



An tOmbudsman Seirbhísí  
Airgeadais agus Pinsean

Financial Services and  
Pensions Ombudsman

# ADR Annual Activities Report 2023

Published in accordance with S.I. No. 343/2015 – European  
Union (Alternative Dispute Resolution for Consumer Disputes)  
Regulations 2015



# Introduction

This report is published by the Financial Services and Pensions Ombudsman (FSPO) in accordance with S.I. No. 343/2015 - European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015.

The FSPO was established in January 2018 by the Financial Services and Pensions Ombudsman Act 2017. The role of the FSPO is to resolve complaints from consumers, including small businesses and other organisations, against financial service providers and pension providers.

We provide an independent, fair, impartial, confidential and free service to resolve complaints through either informal mediation, leading to a potential settlement agreed between the parties, or formal investigation and adjudication, leading to a legally binding decision.

When any consumer, whether an individual, a small business or an organisation, is unable to resolve a complaint or dispute with a financial service provider or a pension provider, they can refer their complaint to the FSPO.

We deal with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by telephone. Where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to a statutory appeal to the High Court.

The Ombudsman has wide-ranging powers to deal with complaints against financial service providers. The Ombudsman can direct a provider to rectify the conduct that is the subject of the complaint. There is no limit to the value of the rectification that can be directed. The Ombudsman can also direct a financial service provider to pay compensation to a complainant of up to €500,000. In addition, the Ombudsman can publish anonymised decisions and can also publish the names of any financial service provider that has had at least three complaints against it upheld, substantially upheld, or partially upheld during a calendar year.

When dealing with complaints against pension providers, the Ombudsman's powers are more limited. While the Ombudsman can direct rectification, the legislation governing the FSPO sets out that such rectification shall not exceed any actual loss of benefit under the pension scheme concerned.

Furthermore, the Ombudsman cannot direct a pension provider to pay compensation. The Ombudsman can only publish case studies in relation to pension decisions (not the full decision) and cannot publish the names of any pension provider irrespective of the number of complaints it may have had upheld, substantially upheld, or partially upheld against during a calendar year.

Formal investigation of a complaint by the FSPO is a detailed, fair and impartial process carried out in accordance with fair procedures. For this reason, documentary and audio evidence and other material, together with submissions from the parties, is gathered by the FSPO from those involved in the dispute and exchanged between the parties.

Unless a decision is appealed to the High Court, the financial service provider or pension provider must implement any direction made by the Ombudsman in a legally binding decision. Decisions appealed to the High Court are not published while they are the subject of an appeal.

The sections contained within this report are, in accordance with Section 10(2) of S.I. No. 343/2015:

- (a) the number of disputes received and the types of complaints to which they related.
- (b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices.
- (c) the percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation.
- (d) the average time taken to resolve disputes.
- (e) the rate of compliance, if known, with the outcomes of the ADR procedures; and
- (f) cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable.

## (a) The number and types of disputes received and the types of complaints to which they related

A total of 6,182 complaints were received by the FSPO in 2023, a 29% increase in comparison to 2022, where 4,781 complaints were received.

Banking complaints were the highest category of complaints received, with 3,850 complaints, or 62% of all complaints received falling into this category. This represents a significant increase in banking complaints to the FSPO in 2023. In 2022, 2,640 complaints received were in the banking sector.

The FSPO received 1,446 (23%) complaints relating to the insurance sector, which accounted for the second largest category of complaints received. This compared to 1,129 complaints received in this category in 2022.

The number of complaints received in both investment and pension categories also rose in 2023. 461 investment complaints were received, and 336 pension complaints were received. This compared with 366 and 233 complaints received in these categories respectively, in 2022.

This year, the FSPO also began collecting figures for non-regulated entities and 74 complaints made about the conduct of such entities, were received.

13 complaints were labelled 'not applicable'. This occurs where there is not enough detail given by the complainant to assign a sector before closing the complaint, or where the complaint was not for the financial sector. At year end, two complaints received had not yet been assigned to a sector. This happens when we are waiting for further information from the complainant to enable us to correctly determine the sector.

