a very poor service.

Nic explained he'd approached an adviser for advice about transferring his two DB pensions into a single SIPP. He said he'd initially thought things were going through – but after months of delays, he'd complained to the adviser about the length of time the transfers were taking.

Although the adviser had now completed the transfers, Nic felt he'd lost out on the growth of his investments. He asked us to get him compensation for the money he felt he'd lost, as well as compensation for the delays. He was also concerned he'd ended up doing a lot of the work himself – and didn't think it was right he was having to pay the adviser's full fees.

how we helped

We looked into the correspondence between Nic and the adviser. Nic had responded to an advert from the adviser saying they could help people access their pensions when they turned 55. Nic had got in touch with the adviser three months before his 55th birthday, saying he wanted to do that.

We noted that the adviser had advised Nic against the transfer, but had agreed to do it on an "insistent client" basis.

Two months after Nic contacted the adviser, they still hadn't got the information they needed from one of Nic's SIPP providers – and suggested he contact them himself to speed things up. Nic had had to phone the provider to get the information and pass it on. There had then been further delays getting additional information from the second SIPP provider, following confusion about whether it had already been provided. The adviser had used the wrong pension plan number, causing difficulties and delays in one provider finding Nic's details, and initially sent requests to the wrong business.

We understood that Nic's circumstances were more complicated than some people's – due to having to transfer two separate pensions, with different administrators, into a single new product. But based on what we'd seen, we decided that much of the delay had been caused by poor administration on the adviser's part.

And Nic had done more work than he should have to keep things moving. In our view, five months was an unreasonably long time.

So we told the adviser to put Nic back in the position he would have been in if the transfer had been completed by his 55th birthday. We said that their calculation should consider both the lost investment returns for the period between his birthday and the transfer date, and a 50% refund of their fees.

After looking at the figures, the adviser showed us that Nic hadn't lost out financially as a result of the delay. But they agreed to give Nic the refund of fees we'd suggested, as well as to pay him compensation in our moderate band for the upset and inconvenience he'd experienced as a result of their mistakes.

145/8 "My new adviser says I got bad transfer advice two years ago. Can I have my money back?"

Dani asked us to look into the pension transfer advice she'd received from an adviser, after her former employer offered an ETV to deferred members of its pension scheme.

Dani explained that, at the time, she'd wanted to use cash from her pension so she and her husband, who was also planning to retire, could go travelling. However, another adviser had since reviewed the couple's finances, and told her she shouldn't have given up her DB pension.

Dani had raised her concerns with the original adviser, but they'd said they'd done nothing wrong. Worried she'd been rushed into making a decision – and concerned the adviser might have had an incentive to complete the transfer – she asked us to look into her complaint.

how we helped

We looked at all the documentation Dani had given the adviser, including the details of her and her husband's other pensions and investments.

We could see that while the transfer value was significant, it made up a comparatively small part of their overall portfolio of assets, including other pension provision. The critical yield required to match the scheme benefits was also reasonable.

As Dani didn't have any dependants or other financial liabilities, it didn't seem the transfer would pose a risk to her financial security in retirement. The risk of the benefits produced by the new arrangement being lower than the scheme benefits was relatively low – especially if the enhancement was taken into account. And along with added flexibility in accessing the pension funds, there was the real prospect that if investment growth exceeded the low critical yield, they could be better. In their recommendation report, the adviser had also clearly explained that Dani would be losing the guaranteed benefits in her existing pension.

We acknowledged Dani's concerns about having to make a decision quickly. In fact, we thought it was likely that the ETV offered by her employer had been a key factor in her doing so. If she hadn't transferred by the deadline, the transfer value would have been reduced by £30,000.

However, the adviser hadn't been responsible for setting the timeframe in which Dani needed to make her decision, or for the ETV offer. They were only responsible for advising on the suitability of the transfer. And as the fee wasn't contingent on the transfer going ahead, there was no incentive for the business to make an unsuitable recommendation.

