



Financial  
Ombudsman  
Service

... settling financial  
disputes, not taking sides

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edited and designed by the  
publications team at the  
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Walter Merricks  
chief ombudsman

## hunting season opens

The practice of commissioning external reviews of ombudsman services in the financial sector has become well established internationally.

The Australian and New Zealand ombudsman schemes are reviewed every three years or so. And the scheme in Canada (the Ombudsman for Banking Services and Investments) recently published a review – the themes of which bear a striking resemblance to those covered in the review that Lord Hunt has just completed for us. There are links to Lord Hunt's report on his review of us at [www.thehuntreview.org.uk](http://www.thehuntreview.org.uk) and on our own website ([www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)). Enhancing awareness and accessibility, and wider information-sharing, are areas on which reviewers rightly and regularly focus.

For us, the *Hunt Review* has set a challenging agenda that will take us some time to work through. And challenges are clearly set for financial services firms, claims management companies and regulators too. It's a skilful blend with a sure-footed politician's touch. Lord Hunt can say with authority what some of us have known from the time we became a statutory body – that today's world of transparency and information freedom means big changes are needed. ▶



Openness about the ombudsman's approach, the relationship between the ombudsman and the regulatory system, and the performance of individual businesses in handling customer complaints is the way forward. An organisation that is seen as unforthcoming about the knowledge it holds may lose the confidence of its stakeholders.

So we will make a start on the 'openness agenda' in our *annual review* – to be published next month – by providing more detailed comparative data about complaint-uphold rates across the different financial sectors and products we cover. And clearly that will be a first step on the road to greater transparency.

**Walter Merricks**, chief ombudsman

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London E14 9SR

switchboard  
website  
consumer enquiries  
technical advice desk

**020 7964 1000**

**[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)**

**0845 080 1800**

**020 7964 1400** (this number is for businesses and professional consumer advisers only – consumers should ring us on 0845 080 1800)

# complaints involving extended warranties

## ■ 69/1 damp-proofing treatment covered by extended warranty – whether insurer can decline claim when policyholder unable to produce original versions of relevant documents

When Mr M discovered that his house was affected by damp, he arranged treatment to overcome the existing problem and prevent any recurrence. The company that carried out the work for him provided a guarantee. It also offered him a certificate of insurance, described as a '*backup guarantee*'. He was told he would be able to rely on the backup guarantee if the building company failed to carry out its obligations to make good any faults in the damp-proofing work.

Some nine years later, Mr M put his property on the market after deciding to move abroad. A survey commissioned by a prospective buyer revealed that his house suffered from recurring damp.

Mr M tried to contact the company that had carried out the damp-proofing work. However, it had long since gone out of business. He therefore put in a claim to the insurer that provided the backup guarantee.

The insurer refused to pay the claim. It said it was a condition of the policy that certain documents were submitted with a claim. These included the original of the building company's initial report on the work required, its quotation for the work, and the guarantee it had offered. Mr M had only supplied copies of these documents – not the originals.

After complaining unsuccessfully to the insurer about its refusal to pay his claim, Mr M referred the matter to us.

He said he had never been given the original versions of the documents in question and had submitted the only versions he had. He noted that the paperwork the insurer sent him referred to its requirement that policyholders should submit the documents in question

and said, *'If you do not have them, obtain copies from your contractor now, (they may make a small charge to cover administration)'*.

In Mr M's view, this reference to obtaining copies indicated that the insurer was not able to insist on his providing originals. However, the insurer said it would only accept copies if they were authenticated by the original builder.

#### **complaint upheld**

We found that the actual policy document contained no information about the procedure for making a claim or the need to supply original documents. This information was in a separate registration form sent to policyholders after they had taken out the policy.

We agreed with Mr M that if the insurer intended to insist on policyholders supplying originals or authenticated copies of the documents in question, then it should have made this very much clearer. But in any event, we considered it would be unfair of the insurer to demand original or authenticated copies of the documents, when there was no real doubt that Mr M was entitled to the benefit of the policy.

We required the insurer to pay the cost of putting right the damage caused by the failure of the damp-proofing work.