## Complaints received by sector



Banking

**3,850**

62%



Insurance

**1,446**

23%



Investment

**461**

7%



Pension Schemes

**336**

5%

Not applicable

**13**

<1%

Non-regulated

**74**

1%

Unassigned at year end

**2**

<1%

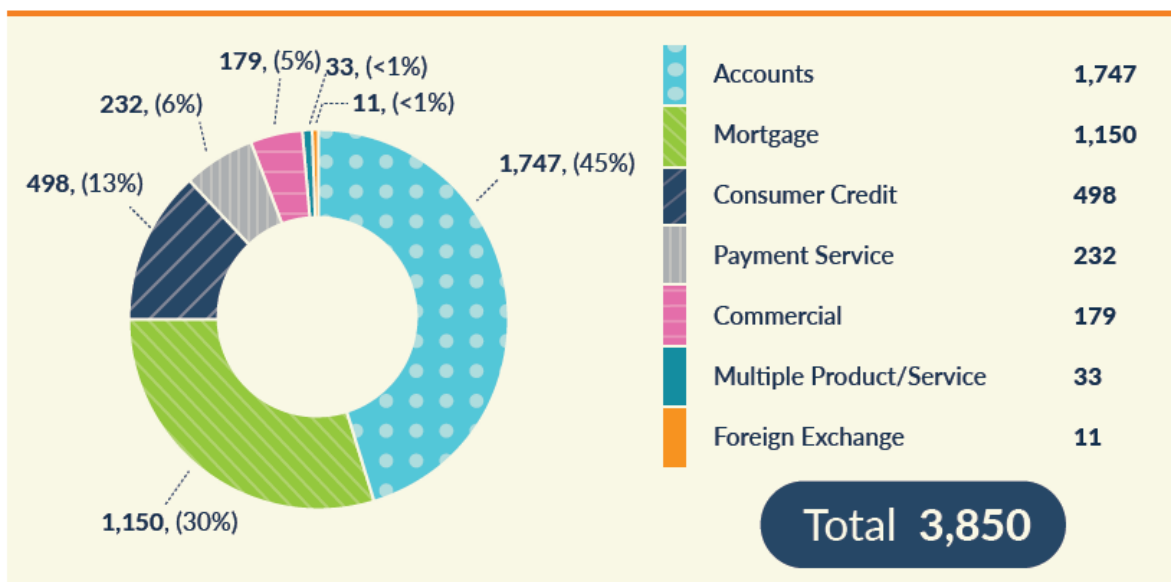
Total complaints received **6,182**

## Banking Complaints 2023

The FSPO received 3,850 banking complaints in 2023, a 46% increase from the 2,640 classified as banking complaints in 2022. Banking complaints accounted for 62% of all complaints received, an increase of seven percentage points from 2022 when banking complaints accounted for 55% of all complaints received.

The majority of banking complaints concerned bank accounts (1,747), followed by mortgages (1,150) and then other consumer credit (498). These three products were also the three products most complained of in 2022.

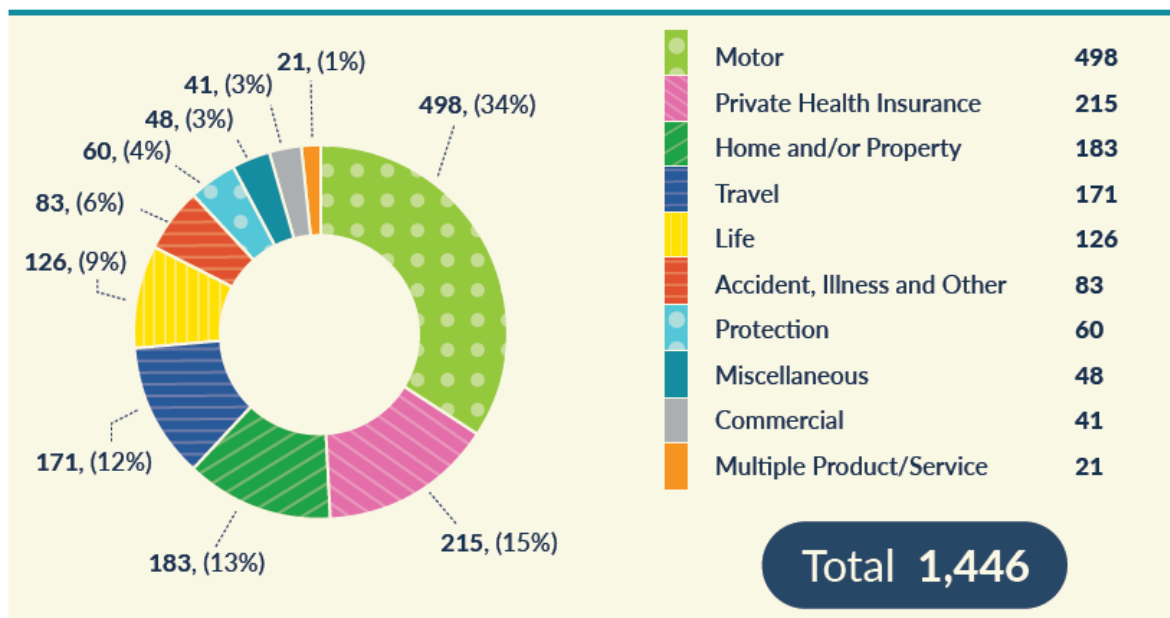
Fig. 1.1 Banking complaints by product 2023



## Insurance Complaints 2023

The FSPO received 1,446 complaints related to insurance products in 2023. This represents a 28% increase from the 1,129 complaints classified as insurance complaints in 2022. Insurance complaints account for 23% of all complaints received, a decrease of 1 percentage point from 2022, when insurance complaints accounted for 24% of all complaints received. The largest number of insurance complaints received related to motor insurance (498 complaints), followed by private health insurance (215 complaints).