We appreciated that Dani's new adviser took a different view about her options. But we explained that this didn't mean that the original adviser hadn't acted in her best interests at the time. Given everything we'd seen, we concluded Dani hadn't received unsuitable advice. So we didn't tell the original adviser to take any action.

second quarter statistics 2018/2019

a snapshot of complaints in the first quarter of 2018/2019

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 July, August and September 2018 – and for comparison, the complaints we received last quarter, as well as those received during the same period last year, and during the whole of 2017/2018.

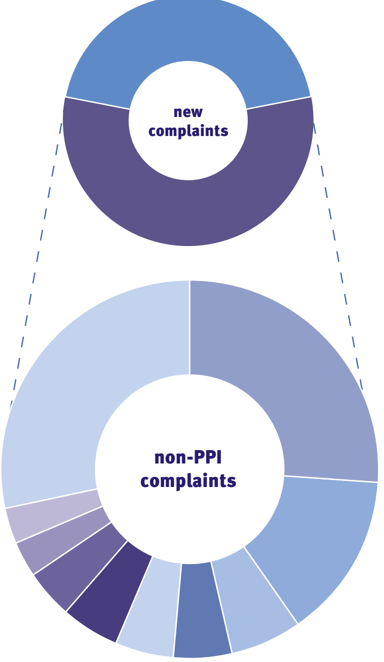
In the second quarter of 2018/2019:

- We received 182,819 enquiries and 98,346 new complaints – with 11, 371 complaints passed to an ombudsman for a final decision. On average, we upheld 31% of the complaints we resolved.
- PPI continued to be the most complained-about financial product, with 43,326 new complaints. For the first time in eight years, PPI complaints made up less than half of our workload, at 44% of all complaints received.
- We received around 1,000 more enquiries and 800 more complaints about current accounts than the previous quarter. The uphold rate for these complaints also increased from 34% to 60%. This rise is primarily due to recent problems with banking IT systems.

the financial products that consumers complained about most to the ombudsman in the second quarter of 2018/2019

- payment protection insurance (PPI) 44%
- complaints about other products 56%

- payday loans 26%
- current accounts 14%
- credit card accounts 6%
- car and motorcycle insurance 5%
- packaged bank accounts 5%
- house mortgages 5%
- hire purchase 4%
- instalment loans 3%overdrafts
- and loans 3%
- other products 28%



	... 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
payment protection insurance	61,636	43,326	3,787	26%	75,966	55,223	4,964	35%	142,871	97,908	8,750	30%	283,623	186,417	13,605	36%
payday loans	23,714	14,578	487	49%	14,799	10,979	570	56%	39,584	25,270	1,057	52%	25,263	17,256	2,080	61%
current accounts	11,569	7,731	604	60%	10,354	6,912	621	34%	22,684	14,681	1,223	50%	32,622	20,217	2,731	26%
credit card accounts	5,112	3,136	400	37%	4,437	3,083	362	35%	9,779	6,199	763	36%	16,753	10,563	1,627	28%
car and motorcycle insurance	6,430	2,982	632	30%	6,071	3,389	531	30%	12,741	6,341	1,162	30%	25,411	11,887	1,982	28%
packaged bank accounts	4,428	2,982	264	14%	5,787	3,520	221	11%	10,644	6,492	484	12%	22,223	11,674	907	11%
house mortgages	3,845	2,540	453	24%	3,456	2,628	401	27%	7,587	5,162	854	25%	13,438	8,888	2,103	23%
hire purchase	3,136	2,211	246	44%	2,817	2,031	311	42%	6,222	4,342	561	43%	8,983	5,805	1,172	35%

second quarter statistics
continued

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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%	1182	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%	1829	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%

second quarter statistics
continued

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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 certi icates/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%

second quarter statistics
continued

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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.

"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.

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.”

meet us in ...

- **Kent, 6 December 2018**

Check our website for details of further upcoming events as they’re announced