

## what a “final decision” by an ombudsman means

If a consumer accepts an ombudsman’s final decision by before the deadline we give them, the decision becomes legally binding.

This factsheet explains what that means.

Every year, the Financial Ombudsman Service looks at tens of thousands of complaints from customers of financial businesses. We sort out the vast majority of these informally.

But in around one in ten disputes, one or both sides use their right to “appeal” to an ombudsman – who can use their official legal powers to make a final decision about how the complaint should be settled.

Once the final decision has been made, our involvement is at an end – whether the consumer accepts the decision or not. No ombudsman, however senior, can overrule the decision of another ombudsman.

### what does a “binding” decision mean in practice?

Parliament gave our ombudsmen the power to tell a business what it has to do to put things right for an individual consumer with a valid complaint.

If the consumer accepts the ombudsman’s final decision before the deadline we give them, the decision becomes legally “binding”.

This means that the business is required by law to do whatever the ombudsman tells it to do to put things right for the consumer.

If the ombudsman’s final decision is not in the consumer’s favour, the consumer doesn’t have to accept it – and it does not become binding on either side.

If this happens, the consumer is free to go to court instead (though court requirements or restrictions may apply – for example, time limits).

In a decision in the consumer’s favour, the ombudsman’s instruction to the business about how to put things right is sometimes called an ombudsman “award”.

### does an ombudsman award mean the ombudsman pays?

No – we don’t have our own fund of money to compensate consumers.

When the ombudsman decides that the customer has lost out as a result of what the business has (or has not) done, it is for the business to pay the compensation.

The Financial Ombudsman Service does not have its own fund of money to compensate consumers with complaints. Instead, we have the official power to tell businesses what *they* must do to compensate customers whose complaints we uphold.

### will the ombudsman always award money?

Not always. Parliament gave our ombudsman the power to make “money awards” and “directions”.

A “money award” is where the ombudsman tells a business to pay a particular amount of money as compensation. The actual amount involved is specified by the ombudsman or calculated by the business using instructions given by the ombudsman.

A “direction” is where the ombudsman tells a business to take particular steps to put something right – other than paying monetary compensation.

### **so what can the ombudsman tell a business to do?**

The ombudsman will aim to put the consumer in the position they would be in now if the problem leading to the complaint had never happened.

In some cases, working out what the consumer’s position should be requires complex calculations – for example, if the complain is about a pension.

The ombudsman has the power to tell a business to pay a customer up to £150,000 (£100,000 for complaints we received before 1 January 2012) – and can *recommend* that it pay more.

But not all cases involve large amounts of money – or any at all. For example, a problem may be resolved by “directing” the business to correct inaccurate information it has applied to a consumer’s credit file. Or it could be as simple as telling the business to apologise to the consumer for its mistake or for poor service.

### **what if a business does not agree with an ombudsman’s decision?**

Parliament made ombudsmen’s final decisions binding. So even if a business disagrees with a decision, it is required by law to follow it if the consumer accepts it in time.

We expect businesses to comply with ombudsman decisions as quickly as possible – and this almost always happens. It is often in businesses’ interests to settle quickly – for example, if the ombudsman tells the business to pay interest to the consumer up to the date the compensation is paid.

### **what if a business won’t comply with a decision?**

If a consumer tells us that nothing has happened since the ombudsman decided in their favour, we get in touch with the business to find out what’s happening.

We usually find that the business is having difficulty working out the exact amount of compensation required. Or sometimes, the business is waiting to receive specialist information from experts, or for the results of technical calculations.

In these cases, we try to help the business wherever we can – and we will make sure that the consumer is kept fully informed about what’s going on.

### **but what if a business is just refusing to comply?**

It is very rare that a business won’t do what an ombudsman tells them – once we have reminded them about the legal requirement to comply.

But in cases where this happens – and although it isn’t our role to enforce the law – Parliament strengthened the power of ombudsman decisions in two ways.

First, businesses that are regulated by the Financial Conduct Authority (the FCA) – which are automatically covered by the ombudsman service – are required to cooperate with us. This includes complying with our ombudsmen’s decisions.

Second, Parliament made ombudsman decisions “legally enforceable” in court – which means that consumers have the back-up of the law to support decisions the ombudsman has made in their favour.

## what steps can the regulator take?

The regulator is separate from the ombudsman service. They have their own powers over the businesses they regulate.

We can pass information to the regulator about any business they regulate or license that fails to cooperate with us.

The FCA can – and does – take action against businesses they regulate that refuse to do what the ombudsman has instructed.

This kind of regulatory action is separate from our own work. We can tell a business to put things right for a consumer – but we can't "punish" them.

## what if it turns out a business can't pay?

Sometimes the problem for the business is financial. When we get in touch to ask about the delay, they tell us they can't afford to pay the compensation – even though they want to.

In these cases, if the business is regulated by the FCA (or was by a previous regulator), we might recommend that the matter be referred to the Financial Services Compensation Scheme (FSCS).

The FSCS is the "final safety net" for customers of regulated financial businesses that are unable to pay what they owe.

The FSCS is completely separate from the ombudsman service and it has its own, different set of rules. But – if the consumer agrees – we will pass on the information we have about the complaint as quickly as possible.

## how is an ombudsman decision enforceable in court?

Parliament didn't give the ombudsman service enforcement powers. Instead, it gave *consumers* the power to enforce our decisions in court.

If a case reaches this point, we can talk the consumer through what the process involves. But we can't give legal advice or represent consumers in court.

Our factsheet *enforcing an ombudsman's decision in court* gives more information – including details of sources of free legal advice for consumers.

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

This factsheet for consumers is only a general guide. It is not legal advice. We look at each case on its own individual facts and merits. We will always give you the chance to query anything you don't understand or agree with.

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