Fig 1.2 Insurance complaints by product 2023

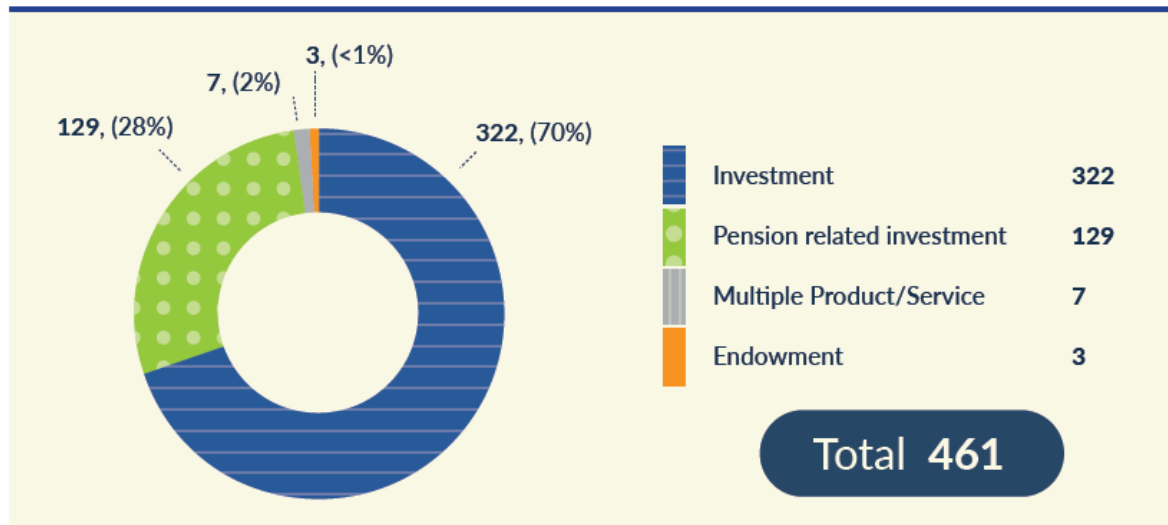


## Investment Complaints 2023

The FSPO received 461 investment related complaints in 2023, a 26% increase from the 366 complaints classified as investment complaints in 2022. Investment complaints accounted for 7% of all complaints received in 2023, a decrease of one percentage point from 2022 when investment complaints accounted for 8% of all complaints received.

The investment category includes not only investments, but also pension-related investment products, a category for multiple products, and endowments. Some products involve investments which are put in place to make provision for a person's retirement such as AVCs (Additional Voluntary Contributions), but a product of that nature is not a "pension scheme" within the meaning of the FSPO's governing legislation. As a result, these products fall within the investment products category.

Fig. 1.3 Investment complaints by product 2023





## Pension Scheme Complaints 2023

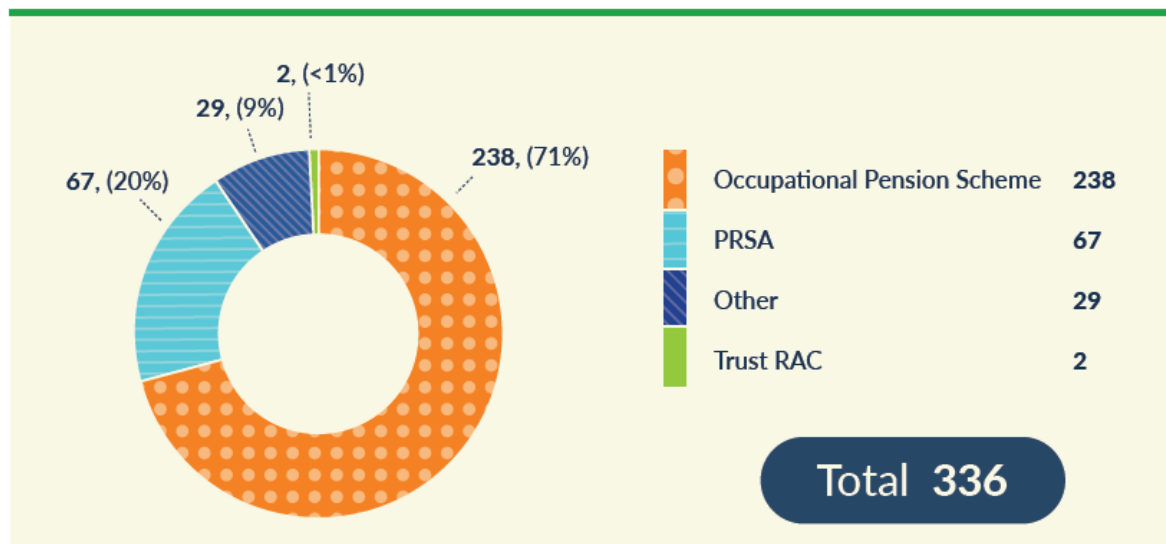
The FSPO received 336 pension scheme complaints in 2023 in comparison with 233 complaints in 2022, an increase of 44%. The majority of complaints relating to pensions in 2023, related to occupational pension schemes (71%; 238 complaints).

Occupational pension schemes are schemes set up by an employer to provide retirement and/or other benefits for employees. This includes both public sector and private sector occupational pension schemes.

PRSAs (Personal Retirement Savings Accounts) are pension savings accounts, normally paid for by personal contributions, although employers can pay contributions to these plans too. They accounted for 20% (67 complaints) of complaints in 2023.

Trust RACs (Retirement Annuity Contracts) are schemes established under trust and approved by the Revenue Commissioners. They are for the benefit of individuals engaged in, or connected with, a particular occupation and which provide retirement annuities for them, or benefits for their dependents.

Fig. 1.4 Pension scheme complaints by product 2023



**(b) Any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices.**

Section 62 of the Financial Services and Pensions Ombudsman Act 2017 (the "FSPO Act") gives the FSPO the power to publish legally binding decisions in relation to complaints concerning financial service providers. To provide full access to the Ombudsman's decisions, the FSPO has created an online database of all published legally binding decisions. This can be accessed at [www.fspo.ie/decisions](http://www.fspo.ie/decisions). This database holds the full text of the Ombudsman's published decisions issued since January 2018 in relation to complaints against financial service providers. New decisions are uploaded periodically, typically once a month<sup>1</sup>.

The Ombudsman also publishes Digests of decisions, which contain summaries of decisions made in relation to complaints against financial service providers and case studies of decisions made in relation to complaints against pension providers. Digests relevant to 2022 include:

- [Volume 7](#) published in February 2022, contains summaries of decisions concerning complaints related to travel insurance complaints.
- [Volume 8](#) published in November 2022 contains summaries of decisions concerning complaints related to private health insurance.