We said it should also reimburse Mr M for the administrative fee it had charged him when dealing with, and declining, his claim.

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#### ■ **69/2**

#### **leather sofa covered by extended warranty – whether insurer can refuse claim for damage caused by policyholder's children**

When Mrs D bought a new leather sofa she took out a five-year warranty that covered it against accidental damage. Just under two years later she made a claim under the warranty, because a hole had developed in the leather upholstery.

The insurer sent a technician to inspect the sofa. In his report, the technician noted that Mrs D told him the hole had appeared after her teenage sons had been picking at a weak spot in the upholstery. The technician identified this spot as a scar in the leather and he recommended that repair work should be carried out under the policy.

However, the insurer rejected the claim on the basis of the following exclusion in the policy: *'The insurer will not pay for costs attributable to or arising from ... any damage, soiling or staining caused ... deliberately by any person, including children'*.

... in her view, the damage was accidental.

Mrs D then brought her complaint to us. She admitted that she had caught her teenage sons picking at the hole in the sofa. However, she said that she had tried to stop them. In her view, the damage was accidental, so the insurer should repair it.

#### **complaint not upheld**

We noted that the technician's report suggested that the nature and extent of the damage was consistent with *'interference of a nature scar by fingers'*. We then considered whether the apparently deliberate acts of Mrs D's teenage children should be treated as accidents, or whether they fell within the policy exclusion that the insurer had cited in rejecting the claim.

We concluded that the policy wording and layout gave such prominence to the relevant exclusion that Mrs D could not reasonably have been unaware of it when she bought the policy. In light of this, the technician's report, and Mrs D's own admission that her sons had caused the damage, we agreed with the insurer that the claim should not be upheld.

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#### ■ 69/3

#### **insurer declines to pay claim on car covered by extended warranty**

When Mr J bought a new car he took out a policy offering a motor vehicle breakdown warranty. This came into effect when the manufacturer's guarantee expired – 12 months after the purchase date. It provided cover for four years.

Around 18 months after the start of the warranty, Mr J's car broke down. He put in a claim, which the insurer paid. A few months later he put in a further claim, totalling £4,000, for repairs and replacement parts. However, the insurer refused to pay up. It said Mr J had *'failed to satisfy a policy requirement to ensure the vehicle was serviced by a manufacturer-approved repairer, in accordance with the manufacturer's recommendations'*.

Under the terms of the policy, a service was required every 24 months or every 12,000 miles. Mr J had arranged his car's second service just 17 months after the first service. However – by the time of the second service, the car had covered an additional 13,377 miles.

The insurer also noted that the manufacturer had accepted responsibility for replacing one of the parts. In the insurer's view, this indicated that the



... the policy specifically excluded such claims.

replacement had become necessary because of a '*latent manufacturing failure*'. The policy specifically excluded claims made as a result of such problems. Unhappy with the situation, Mr J brought his complaint to us.

We looked into the details of the repairs that had been carried out, and why they had become necessary. We accepted that the car's second service had been carried out later than the manufacturer's recommendation. However, we were unable to see any connection between the nature of the repairs and the timing of the service. We also noted that the insurer had been aware of the timing of the second service when Mr J had made the first claim some months earlier.

The insurer accepted our point that there was no connection between the timing of the second service and the nature of the repairs. We asked why it had not objected to the timing of the second service when the first claim was submitted.

The insurer said that at the time of the first claim, the policy had been administered on its behalf by a different company, and that company had not checked the service details.

#### **complaint upheld**

We said that by accepting the first of Mr J's claims, the insurer had waived its right to reject the claims solely because of his failure to have his car serviced within a certain timescale. And in any event, we did not consider that there had been a significant delay in getting the car serviced. Mr J had exceeded the permitted mileage by something over 10%, but had remained within the 24 months timescale.

We noted that the manufacturer had contributed towards the cost of one of the items that required repair. However, we did not believe that this amounted to confirmation that there had been a 'latent manufacturing defect', so it did not entitle the insurer to refuse to pay the balance of the cost of this item.

In all the circumstances of the case, we decided it was appropriate for the insurer to reimburse Mr J for the cost of all the repairs that had been carried out.

