



**letter to claims-management companies
who refer consumers' disputes to the ombudsman
about payment protection insurance (PPI)**

April 2009

Dear claims-management company

complaints about payment protection insurance (PPI)

I am writing to you and a number of other similar organisations in view of your use of the Financial Ombudsman Service to resolve PPI complaints on behalf of your clients.

The purpose of this letter is to update you about the progress that the ombudsman service is making in dealing with these cases – and to ask for your assistance in ensuring that cases referred to us can be handled fairly and as efficiently as possible. This might require changes in your current approach to referring complaints to us. I should explain that a failure to meet the requirements set out below could result in delays to the handling of complaints – or in some circumstances to our having to decline to handle a case.

PPI cases account for around a quarter of the record number of cases now being referred to the ombudsman service. As you may know, we have asked the Financial Services Authority (FSA) to consider whether it should use its powers to intervene in these cases. There is further information about this on the “wider implications” website (www.wider-implications.info/case_studies/wi_11.html).

In the meantime, we are progressing individual cases as quickly as possible. Our ability to do so is dependent in large part on the actions of companies such as your own – and also on the actions of the financial businesses against which the complaints are made. We have now investigated and resolved large numbers of PPI cases, and we have published further information about our approach to these complaints (available at www.financial-ombudsman.org.uk/publications/technical_notes/ppi.html).

We have also published more general guidance about complaints handling and the ombudsman at www.financial-ombudsman.org.uk/faq/index.htm .

However, our progress has been slowed by the lack of adequate information in many cases – and by the poor complaints-handling processes of some parties. This is why I am asking you and all the other claims-management companies we deal with to help us – by following simple guidelines when you refer cases to us.

information to be provided with complaints

Before we can take on a case, we of course require a properly-completed complaint form. This must include:

- the consumer's *own* signature on the form;
- a contact point for us to be able to get in touch with the consumer directly (preferably a daytime phone number);
- a signed copy of your authority to act on behalf of the consumer; *and*
- a copy of *all* correspondence on the complaint between you/the consumer and the financial business.

Not providing the necessary information on a complete and timely basis will only cause delays – and may result in our having to decline to handle the case. Some claims-management companies help the process by providing:

- the consumer's own account of their circumstances at the time of the disputed sale;
- the reasons for the loan; *and*
- the consumer's own recollection of events.

This type of information is very valuable in assessing cases. The ombudsman is interested in hearing the consumer's own account of the sale. For example – did they agree to the policy? What did the salesman say? Was it a lengthy conversation? The richness of the evidence here is likely to be material to the assessment of the complaint.

As is the case for all consumers – regardless of whether or not they use a claims-management company – the account of this background can be very simple. In contrast, extensive standardised text is unlikely to bear much weight in our assessment of the case. So any additional points you make should be of relevance to the specific circumstances of the individual case.

The financial business you are complaining about should have had the opportunity – when it was handling the case – to see and assess this evidence about the consumer's circumstances and concerns.

final responses – and the timing of referral to the ombudsman

I know that many claims-management companies have experienced difficulties in obtaining clear final responses from financial businesses. We are monitoring the situation and we will raise particular concerns about individual financial businesses with the FSA (which has responsibility for the enforcement of the complaints-handling rules).

But we have also observed a number of claims-management companies abusing the process by which we agree to take on (or “convert”) some cases where the financial businesses' final response has not been issued after eight weeks. We are monitoring this situation and we will raise particular concerns, as appropriate, with the regulator of claims-management companies, the Ministry of Justice.

As a general rule, it is helpful to wait for a formal final response from the financial business *before* referring complaints to the ombudsman service. The only exception to this should be those cases where the financial business has not responded *at all*

to your client's initial complaint within the appropriate timescales– or has responded in a clearly inadequate manner– *and* you have given the business concerned adequate opportunity to make a final response.

These so-called “forced deadlock” cases should be the exception rather than the rule. And we will not progress cases in these circumstances without copies of all relevant correspondence between you and the financial business. We may decide not to progress cases, if we are *not* satisfied that the business has, in fact, been given adequate opportunity to respond to a complaint – or if it appears that you have caused delays by failing to respond promptly to reasonable and necessary requests for information from the financial business.

general requests to financial businesses

I am aware that some claims-management companies have been writing to financial businesses with general requests for information about *possible* past sales, along the lines of: “*If my client has any PPI product, please respond to his complaint that it was mis-sold ...*”

In our view, it is not appropriate to consider such generalised correspondence from a claims-management company as a formal complaint – for the purposes of deciding when the ombudsman service should accept a case. This means we will not take on a case for investigation simply because eight weeks have passed since a letter like this was sent. Instead, you will need to show *either*:

- that your client has a *specific* complaint about a *specific* past sale, *or*
- there is a *specific* complaint about a failure by a financial business to provide reasonable information requested on behalf of a client.

In either case, you will of course need to be able to show that the financial business in question has had adequate opportunity to consider and respond to your complaint.

In the case of a complaint about the provision of information, we are likely to reject a complaint, if it appears reasonable to us to assume that the information was *either* not necessary as part of the substantive complaint – *or* was likely to be available from the consumer's own records.

I hope this update has been helpful.

Yours sincerely



Caroline Wells
external liaison manager