By publishing these decisions and Digests of decisions, the Ombudsman aims to enhance transparency and understanding of the powers of the FSPO and its services. Providing access to the Ombudsman's decisions contributes to an enhanced consumer protection framework and is a valuable tool for providers and consumers alike in understanding the Ombudsman's decisions.

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<sup>1</sup> As at 1 May 2024, the database holds 2,378 decisions, with decisions which were issued by the FSPO up to end of December 2023.

The Ombudsman's Digests of Decisions published to date, highlight the broad range of issues leading to complaints made to the FSPO and the decisions made by the Ombudsman. Such decisions include directions to providers to rectify the conduct complained of by reviewing the wording of policies, admitting insurance claims for payment, and/or by paying compensation.

## 2023

The Ombudsman, on publishing the [Overview of Complaints for 2023](#), referred to the departure of two major financial service providers from the Irish market in 2022, which posed the potential for a high volume of complaints to be made to the FSPO, given the number of impacted customers.

In 2023, the FSPO received 236 complaints which were tagged with the keywords 'market exit', though not all of these complaints were in relation to the conduct of those providers leaving the market.

A total of 162 complaints relating to market exit were closed in 2023. 55 complaints were closed at an early stage within our Customer Operations and Information Management (COIM) department, where either the complainant was re-directed to the financial service provider, where information had not been provided by the complainant in order to progress the complaint, where a resolution had been reached, or the complaint had been withdrawn.

A further 106 complaints were concluded within our Dispute Resolution Service (DRS) for a variety of reasons, including where a settlement was agreed between the parties, where a clarification was issued, where a resolution had been reached outside of DRS, where the matter was noted to be best dealt with by an alternative forum and where information had not been provided by the complainant in order to progress the complaint.

One complaint was closed in Legal Services (LS) as it was outside the jurisdiction of the FSPO. A complaint can go to Legal Services at any point in our processes, but ideally in the early stages, should there be a jurisdictional query.

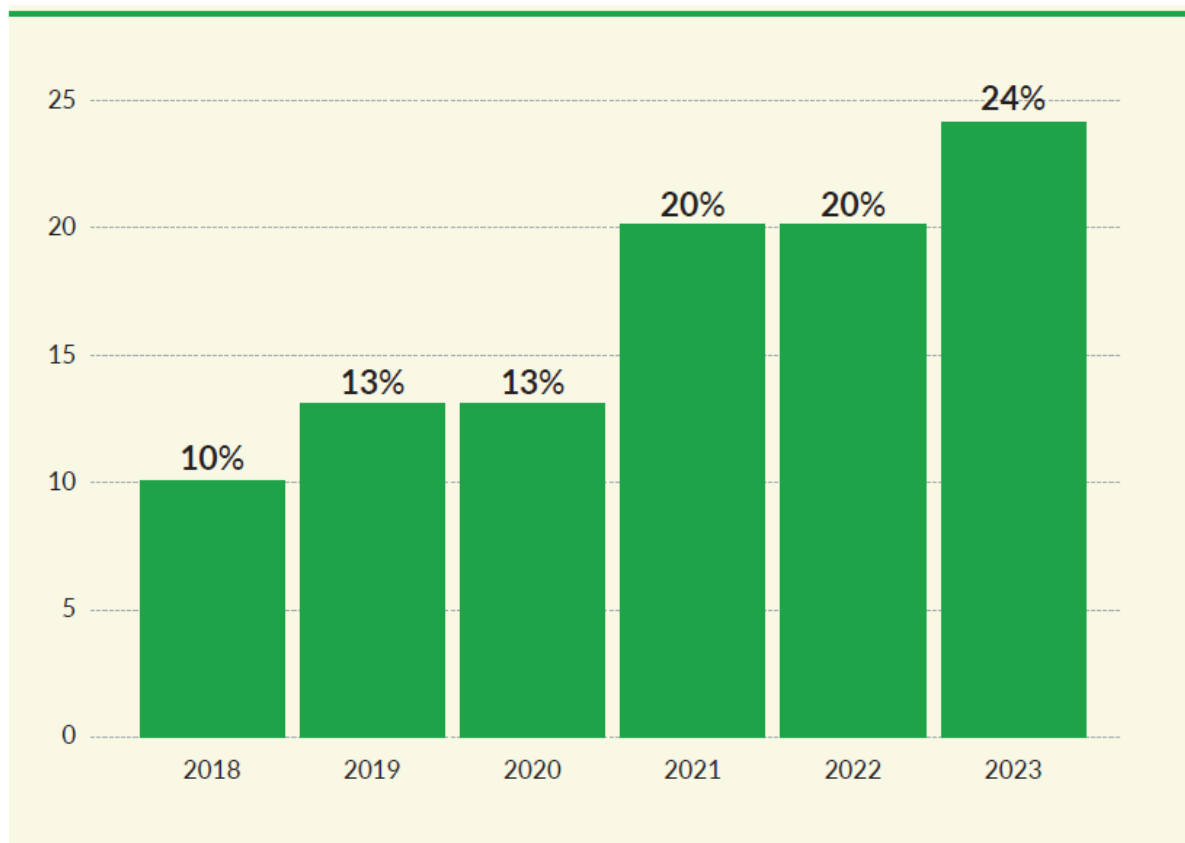
In addition, the Ombudsman highlighted the steady increase in the number of complaints received by the FSPO in relation to disputed transactions, since 2018.

Disputed transactions include fraudulent transactions, unauthorised withdrawals, a failure to provide security on an account and non-receipt of money.

It is important to note that the FSPO cannot investigate instances of fraud, as that is a matter for An Garda Síochána. However, the FSPO can investigate a complaint which relates to service failings of the provider in dealing with a customer who suspects fraud on their account, and any complaint about disputed transactions.