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#### ■ 69/4

#### **insurer declines claim made under extended warranty for damaged leather sofa**

When Mr and Mrs C bought a new leather three-piece suite, they took out an extended warranty. The suite was covered by the manufacturer's warranty for the first 12 months. After that time, the extended warranty provided cover for four years for any accidental damage to the leather upholstery caused by '*rips, tears, burns, punctures and pets*' as well as for '*structural damage*' caused by a number of features including '*broken zips*'.

Less than a year after they had bought the suite, Mr and Mrs C discovered that the leather upholstery on the sofa had been damaged where a metal component of the recliner mechanism had rubbed against it. The manufacturer repaired this free of charge under its own warranty.

Unfortunately, eight months later Mr and Mrs C had further problems with the sofa. By then, it was no longer covered by the manufacturer's warranty, so the couple made a claim under the extended warranty. They reported that further damage had occurred since the initial

... the insurer's policy wording was unclear.

repairs had been carried out. They noted that the frame of the sofa needed repair, the leather was badly marked and the zips on the arm pads were damaged.

The insurer rejected the claim. It said the damage had come about because of the poor standard of the repairs carried out by the manufacturer. The extended warranty did not cover the manufacturer's 'negligent failure'. Mr and Mrs C then referred their complaint to us.

#### **complaint upheld**

After looking closely at the terms of the policy for the extended warranty, we concluded that the wording was very poor. There was considerable uncertainty about exactly what the insurer intended to cover and about how it could invoke various exclusions.

Applying the normal legal test in such situations, we said that since the insurer's policy wording was unclear, it should be

interpreted in the manner most favourable to the policyholders, and with their reasonable expectations in mind.

We examined the detailed report prepared by the insurer's technician. This said there was no evidence of any structural damage to the frame of the sofa. The report suggested that some of the decline in the quality of the leather had arisen '*as a result of a gradual process through use of the furniture over time*' and was therefore not covered by the policy. However, the technician thought that the more serious tears and markings *were* covered by the policy.

We concluded that the insurer should pay the cost of repairing all of the accidental damage to the leather suite, including rips, punctures, broken zips and everything arising from the manufacturer's failure to carry out previous repair works properly.

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■ **69/5**  
**whether trade federation warranty covered faulty guttering installed with new conservatory**

When Mr and Mrs B had a conservatory fitted to the side of their house, the company that installed it offered them a trade federation warranty. This supplemented the supplier's warranty, which only covered the first year. The trade federation warranty provided cover for faulty workmanship by the conservatory installation company and any *'failure of PVC-U windows, doorframes or conservatory roof sections to operate in accordance with the manufacturer's specification'*.

Around eighteen months after the conservatory had been fitted, Mr and Mrs B discovered some damage to the side of their house. This had been caused by overflows from the gutter that had been installed with the conservatory – and that ran between the conservatory and the main wall of the house. The couple put in a claim under the trade federation warranty.

The insurer rejected the claim on the basis that the damage had arisen because of a fault in the way the gutter

had been assembled. The insurer said the policy excluded any loss or damage due to defective design of any part of the conservatory other than the *'conservatory roof sections'*.

**complaint upheld**

We reviewed the terms of the policy, together with the details of the problem with the guttering and the resulting damage. The gutter was clearly failing to operate in accordance with the manufacturer's specification. We concluded that this was partly because of a miscalculation of the volume of water it would have to cope with. However, the problem had occurred mainly because it had not been installed correctly.

We decided that the insurer should pay the claim, on the basis both that the gutter assembly was itself a *'conservatory roof section'* and also that its malfunction had resulted, at least in part, because it had not been installed properly.

So we said the insurer should pay all reasonable costs for putting right the problems with the gutter and the resulting damage to the property. We said the insurer should also pay Mr and Mrs B £100 to compensate them for the distress and inconvenience they had been caused.

## information about the ombudsman service – tailored to meet your needs

Specially tailored to meet the needs of different types of businesses and consumer advisers – our easy-to-read guides provide essential information about the ombudsman service and the way we work.

