



## **how we handle disputes between businesses and consumers**

This quick guide is for businesses that are covered by the ombudsman service but don't usually have much direct contact with us.

It briefly outlines how we handle disputes and how you can get more information about us.

### **does the ombudsman service get involved in every complaint?**

When consumers first get in touch with us, we give them general advice and guidance about what to do if they have a complaint about a financial service or product. Only around one in five of all the initial complaints we receive at our consumer front-line go on to become cases we take on and investigate.

If a consumer brings a complaint to us before complaining direct to you, we will refer the complaint on to you. If you are then able to resolve the complaint to the consumer's satisfaction, we will have no further involvement in the case – and no case fee will be chargeable.

### **so when can you step in?**

The consumer can ask us to look into their complaint if:

- you have already sent them your final response and they remain dissatisfied; or
- you have had eight weeks but not sent the consumer your final response.

At this stage, the complaint becomes a “chargeable” case – and we will pass it on to one of our teams of adjudicators who will start to look into it. However, all businesses are entitled to 25 “free” cases – so you will pay a case fee only for the 26th (and any subsequent) case.

We may look into a complaint before eight weeks have passed. But we'll only do this if the business and their customer agree – and the business will still need to deal with the complaint in line with the complaints-handling rules.

### **what about complaints that the ombudsman can't deal with?**

Sometimes it is clear at an early stage that a particular complaint is not something we can deal with. Our rules allow us to “dismiss” such case without needing to look into them further.

But in some cases it is not readily apparent whether or not a complaint is one we can deal with. The facts may be unclear or in dispute – or the case may be particularly complex.

In these circumstances, one of our adjudicators may need to look into the case in some detail before we can decide whether or not we are able to proceed with it. This may mean that a case fee is chargeable, even if we later decide the case is not one we can investigate.

### **what happens when an adjudicator starts work on a case?**

Our approach will depend on the facts of each individual case. But generally, we will first try to settle the dispute informally through mediation. This can be quicker and more efficient than a formal investigation.

Often just by taking a fresh look at the facts – and identifying and agreeing the key issues as we see them – we can come up with a solution that satisfies both sides.

We generally settle complaints on the basis of the paperwork that you and the consumer send us – rather than having face-to-face meetings. So it is important that, when we ask for it, you send us all the relevant information promptly.

We'll ask you to set out clearly your view of the complaint and why you do not think it should be upheld.

If you would like to discuss the details of the complaint, you can contact the adjudicator by email, phone or letter.

At this stage, settling a dispute informally might involve us contacting you and/or the consumer by phone – to suggest a way forward or to clarify the facts and issues involved.

If we are unable to resolve the matter over the phone – or if the nature of the case makes a written explanation more appropriate – we will confirm our position in writing.

The adjudicator will give their view of the case and set out how, in the adjudicator's opinion, the case should be resolved.

You and the consumer will each be given an opportunity to respond.

## how do you reach a conclusion about the rights and wrongs in an individual complaint?

Our conclusions are based on what we believe is fair and reasonable in the circumstances of each individual case. We take into account the law, rules, codes and good practice that applied at the time of the event complained about.

After drawing together all the evidence, we decide what we think – on the balance of probability – is the more likely version of events.

## what if we don't agree with the adjudicator's view?

In most cases, both the consumer and the business accept the adjudicator's findings and the complaint is then settled. If you disagree with the view we have put forward, you should talk first with the adjudicator working on the case. If matters remain unresolved, either side may ask for a final decision by an ombudsman. This only happens in about one in ten cases.

## what happens if an ombudsman gets involved?

Where an ombudsman becomes directly involved in a case, they will first carry out an independent review of the complaint – before making a final decision.

If the consumer accepts an ombudsman's decision within the time limit specified by the ombudsman, both you and the consumer are bound by the decision. Otherwise, the business is not bound – but the consumer remains free to take court proceedings against you if they wish to do so.

A final decision by an ombudsman is the end of our complaints-handling process. Neither the business nor the consumer can appeal against an ombudsman's decision by going to another ombudsman. So don't wait for an ombudsman's decision and only then send us your arguments. You need to have raised all your points before this stage, and we will give you – and the consumer – plenty of opportunity to do this.

## how much can the ombudsman tell businesses to pay consumers?

The ombudsman can tell you to pay a consumer an amount for financial loss – and/or pain and suffering, damage to reputation, and distress and inconvenience. The maximum amount (or "award") the ombudsman can instruct you to pay is £150,000.

The ombudsman can also direct a business to take appropriate action, such as to apologise

or correct records. And we can award costs (although this happens very rarely). But we are not a regulator and it is not our job to fine or punish businesses.

## can my business deal with the consumer as usual while you are considering the complaint?

While we are considering a complaint, you should continue to deal with the consumer as normal – for example, handling their account or dealing with any separate claims. But if anything you do is relevant to the complaint, you should let us know.

You are free, at any time, to revise any earlier offer you have made to the consumer if you think this could help resolve the complaint. But once we have started considering a case, it is important that you tell us if you would like to make a revised offer. We can then look impartially at the offer and assess whether it seems fair – in which case we may be able to recommend it to the consumer.

While the complaint is with the ombudsman service, you should not take any legal action against the consumer about the subject matter of the complaint. And we recommend that you wait until we have finished our consideration of the complaint before you take any related legal action (such as proceedings for the recovery of a debt, where that is not the focus of the complaint). You should tell us about any action you may be proposing.

## how can I get more information about the ombudsman?

Our website contains a wide range of information, including online versions of all our publications, together with factsheets, technical notes and a section especially for businesses providing answers to many frequently-asked questions

([www.financial-ombudsman.org.uk/faq/businesses/index.htm](http://www.financial-ombudsman.org.uk/faq/businesses/index.htm)).

We also publish a regular newsletter, *ombudsman news*, with articles on our approach to different types of complaints – as well as commentary and case studies.

If you're trying to track down how we may have handled a similar type of case in the past, the "search" facility on our website will help you to look through previous issues.

If you would prefer to receive the printed version of ombudsman news, just call our publications helpline on 020 7964 0092 and we'll add you to the mailing list – free of charge.

## is there someone I can talk to about the ombudsman's general approach?

Our technical advice desk is a free service for businesses. You can contact the advice desk for general information on any complaints-handling matters – including informal advice on what the ombudsman's approach is likely to be on specific issues. Drawing on our many years of experience settling financial disputes, we can help businesses resolve complaints more effectively themselves at an early stage – often avoiding the need for complaints to be referred formally to the ombudsman service.

The advice desk is open from 9am to 5pm on Monday to Friday – phone 020 7964 1400 or email [technical.advice@financial-ombudsman.org.uk](mailto:technical.advice@financial-ombudsman.org.uk).

We also organise and speak at a wide range of industry events – including our own national series of roadshows for smaller businesses. For more information, you can visit our website ([www.financial-ombudsman.org.uk/news/events-industry.htm](http://www.financial-ombudsman.org.uk/news/events-industry.htm)) or call the technical advice desk.

This quick guide gives general information only and is correct at the time it was published. It is not a definitive statement of the law, our approach or our procedure.

© Financial Ombudsman Service Ltd, July 2015 (ref: QG7 / E233f)