In 2023, nearly a quarter of all banking complaints included the conducts grouped under the heading of Disputed Transactions. Conducts complained of within the grouping include disputed transactions, fraudulent transactions, failure to provide accurate account information or balances, failure to provide security measures, non-receipt of money, and unauthorised withdrawals. The Ombudsman cited a number of case studies where the consumer identified what they described as fraudulent activity on their bank account in his Overview of Complaints.

Fig. 2.1 Disputed transactions as a percentage of all banking complaints received 2018-2023



During 2023, in accordance with the provisions of Section 18 of the FSPO Act 2017, this Office referred 9 legally binding decisions to the Central Bank of Ireland (CBI). This is an important part of our role, and these referrals, in addition to the ongoing sharing of information with the CBI on areas of mutual interest, help to ensure that issues and conducts evident in complaints made to this Office can be considered from a regulatory perspective. Consumers place their trust in financial providers when using their services. It is a serious matter where that trust is breached.

In each complaint referred to the CBI, which are listed in Table 1.0, the Ombudsman outlined the reason for the referral and enclosed an anonymised copy of the legally binding decision.

**Table 1.0 Complaint issues referred to the Central Bank of Ireland in 2023**

Decision Reference	Issues raised by the complaint
<a href="#">2023-0160</a>	The Ombudsman was concerned at the provider's reliance on a policy exclusion in its claim decision which was no longer applicable, and which the provider had acknowledged was an error. This raised a potentially systemic issue in the provider's claim decisions.
<a href="#">2023-0082</a>	The Ombudsman was concerned about an apparent shortfall in the guidance available to regulated financial service providers under the Central Credit Register framework, in situations of bankruptcy, which can include complex sets of circumstances, such as in the background to this complaint.
<a href="#">2023-0083</a>	The Ombudsman was concerned about an apparent a shortfall in the guidance available to regulated financial service providers under the Central Credit Register framework, in situations of bankruptcy, or insolvency arrangements, such as in the background to this complaint.
<a href="#">2023-0091</a>	The Ombudsman was concerned that the terms of an insurance policy in the section outlining the cover and in the section outlining exclusions, taken together made the policy confusing and

	made it difficult for a consumer to understand the nature and the limits of such cover, because of the interplay between the policy wording. This created a potentially systemic issue arising from the likely confusion caused.
<a href="#">2023-0032</a>	The Ombudsman was concerned at the poor record keeping practices of the provider demonstrated in its response to this complaint and the potential impact of this on other customers.
<a href="#">2023-0024</a>	The Ombudsman was concerned that the interplay between two separate policy provisions failed to meet the provider's obligation under Provision 2.6 of the Consumer Protection Code, to make relevant material information available to its policyholder, in a way that seeks to inform, and that this issue could be systemic in nature.
<a href="#">2023-0023</a>	The Ombudsman was concerned about the provider's failure to comply with all of its obligations pursuant to Chapter 2 of Consumer Protection Code, which the Ombudsman was satisfied constituted conduct contrary to law within the meaning of Section 60(2)(a) of the Financial Services and Pensions Ombudsman Act 2017, relating to errors in dealing with the claim, in circumstances where the policy offered no cover or policy benefits for the policyholder's situation.
<a href="#">2023-0256</a>	The Ombudsman was concerned that the provider's incorrect approach to reporting accounts where the card had been revoked, may have impacted other customers.
<a href="#">2023-0254</a>	The Ombudsman was concerned about the likely confusion caused by policy provisions which included a definition of "gross profit" that deviated from its well-established and generally understood meaning, without that significant difference being adequately highlighted.

During 2023, the FSPO also shared a copy of every legally binding decision issued, concerning a complaint about a tracker mortgage rate of interest, with the Central Bank of Ireland (CBI). Copies of 107 tracker mortgage decisions were sent by the FSPO to the CBI.

The same approach was adopted for 26 legally binding decisions issued in complaints concerning declined insurance claims for business interruption losses.

The FSPO Act also provides that the Ombudsman may make recommendations to the CBI in relation to measures that the CBI might take in order to effectively deal with persistent patterns of complaints.

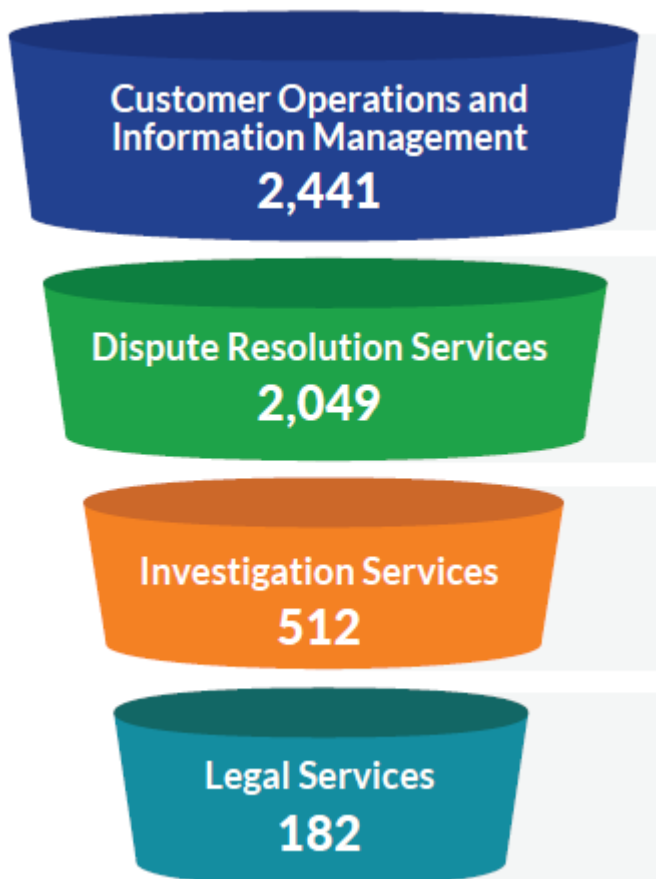
The FSPO Act also provides that the Ombudsman shall cooperate with the Pensions Authority with a view to ensuring that this Act operates in a way that contributes to promoting the best interests of actual or potential beneficiaries of pension services and to the efficient and effective handling of complaints. The Pension Authority and the FSPO have signed a Memorandum of Understanding to facilitate this cooperative engagement. No decisions made on pension complaints in 2023, were referred by the FSPO to the Pensions Authority.

