

special edition

for mortgage and
insurance
intermediaries

2004



the financial ombudsman service and you

an introduction for mortgage and insurance intermediaries

The Financial Services Authority (FSA) will regulate mortgage intermediaries from 31 October this year, and insurance intermediaries from 14 January 2005. From these dates, these firms will also be covered by law by the Financial Ombudsman Service.

We have put together this special edition of our regular newsletter, *ombudsman news*, to help intermediaries get ready for their dealings with us. It explains – in general terms – our procedures, the types of disputes that we can – and can't – deal with, and the services and help we offer to firms. It also outlines what's involved in joining the ombudsman service now, on a voluntary basis. We have already opened our doors to a number of mortgage and insurance intermediaries who want to join our scheme voluntarily. These firms will gain useful experience in what being in an ombudsman scheme entails, and will have fewer changes to face when they become fully regulated.

If you decide to join us voluntarily, we've made it easy for you to apply. There's a straightforward form included for you to fill in and return to us. And we've provided details of how you can find out more about us, or talk through any specific queries you may have.

I look forward to welcoming you.



Walter Merricks
chief ombudsman

about the financial ombudsman service

The Financial Ombudsman Service is an independent organisation, set up under the Financial Services and Markets Act 2000. We operate according to rules made, or approved by, the Financial Services Authority (FSA).

Our role is to help resolve individual disputes between consumers and financial firms. We consider each case impartially, on its own merits. We do not automatically take the side of either the consumer or the firm. Our decisions are based on what the ombudsman considers to be fair and reasonable in all the circumstances, taking into account any relevant law, regulation, codes of practice or good industry practice in force at the time of the event complained about.

We are not a regulator and we do not make, monitor or enforce rules about how financial firms should run their business. We deal only with individual complaints.

Under what is known as our 'compulsory jurisdiction', firms that are regulated by the FSA are covered by our scheme by law – for certain types of complaint. Mortgage intermediaries will be covered by our compulsory jurisdiction from 31 October 2004. Insurance intermediaries will be covered from 14 January 2005.

We also have what is known as a 'voluntary jurisdiction'. Under this, some firms that are not automatically covered by our scheme can sign up with us voluntarily – to be covered for certain types of complaint. We tell you more about our voluntary jurisdiction on page 4.

what complaints does the Financial Ombudsman Service deal with?

Although we can look at most complaints about financial products and services, certain conditions have to be met. For example:

- The complaint must be made by the customer who holds the account, investment or policy that the complaint relates to – or by their personal representative. (There are some exceptions – for example, some potential customers and employees covered by group insurance policies can complain.)
- We can consider complaints from business customers if their group annual turnover is less than £1 million.
- We will not normally investigate complaints about your firm's legitimate use of its commercial judgement.

before the ombudsman service gets involved – your firm's role in complaints-handling

In many instances, firms can sort out complaints satisfactorily without our involvement. So before we can look into a complaint, the customer must first have complained to the firm and given it the chance to put things right.

The rules under which we operate also set out how firms themselves must handle complaints from customers. The rules require firms to have their own internal complaints-handling procedure and to make this available to customers. Generally speaking, a firm has to give the customer a *final response* within eight weeks of receiving the complaint. We can consider a complaint where a final response has been issued or eight weeks have passed from when the complaint was referred to your firm.

A *final response* should:

- set out the firm's final view on the issues raised in the complaint; *and*
- tell the customer about their right to refer the dispute to the Financial Ombudsman Service and that they must do so within six months, if they remain unhappy with the outcome.

are there time limits for when customers can bring unresolved complaints to the ombudsman?

Broadly, customers can only bring an unresolved complaint to the ombudsman within:

- six months of your firm sending them a final response letter to their complaint; *and*
- six years of the event they are complaining about (or, if later, three years from when they could reasonably have known they had cause for complaint).

However, we can look at cases that fall outside these time limits where the firm does not object to us doing so.

what awards can the ombudsman make?