Each guide includes information of particular relevance to its target audience, as well as providing a clear overview of:

- the complaints-handling procedures
- the role of the ombudsman service in helping to resolve disputes – and in helping to prevent complaints arising in the first place; *and*
- the types of information and support the ombudsman service offers businesses and consumer advisers.

### **a guide for larger businesses – working together with the ombudsman**

Intended for businesses that deal regularly with complaints and the ombudsman service, this guide is likely to be of particular interest to people working in complaints departments, compliance units and customer service departments.

### **smaller businesses and the Financial Ombudsman Service**

A guide aimed at businesses that are covered by the Financial Ombudsman Service but don't usually have much contact with us.



## the Financial Ombudsman Service and you – consumer credit businesses and the ombudsman service

Aimed at businesses that have a standard consumer-credit licence issued by the Office of Fair Trading (OFT) – and are not authorised by the Financial Services Authority (FSA).

## a handbook for consumer advisers

Intended for professional consumer advisers working in local authority trading standards departments, Citizens Advice, debt advice agencies and other front-line consumer advice agencies.



All these guides can be downloaded from the publications pages of our website at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

Our website also provides a wide range of resources including FAQs, a series of 'quick guides' for businesses, online consumer credit resources, technical notes – and much more. ★

# a selection of recent cases involving mortgage endowment policies

## ■ 69/6

### **business defends its sale of mortgage endowment policy to first-time buyer on grounds that she had been willing to take a risk with her investment**

In 1993 Mrs W contacted a large insurance company for advice about a mortgage. She was recently divorced and planning to buy a house for herself and her two small children. The business advised her to have an interest-only mortgage and to repay it by means of a mortgage endowment policy. This was invested 50% in the with-profits fund and 50% in the managed fund.

Some while later, she was alarmed to receive a letter from the business, telling her there was a high risk that the policy would not produce enough, when it matured, to pay off her mortgage. This was a so-called 'red' letter, sent as part of the industry-wide mortgage endowment 're-projection' exercise.

Mrs W complained to the business. She said it had never told her there was any risk that the policy might not produce

the sum she needed. She said that if she had known about the risk, she would have taken a repayment mortgage instead.

The business rejected the complaint. It said that when its representative had discussed her requirements with her and provided advice, he had recorded her attitude to risk as 'careful but willing to invest'. The business also said that the representative had given her an illustration showing that a shortfall was possible, if the policy failed to achieve a certain level of growth.

Mrs W remained very unhappy with the situation and she brought her complaint to us.

### **complaint upheld**

We noted that the mortgage endowment policy was invested in funds that would generally have been considered suitable for an investor who was willing to take a 'low to medium' approach to risk.

We therefore had to consider whether, at the time of the sale, Mrs W had been prepared to take such a risk and had been in a position to do so.

We established that she was buying a home by herself for the first time – and that she was entirely reliant on her sole income to support herself and her children. We noted that she was borrowing a relatively substantial amount, considering her income.

The mortgage endowment policy was due to mature when she reached the age of 59. This left her with little time before her expected retirement date in which she could try and remedy matters, if the policy failed to produce the amount she needed. We concluded that Mrs W's overall circumstances made it unlikely that she would knowingly have taken a risk with the repayment of her mortgage.

We examined the records that the business had made at the time of the sale. Such records – and particularly the consumer's answers to questions about investment risk – can often provide a helpful indication of the consumer's attitude at the time of the sale. But we did not find the description of 'risk' used in this instance to be particularly persuasive evidence that Mrs W was willing to accept the risk associated with an endowment policy.

After weighing up all the available evidence, we thought it unlikely that Mrs W had been aware of the level of risk represented by the mortgage endowment policy, or that she had been willing to accept this risk.

We said the insurer should compensate her for any loss resulting from its advice – and that it should calculate loss in accordance with the guidance provided by the regulator, the Financial Services Authority (FSA).

■ **69/7**  
**consumers complain that they were wrongly advised to take a mortgage endowment policy but adviser's records indicate that policy was not mis-sold**

In 1997, after deciding to move to a larger house, Mr and Mrs E consulted an independent financial adviser (IFA) as they needed to increase their mortgage. Their existing mortgage arrangement consisted of an interest-only loan supported by a low-cost endowment policy. They were advised to take out an additional with-profits low-cost endowment policy.