### (c) The percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation

In 2023, the FSPO received 6,182 complaints and closed 5,184 complaints.

- 2,441 (47.0%) complaints were closed in Customer Operations and Information Management (COIM).
- 2,049 (39.5%) complaints were closed in Dispute Resolution Services (DRS).
- 512 (9.9%) complaints were closed in Investigation Services (IS).
- 182 (3.5%) complaints were closed in Legal Services (LS).

Fig.3.1 How we managed complaints in 2023; complaints closed.



### Withdrawn complaints

247 complaints were withdrawn at various points in our processes in 2023. The reason for withdrawal of a complaint can vary depending on the stage at which the complaint is withdrawn. A common theme, regardless of the stage at which a complaint is withdrawn, is where the complaint has been resolved to the complainant's satisfaction by the provider. While the FSPO encourages settlements at the earliest stage, a settlement at any stage is always encouraged and welcome. Complainants may also withdraw their complaint due to a change in life circumstances. The FSPO is always willing to take such matters into consideration and may offer to put the complaint on hold for a time instead, if appropriate.



## Customer Operations and Information Management

Table 2.0 COIM complaint closure reasons 2023

Closure reason	Number of complaints closed
Outside jurisdiction	844
Compliance incomplete	766
Resolved	628
Withdrawn	177
Other	26
<b>Total</b>	<b>2,441</b>

COIM closed 844 complaints during 2023 as they were outside the jurisdiction of this Office. Examples of this would be where the provider is not regulated within the European Economic Area, where the provider was not providing a financial service, or the complaint was outside the time limits allowed for investigation of the complaint. The FSPO received an increased number of complaints relating to disputed transactions in 2023, (380 more complaints were received in 2023 under this conduct heading than in 2022), which includes the category of fraud. Where fraud was the only conduct complained of, this complaint was closed and labelled as 'outside jurisdiction', because the FSPO cannot investigate matters of fraud, as this is a matter for An Garda Síochána.

In 766 instances where the complaint was closed, the complaint was closed as 'compliance incomplete'. In these complaints, the complaint could not proceed to an investigation as there was information outstanding from the complainant, or in some cases the complainant could not be contacted.

In many cases, complainants make a complaint to the FSPO without having first made a complaint to their provider. It is important to ensure the provider has been given the

opportunity to resolve the complaint first, as it is only when a complainant has been unable to resolve their complaint or dispute with a financial service provider or a pension provider, that they can refer their complaint to the FSPO. During 2023, 628 such complaints were made to the FSPO, where subsequent notification to the provider of the existence of a complaint, allowed the complaint to be resolved to the customer's satisfaction.

In addition, 177 complaints were withdrawn by the complainant at this early stage.