The ombudsman can make money awards for financial loss and/or pain and suffering, damage to reputation and distress and inconvenience. The maximum binding money award that the ombudsman can make is £100,000. The ombudsman can award costs in addition (although this only happens very rarely). The ombudsman can also direct a firm to take appropriate action.

paying for the ombudsman service

In general terms, we are funded by a levy on the firms covered by the Financial Ombudsman Service, and also by individual case fees. For the 2004/05 financial year, we have proposed that mortgage and insurance intermediaries will not

pay an annual levy. Instead, we will charge only for any complaints against them that are referred to us. The case fee is £550 per case. However, this will be charged only for the third and any subsequent complaints about a particular firm that we deal with during that financial year.

We will be consulting on future funding arrangements for intermediaries.

but there's good news for many firms

Most of the firms that are covered by the Financial Ombudsman Service never have a complaint against them referred to us. Last year (2002/03), approximately 8,200 firms were covered by our compulsory jurisdiction. We only needed to charge 2,100 of these firms for case fees. And over three quarters of these firms had only one or two complaints made against them. So with the case fee being charged only for the third and any subsequent complaints, most firms will go from year to year without having any 'chargeable' complaints about them referred to the ombudsman service.

what services does the ombudsman offer firms?

As well as resolving complaints, we help promote 'complaints prevention' – working with firms to identify and reduce problems that might otherwise lead to expensive and time-consuming disputes. The range of free services we offer firms include:

- our **technical advice desk**, dedicated to answering firms' queries about the ombudsman service and its general approach;
- a monthly newsletter, *ombudsman news*, providing useful case studies and articles;
- a comprehensive website containing guidance for firms and briefing notes on a range of technical issues; 

- general assistance *or* tailor-made training on the complaints-handling issues that are of most concern to your firm;
- conferences and seminars on complaints-handling issues.

the voluntary jurisdiction

As we have already mentioned, some firms that are not automatically covered by our scheme can sign up with us voluntarily, for certain types of complaint. A number of mortgage and insurance intermediaries have decided to do this, ahead of the time when they become regulated by the FSA.

why should your firm join the voluntary jurisdiction?

By joining, you give yourself a head start in preparing for the arrangements you will need to put in place once the FSA starts to regulate mortgages and general insurance complaints.

You will give your customers – and potential customers – the confidence of knowing they have access to our independent complaints-resolution service, should the need arise.

If you act as an investment intermediary, some of your customers are probably already covered by the ombudsman service. So joining the voluntary jurisdiction should help simplify and streamline your existing complaints-handling procedures.

... by joining, you demonstrate your confidence in the service you provide.

what will be covered if your firm joins the voluntary jurisdiction?

If you join and then receive any complaints that involve: general insurance *or* acting as an intermediary for all mortgages (not just mortgages that are residential, first mortgages or covered by the Mortgage Code), the customers concerned will have the right to refer the matter to us if they are unhappy with the way you have handled their complaint.

If your firm acts as an intermediary for both mortgages and general insurance, you must agree to be covered for both these parts of your business. You cannot opt to join our voluntary jurisdiction for only one of these activities.

will joining affect the way your firm handles complaints?

We only become involved in looking at individual complaints if the customer remains dissatisfied *after* you have had the chance to deal with the matter. There are requirements about how you must deal with complaints. But these will apply to your firm in any event, once mortgage and general insurance intermediaries become regulated by the FSA. The requirements are set out in full in the FSA Handbook. The voluntary jurisdiction section of our website (www.financial-ombudsman.org.uk/vj.htm) will guide you to this.

HM Treasury has consulted on, but not yet announced, the arrangements for ‘transitional complaints’. These are the complaints that are made after regulation comes into force for mortgage and insurance intermediaries, but that are *about* events that occurred earlier.

The compulsory jurisdiction might only cover events from the date when you become regulated by the FSA. If you join our voluntary jurisdiction, it will continue to cover earlier events.

how much does it cost mortgage and general insurance intermediaries to join the voluntary jurisdiction?

If you join the voluntary jurisdiction, you will pay only for any cases that are referred to us. In 2004/05 you will not have to pay a joining fee or an annual levy. The case fee is £550 per case (with no VAT to pay) and we will invoice you when our work on the case is finished. However, in the 2004/05 financial year there is no charge for the first two cases against a particular firm.