Some years later, Mr and Mrs E received a letter telling them the policy was unlikely to repay the target amount when it matured. They said the adviser had never warned them of any risk that the policy might not repay their additional borrowing. They also noted that they had not been told about any alternative methods of repaying their mortgage.

... the adviser had discussed different methods of mortgage repayment.

### complaint not upheld

The IFA sent us a copy of his records, made at the time of the sale.

These suggested that he had given the couple a 'key features' document, setting out the risks associated with the policy, together with illustrations showing how the policy might perform. It appeared from his notes that he had discussed the relevance of this information with Mr and Mrs E.

We saw a copy of a letter the adviser had sent the couple a few days after his meeting with them. In this letter, the adviser had confirmed his reasons for recommending the policy. He had also reminded them that the policy would need to have grown by a certain minimum sum in order to produce the required amount at the end of its term. The letter also indicated that the adviser had discussed different methods of mortgage repayment with the couple.

The adviser's records did not include details of Mr and Mrs E's attitude to risk. But we thought it plausible, from their circumstances at the time, that they would have been willing to accept a certain level of risk. They were both in secure employment with prospects of a rising income in the future. The mortgage endowment policy in question was due to mature at the same time as the mortgage came to an end – and this was some years before either of them planned to retire.

Their overall borrowing was modest in comparison to their joint income, and as well as having savings in a building society account, they held a portfolio of unit trusts and individual company shares.

Overall, we thought it more likely than not that Mr and Mrs E had been made aware of the risks associated with the mortgage endowment policy, and had been prepared to take those risks. We did not uphold their complaint.

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■ **69/8**  
**mis-sold mortgage endowment policy –**  
**consumers disagree with basis on which**  
**their loss was calculated**

In 1993 Mr and Mrs A contacted a representative of an insurance company for mortgage advice, as they were planning to buy their first home. They subsequently took out an interest-only mortgage and a 25-year mortgage endowment policy. At the time of the sale, Mr A was 42 years of age and his wife was 37.

Some years later, the couple complained that they had been given inappropriate advice. They said that they had never been told there was any possibility that the policy might not produce the amount they needed, when it matured. They also complained that the length of the policy was unsuitable, since it continued for two years beyond their expected retirement dates.

The business upheld the complaint. It said it would compensate them on the basis of a comparison between their present position and the position they would now be in, if they had taken a repayment mortgage over the same 25-year term.

Mr and Mrs A rejected this offer. They said they had never wanted a 25-year term and could easily have afforded a repayment mortgage over

a shorter period. However, they said the adviser had insisted that the 25-year mortgage endowment policy was a better option for them. He had told them they would be able to pay off their mortgage early in any event, because the policy would do so well.

In view of this, they wanted the business to calculate compensation as if they had taken a repayment mortgage over 23 years, to tie in with their expected retirement dates. When the business refused this request, Mr and Mrs A referred their complaint to us.

**complaint not upheld**

When a mortgage endowment policy has been mis-sold, the usual remedy is to put the consumers back into the position they would have been in – financially – if they had been correctly advised and had taken a repayment mortgage from the outset.

In this case, the business did not dispute that mis-selling had taken place. So we needed to determine how likely it was that Mr and Mrs A would have opted for a term of less than 25 years, if they had been advised to have a repayment mortgage.

In our view, by taking the mortgage endowment policy over a 25-year term, Mr and Mrs A had been prepared to accept a policy that continued for two years after they both retired, albeit in

the mistaken belief that the policy was certain to repay their mortgage by the end of its term.

We did not think that they would necessarily have chosen a repayment mortgage over a shorter term, even though they could have afforded to do so. Most people balance long-term financial aims against their short-term needs and Mr and Mrs A had told us their income was relatively modest, compared with their normal outgoings.

In the circumstances, we decided that if they had taken a repayment mortgage, which is normally certain to be repaid at the end of its term, they would more likely than not have taken it over 25 years. So we told the business to calculate loss up to date, using the same 25-year term for the hypothetical repayment mortgage.