## Dispute Resolution Services

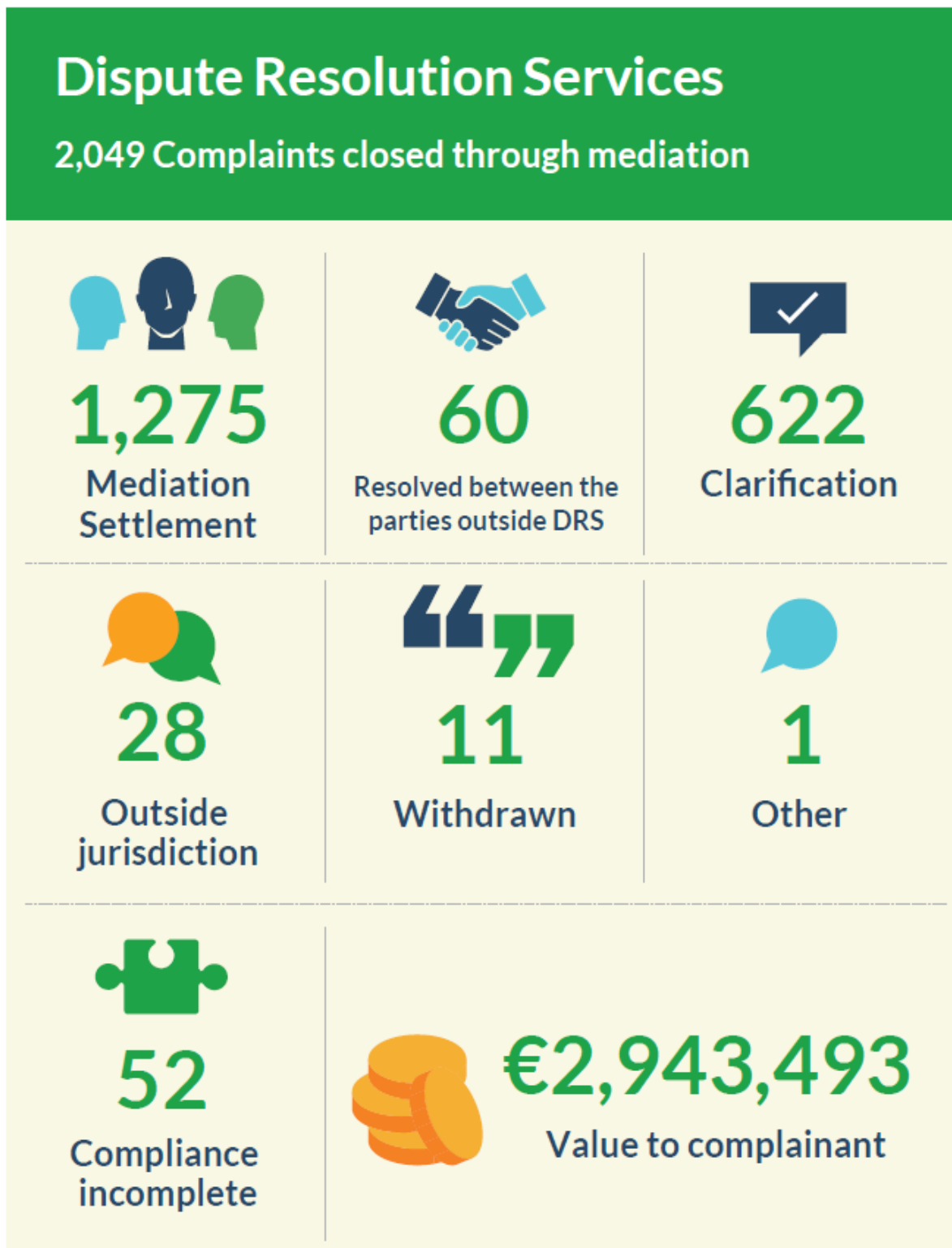
Our Dispute Resolution Service closed 2,049 complaints in 2023, representing 40% of all complaints closed. 62% of all complaints closed in DRS reached a mediation settlement (1,275 complaints), which closed the complaint. The total value to complainants of mediated settlements in 2023 was €2,943,493. Mediation continues to be an effective way for complainants and providers to resolve complaints in a timely manner.

In some complaints, a clarification was provided to the complainant, and this allowed the complaint to close. This occurred in 622 complaints.

In 52 complaints categorised as 'compliance incomplete', there was information outstanding from the complainant, or the complainant could not be contacted, and the complaint had to be closed.

60 complaints were closed when the parties resolved the complaint themselves but provided no other details and 11 were withdrawn by the complainant. 28 were categorised as outside the jurisdiction of the FSPO. This can occur for example, when the provider is not regulated within the EEA, where the complaint is outside the time limits set for investigating a complaint, or where the complaint relates to fraud, which is a matter for An Garda Síochána to investigate.

Table 3.0 DRS complaint closure reasons 2023



### (d) The average time taken to resolve disputes

For all complaints that closed in 2023, including tracker mortgage complaints, the average time from receipt of complaint to closure, was 8.6 months.

For non-tracker mortgage complaints that closed in 2023, the average time from receipt to closure, was 7 months.

Tables 4.0 and 5.0 provide additional information on the FSPO's timelines.

The FSPO first deals with complaints through mediation, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by telephone. The table below details complaints closed in the FSPO's Dispute Resolution Service.

**Table 4.0 Percentage of complaints closed in DRS in 2023**

Time open	Percentage of complaints closed in DRS in 2023
2 months or less	2%
2-4 months	25%
4-6 months	41%
Over 6 months	32%

Where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.

Formal investigation of a complaint by the FSPO is a detailed, fair and impartial process carried out in accordance with fair procedures. Detailed submissions are gathered by the FSPO from those involved in the dispute and exchanged between the parties. The FSPO was established by statute and operates in accordance with fair procedures.

The FSPO is required to take into account a range of EU and national legislation, and case law, when adjudicating on matters in dispute between consumers and financial services providers and pension providers. In particular, the FSPO must operate in accordance with its governing legislation the Financial Services and Pensions

Ombudsman Act 2017, (the Act) as amended. The FSPO makes every effort to assist the parties in understanding these complex provisions as they relate to each individual complaint. Assessing whether a complaint falls within the remit of the office is a significant part of the work undertaken by the FSPO.

The table below details the time taken from receipt to closure of complaints within this formal investigation process in 2023.

**Table 5.0 Percentage of complaints closed in Investigation Services in 2023**

Time open	Percentage of complaints closed in Investigation Services in 2023
1 year or less	4%
1-2 years	19%
2-3 years	34%
Over 3 years	43%

### (e) The rate of compliance, if known, with the outcomes of the ADR procedures

The Ombudsman has wide-ranging powers to deal with complaints against financial service providers, including to direct a provider to rectify the conduct that is the subject of the complaint.

There is no limit to the value of the rectification the Ombudsman can direct. Financial services providers can be directed to pay compensation to a complainant of up to €500,000. In terms of dealing with complaints against pension providers, the Ombudsman can direct redress that shall not exceed any actual loss of benefit under the pension scheme concerned. The Ombudsman cannot direct a pension provider to pay compensation.

The Ombudsman's decisions are legally binding on the parties, subject only to an appeal to the High Court. Additionally, complaints which are resolved by way of dispute resolution settlements result in a mediated agreement, which is signed by both parties and is enforceable in a Court.

Legally binding decisions can be enforced through the Courts pursuant to Section 65(1) of the Financial Services and Pensions Ombudsman Act 2017. In 2023, no decisions required enforcement through the Courts.