We will be consulting on future funding arrangements for intermediaries.

how can your firm join the voluntary jurisdiction?

Joining is very straightforward. All you need to do is to complete the form on page 7 and 8 and send it to us, together with a covering letter on your firm's letterhead, using the wording of the sample letter on page 6.

what happens if your firm joins the voluntary jurisdiction and later wants to leave it?

Under the rules, if you have joined and then want to leave, you will first have to agree with us a notice period of at least six months. You will also need to agree with us how any existing complaints about your firm will be handled – and how your customers will be told about your resignation from the voluntary jurisdiction.

is there anything else you need to know before applying?

Before you apply, it is important to look carefully at the rules and requirements that firms in the voluntary jurisdiction have to follow. These rules and requirements will apply to your firm if you decide to go ahead with your application.

There is a link to these rules from the voluntary jurisdiction section of our website at www.financial-ombudsman.org.uk/vj.htm

You may also find it helpful to look at our publication, *a guide for complaints handlers*, that explains our role and provides practical information about our processes.

You will find this guide in the publications section of our website at www.financial-ombudsman.org.uk

If you have any other queries, please contact our technical advice desk on 020 7964 1400 or email technical.advice@financial-ombudsman.org.uk

This newsletter is not intended as a detailed legal guide to the rules of the Financial Ombudsman Service. The rules are published by the FSA and you can find them in the *Complaints Sourcebook* which (together with the *Compensation Sourcebook*) makes up 'Block 4 – Redress' of the FSA's *Handbook of Rules and Guidance*.

applying to join the voluntary jurisdiction of the financial ombudsman service

Joining is simple. Here's all you need to do.

- 1 Prepare and sign a letter of application, using the text from the sample letter below. Your letter should be on your firm's letterhead, with the date and other details inserted where indicated.
- 2 Complete and detach the form printed opposite.
- 3 Send these two documents together to:
David Southgate
Voluntary Jurisdiction Membership Secretary
Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London E14 9SR

to:

David Southgate
Voluntary Jurisdiction Membership Secretary
Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London E14 9SR

[date]

Dear Mr Southgate

Agreement to participate in the voluntary jurisdiction of the Financial Ombudsman Service

[name of firm] informs the Financial Ombudsman Service that it agrees to participate in the Voluntary Jurisdiction of the Financial Ombudsman Service.

As part of our agreement, we confirm that:

- We understand we will be bound by the Standard Terms and other relevant provisions of the FSA Handbook *Complaints Sourcebook* (as amended from time to time), a current version of which we have read.
- We understand the basis on which complaints to the Financial Ombudsman Service will be investigated and determined and the basis on which case fees and levies (if applicable) are payable.

Yours sincerely

[signature]

Financial Ombudsman Service – voluntary jurisdiction

your firm's details



Please complete both sides of this form – detach it and send it, with the covering letter, to the address on page 6.

name of firm applying to join the voluntary jurisdiction

1

status of firm (*plc, limited company, partnership, sole trader*)

2

registered name
(*if different from 1*)

3

trading name
(*if different*)

4

registered number

5

registered address

6

name of parent company
(*if relevant*)

7

principal place of business

8

branch addresses
(*please enclose separate sheet/s if necessary*)

9

main phone number

10

main fax number

11

name of person responsible for dealing with complaints

12

phone number of person responsible for dealing with complaints

13

continued on page 8

address of person responsible for dealing with complaints

14

alternative person we can contact at your firm – and their phone number and address

15

name

address

phone

your firm's bank account details

16

name of bank

address of bank

account name

account number

sort code

billing address for your firm

17

classes or types of business undertaken

18

premium income or fee income – or commission income from relevant business* – or number of accounts

19

* 'Relevant business' for these purposes means business that may generate complaints that will fall under the voluntary jurisdiction of the Financial Ombudsman Service [mortgage lending, mortgage broking, general insurance broking and complaints covered by any previous dispute-resolution scheme of which you were a member].