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■ **69/9**  
**adviser defends sale of mortgage endowment policy on grounds that consumers had specifically requested least expensive option**

In 1994, Mr and Mrs K consulted an independent financial adviser (IFA) for advice about re-mortgaging their property. They had a £40,000 repayment mortgage and wanted an additional

£10,000 in order to carry out a number of home improvements. They were advised to switch to a £50,000 interest-only mortgage and to repay it by means of a low-start with-profits endowment policy.

Some years later Mr and Mrs K complained to the business after it had sent them a 'red' letter warning of a high risk that the policy would not produce the amount they needed, when it matured. The couple said they had been happy with their repayment mortgage, and had not wanted to change. However, the adviser had persuaded them that a mortgage endowment policy would be better for them. They said he had told them it was a cheaper option and would do sufficiently well to enable them to either pay off their mortgage early – or have the benefit of a surplus when the policy matured.

The business rejected the complaint. It insisted that the couple had not been given any assurances about the future performance of the policy. It also said the couple had specifically requested the cheapest option, regardless of any other considerations. Mr and Mrs K then brought their complaint to us.

**complaint upheld**

Mr and Mrs K had been advised to invest in a with-profits policy – the type generally considered suitable for investors willing to take a 'low' approach to risk in

connection with their mortgage. In this case, however, we noted that the policy required an annual growth rate of 9.8% in order to meet its target amount. This was a relatively high level for the year in which the policy began, and in our view it increased the overall degree of risk inherent in the arrangement.

We therefore needed to consider how likely it was that Mr and Mrs K had been prepared to take such a risk, and whether their circumstances at the time meant that they were in a position to do so.

We established that, at the time of the sale, Mrs K had not been in paid employment but was looking after the couple's three young children. Her husband was earning a modest income in a job that offered only limited scope for future pay increases. The mortgage was due to finish when Mr K was 63, two years before he was due to retire. In view of their circumstances, we thought it unlikely that Mr and Mrs K would have been prepared to accept any risks with their mortgage.

We noted the business's assertion that Mr and Mrs K had insisted on the least expensive option. Whether or not this was the case, and this was by no means clear, the business had still been obliged to provide the couple with suitable advice.

The business was unable to provide any evidence that it had shown the couple any cost comparison between different types of mortgage. When we looked into what the cost of an equivalent repayment mortgage would have been, we found it was slightly more expensive than the option the couple had taken up. However, we did not consider the cost difference to be particularly significant and there was no doubt that Mr and Mrs K would have been able to afford a repayment mortgage.

As soon as they received the 'red' letter and before they contacted the business to complain, Mr and Mrs K had arranged to have their entire mortgage converted back to a repayment basis. We therefore directed the business to calculate loss up to the date of the conversion, and to add interest to any loss, up to that same date.

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■ **69/10**  
**consumer complains about basis on which bank calculated compensation for mis-selling mortgage endowment policy**

In 1990, when she was planning to buy her first flat, Ms T went to her bank for mortgage advice. She was told that her best option was to take out a unit-linked

endowment policy with an interest-only mortgage. Ms T went ahead on that basis and took out a policy that was invested in the bank's managed fund.

Some years later Ms T received a letter from the bank telling her that the policy might not produce enough, when it matured, to re-pay her mortgage. She contacted the bank right away to complain about the situation. Ms T said the bank had never told her that the amount she received from the policy would depend on the performance of the stock market. She said she had no idea that the policy might fail to produce the sum she needed – and she would never knowingly have taken such a risk.

After investigating the complaint, the bank agreed with Ms T that the advice it had given her had not been suitable. It then carried out calculations to compare Ms T's current position with the position she would have been in – if she had been correctly advised from the outset and had taken a repayment mortgage. These calculations revealed that she had not suffered any financial loss.

Ms T refused to accept this. She insisted that she had suffered a loss as a result of the bank's poor advice and she said the bank had failed to carry out the calculation correctly. In her view, it should not have included a number of individual lump sum payments that she

had made – over the years – in order to reduce the balance on her interest-only mortgage. She said she would not have made these payments if she had taken a repayment mortgage, so they should not be taken into consideration.