### (f) Cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable

The FSPO is an active member of FIN-NET which helps consumers resolve cross border disputes out of court.

The FSPO will initially assess a complaint to determine if it falls within its remit. If it is determined that a complaint would be more appropriately dealt with by another competent scheme in the EEA, the FSPO will, as part of its service, direct the consumer to the correct ADR body. This is in accordance with the Memorandum of Understanding on a cross-border, out-of-court complaints network for financial services.

The FSPO has a broad remit in relation to cross border complaints. The FSPO may accept complaints made against financial services providers that are regulated by the Central Bank of Ireland, and against financial services providers that are regulated by a competent authority in the EEA and which passport their products and services to consumers on a 'freedom of service basis'. For consumers making cross border complaints which fall under our remit, the FSPO will assist consumers in progressing their complaint where English or Irish is not their first language.

Over the last number of years, the presence of an increased number of financial service providers passporting from another jurisdiction, has given rise to a significant and increasing number of complaints received where, because of the governing law of the contract, the complaint is one to be referred by the FSPO to another ADR body. Where the contract is governed by a law other than the laws of Ireland, the FSPO is not in a position to investigate and adjudicate on that complaint. This is because to do so would require the FSPO to interpret and apply the laws of a foreign jurisdiction to the investigation and adjudication of that complaint which will lead to a legally binding outcome.

With a view to providing a solution to the parties, where the governing law is not Irish law, the practice of the FSPO is to seek the consent of both parties to the investigation and adjudication of the complaint, pursuant to the laws of Ireland. In doing so, the FSPO notes that such an agreement by the parties, to facilitate the provision of the ADR service, will not in any manner alter the underlying governing law of the contract. In some instances, both parties have provided the required consent and the investigation can proceed in accordance with the laws of Ireland.

When both parties do not agree to an FSPO investigation on that basis, the FSPO will refer the complaint to the alternative appropriate ADR body in the relevant jurisdiction, as the competent authority to adjudicate the complaint in relation to the contractual issue arising. This includes referrals to ADR bodies within the EEA area, in accordance with the [FIN-NET Memorandum of Understanding on a Cross-Border Out-of-Court Complaints Network for Financial Services](#).

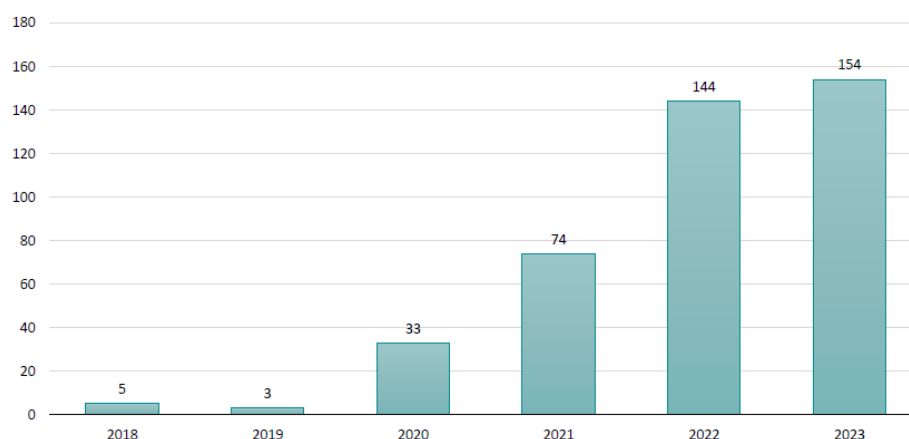
It can be seen from the table below, which is available on [www.fspo.ie](http://www.fspo.ie), that [the number of such referrals to another ADR body](#), has grown since the FSPO came into being in 2018.

The FSPO anticipates that the potential expansion of services by such providers, to include credit facilities, means that the number of such referrals has the potential to very significantly increase. This understanding is borne out by the data reflected in the table below, indicative of this growing trend.

## FSPO Cross-Border ADR Referrals



FSPO ADR Referrals to Date, by Year Complaint Received



In addition to the FSPO seeking consent of both parties to the application of Irish law to the investigation and adjudication of individual complaints, where financial services contracts are clearly governed by the laws of a foreign jurisdiction, the FSPO has sought, in certain instances, to establish the general position of certain providers regarding their approach to such a request being made in individual complaints, for consent to a complaint investigation pursuant to the laws of Ireland.

Such a suggested approach has been declined by a small number of “digital banking” and payment service providers, and although the number of such providers has been low to date, that number has the potential to significantly increase. Consequently, these communications seeking to explore the potential for the FSPO to supply an appropriate agreed ADR service in such circumstances, arise in the context of a significant, and increasing, volume of complaints and significant numbers of consumers in Ireland.

It is of course arguable that no issue arises for consumers, in respect of this referral of complaints between the respective ADR bodies of Member States, because ADR bodies across the Member States are equipped to receive complaints from consumers involving such cross-border activity. A consumer in Ireland may however have a preference for pursuing their complaint to the FSPO as any language barrier, whether perceived or real, can give rise to consumer reluctance to pursue a complaint. In addition, ADR bodies across the Member States apply a variety of time limits and may not be equivalently equipped to deliver redress for the consumers in question.

The FSPO considers this issue for consumers to be common across the European Union and, given the concept of the free movement of services across the EU, this issue creates something of a paradox. The FSPO takes the view that one potential solution may involve a European regulatory requirement for financial service providers to offer consumers the alternative option of resolving their complaints in what the consumer may consider to be a suitable location, namely, their place of residence, and to do so by enabling the consumer to elect for the alternative governing law of their place of residence, for the purpose of the complaint investigation.





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