

## The Financial Services Ombudsman

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Jersey's Financial Services Ombudsman has been investigating and resolving complaints since 16 November 2015. Whilst the Ombudsman has received approximately 2,500 complaints since it was established, typically the Ombudsman opens around 200 cases a year.

The Ombudsman adjudicates complaints from individual customers in relation to financial services provided in Jersey and can make awards to return complainants to the position they would have been in had the problem not occurred.

### Who is able to complain?

Certain categories of persons are eligible to complain to the Ombudsman including individuals, small businesses, charities, trusts and foundations. The service is free and confidential and primarily available to persons lacking the resources or expertise to use other means to resolve complaints. The service is available to complainants resident anywhere, not just to Jersey residents.

### What can complaints be about?

Complaints are restricted to acts in the course of certain financial services business provided in or from within Jersey, including

- deposit-taking business (regulated banks);
- the provision of credit (lenders, credit brokers, credit reference agencies, debt adjusters and counsellors (other than in relation to free advice or advice from a charity));
- bureaux de change, cheque cashers and money transmission providers;
- insurance and general insurance mediation business (including that carried on by intermediaries such as brokers);

- investment business (including that carried on by intermediaries and functionaries of recognized funds); and
- pension business.

Most trust company business (except that relating to a business listed above), occupational pensions and fund business relating to funds other than recognized funds are outside the scope of the Ombudsman's mandate.

## **When must complaints be made?**

A complaint must be made to the Ombudsman within six years of the act to which it relates or two years after the complainant should have become aware of the cause for complaint. The complaint must relate to an act that occurred after 1 January 2010 (in Jersey) and the financial services provider must have been given a reasonable opportunity (capped at three months) to consider the complaint.

However, if the provider meets certain requirements for handling complaints a shorter time limit will apply, so that a complainant must refer the complaint to the Ombudsman within six months of receiving a final response on the complaint from the financial services provider. For the shorter time limit to apply the provider must notify clients of the availability of the Ombudsman scheme and the six month time limit and comply with the model complaints procedure issued by the Ombudsman (see below).

## **Is the Ombudsman's determination binding?**

If the complaint is within the Ombudsman's mandate, the Ombudsman will seek to mediate the claim so that the provider and the complainant come to a mutually agreed solution. In doing so the Ombudsman will issue a provisional decision. If either party rejects the provisional decision, after considering any further representations the Ombudsman will issue its final decision.

The Ombudsman's decision is binding if it is accepted by the complainant. There is no right of appeal, so no further legal action can be taken on the same subject matter except for judicial review.

## **What award may the Ombudsman make?**

The Ombudsman may require that the financial services provider compensate the complainant for their financial loss and any material distress or inconvenience. The maximum amount that the Ombudsman can award per claim is £150,000. The Ombudsman can also require the financial services provider to take specified steps in relation to the complainant.

## How will it be funded?

The scheme is free to complainants and is to be paid for by levies on financial services providers and by case fees charged to providers in respect of complaints against them.

## Will Guernsey be involved in the scheme?

Whilst not the focus of this briefing, the Ombudsman scheme is a cross-Channel Islands initiative and therefore the Ombudsman's mandate includes complaints in connection to financial services provided in Guernsey. There is a shared single office in Jersey with a shared staff and Board.

## How can I be ready for the scheme?

The Ombudsman has published a [model complaints procedure](#). In order to take advantage of the six month time limit for complaints to be made you should make amendments to client-facing documents to notify clients that the scheme is available and to inform them of the six month time limit. You should also ensure that your procedures for complaints handling conform to the model procedure.

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