Ms T referred the matter to us after the bank refused to re-work its calculations, omitting the lump sum payments. It told her it had carried out the calculations correctly, in line with the regulator's guidance, and it would not be appropriate to carry out the calculations on any other basis.

#### **complaint not upheld**

The standard method of calculating compensation in endowment mortgage complaints like this involves comparing: the total amount paid by the consumer in connection with the endowment mortgage, the amount still to be repaid on the interest-only mortgage, and the surrender value of the policy; with the total amount the consumer would have paid if they had taken a repayment mortgage over the same period, and the amount that would still be left to be repaid on that mortgage.

We could not be sure whether Ms T would have made the same lump sum payments if she had taken a repayment mortgage. However, we decided that it was fairest to assume that she would have done. She had made some of the payments

before she first became aware of the risks attached to the mortgage endowment policy. She told us she had done this because she wanted to reduce her mortgage.

We accepted that Ms T had been prompted to make the later lump sum payments because of a concern about a possible shortfall when the policy matured. However, we thought she might well have made similar payments if she had taken a repayment mortgage. She could afford to make the lump sum payments and the amount of interest she could have earned by keeping the money in a savings account was unlikely to be as high as the interest she was paying on the mortgage debt.

We also noted that the overall result of the loss calculation would be the same if we were to assume she would not have made the lump sum payments to a repayment mortgage. We explained to Ms T that the calculations had shown that she had suffered no loss, as a result of taking a mortgage endowment policy rather than a repayment mortgage. But we asked the bank to carry out an up-to-date loss calculation for Ms T, to show her exactly what the position was.

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**figures and fees***a building society compliance manager writes ...*

**Q** Have there been any changes to the forecasts you made earlier this year for your budget in 2008/09?

**A** In January this year we consulted on our proposed budget for the 2008/09 financial year. Feedback from the financial services industry indicated an increase in banking and insurance-related disputes. We have therefore revised our forecast for the number of new complaints we expect to receive in 2008/09 – and this figure has now risen from 72,000 to 90,000. The number of cases we expect to settle and close in this financial year will also increase – to 111,000 from our initial estimate of 84,000.

In response to the likely increase in new complaints, our total budget for 2008/09 is now forecast to rise to £59.9m. But because we now expect to settle a larger number of cases – leading to increased income from case fees – the total amount of levy paid by the financial services industry will fall to £19m in 2008/09, from the initially proposed £21.7m.

Although the case fee for 2008/09 will increase to £450, we're increasing the number of 'free' cases from two to three. That means that businesses will be charged only for the fourth (and any subsequent) complaint made against them, so fewer than one in ten of the businesses we cover should have to pay a case fee.

Our revised budget has now been approved – in line with statutory requirements – by the boards of both the Financial Ombudsman Service and the Financial Services Authority (FSA).

**contacting customers while their complaint is with the ombudsman***a debt-collecting agency emails ...*

**Q** The ombudsman service is currently looking into a complaint made by one of our customers. Can we contact our customer about his loan or do we have to wait until you have finished dealing with the complaint?

**A** While we are considering a complaint, you should continue to deal with your customer as normal – for example, handling their account or dealing with any separate administration work. But if anything you are planning to do is relevant to the complaint, you should let us know before you do it.

You should not take any legal action against the consumer in connection with the subject matter of the complaint. And we recommend that you wait until our consideration of the complaint is completed before you take any related legal action (such as proceedings for recovery of a debt, where that is not the focus of the complaint). If you are proposing to take action like this you should get in touch with us first and tell us about it.

**the Hunt review***a business library asks ...*

**Q** Where can we get hold of a copy of Lord Hunt of Wirral's recent report about the ombudsman service?

**A** You can download the report from the Hunt review website ([www.thehuntreview.org.uk](http://www.thehuntreview.org.uk)) or from the news page of our website ([www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)).

*ombudsman news* gives general information on the position at the date of publication. It is not a definitive statement of the law, our approach or our procedure. The illustrative case studies are based broadly on real-life cases, but are not precedents. Individual cases are decided on their own facts.