



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

Financial Services and Pensions Ombudsman **Overview of Complaints** 2018



March 2019

This publication is a printed version of an online publication containing dynamic links to relevant content. Please see the Publications section of our website www.fspo.ie to access this content.

Case Studies

This document includes case studies to assist consumers and financial service providers and pension providers to gain an understanding of the types of complaints we deal with and how they are resolved. The case studies featured in this Overview of Complaints are illustrative of actual complaints handled by the FSPO in 2018. Some details within the case studies, such as names and locations, have been altered in order to protect the identity of the complainants.

In January 2019, the FSPO launched an [online database](#) which details the legally binding decisions which issued in 2018. In addition to publishing the database of full decisions, we also published a '[Digest of 2018 Decisions](#)' which includes a short summary of a selection of 27 legally binding decisions issued in 2018.

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Role of the Financial Services and Pensions Ombudsman

The Office of the Financial Services and Pensions Ombudsman (FSPO) was established on 01 January 2018 to resolve complaints from consumers, including small businesses and other organisations, against financial service or pension providers.

We provide an independent, fair, impartial, confidential and free service to resolve complaints through either informal mediation or formal investigation and adjudication. When a consumer is unable to resolve a complaint or dispute with a financial service or 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 phone.

For complaints 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. The Ombudsman has the power to direct a provider to pay compensation of up to €500,000 to a complainant. He can also direct that a provider rectify the conduct that is the subject of the complaint. There is no limit to the value of rectification he can direct.

During the formal investigation of complaints, documentary and audio evidence, and other material, together with submissions from the parties, are gathered by this office and exchanged between the parties.

Following detailed consideration of all of the evidence and submissions made, a preliminary decision is issued to the parties and they are advised that certain limited further submissions can be made prior to the issuing of a legally binding decision. The financial service or pension provider must implement any direction given by the Ombudsman in his legally binding decision.

In January 2019, we launched an [online database](#) which details the legally binding decisions which issued in 2018. In addition to publishing the database of full decisions, we also published a '[Digest of 2018 Decisions](#)' which includes a short summary of a selection of 27 legally binding decisions issued in 2018.



I am very pleased to publish this Overview of Complaints for 2018, our first year of operation.

Establishment and Merger

In order to create the new office of the FSPO, on 01 January 2018, the Office of the Pensions Ombudsman (OPO) and the Financial Services Ombudsman's Bureau (FSOB) were merged. As a result, the FSPO is now effectively a "one-stop-shop" for the investigation and resolution of complaints made about the conduct of pension providers or financial service providers. Considerable work was done in advance of the merger, by the staff of both predecessor offices, in planning for the merger and putting steps in place to ensure the effective transfer of complaints to the newly merged office of the FSPO.

Strategic Plan

In July 2018, the Minister for Finance, Paschal Donohoe, T.D., launched our first Strategic Plan. This Strategic Plan, 'Enhancing the Customer Experience', sets out the vision of the Council and the Office to 2021.

Improving the quality and speed of the management of existing and new complaints is a key aim of the Strategic Plan. To achieve this we have established a Customer

Operations and Information Management Directorate with a dedicated focus on improving customers' experience, including the time taken to investigate complaints.

The Plan commits us to improving the quality and efficiency of services, making better use of information technology and providing new and easier ways to interact with the FSPO.

The strategic plan was purposefully aligned to the Government's new policy framework to focus on collaboration, innovation and evaluation, as set out in 'Our Public Service 2020'. We have adopted the strategic priorities of delivering for our public, innovating for our future and developing our people and our organisation.

Our aim is to resolve all complaints as effectively as possible. While many complaints can be resolved quite quickly through our informal processes which rely heavily on mediation techniques, it can take considerably longer to resolve complaints where a full investigation and adjudication is required. For those complaints which are resolved through our more formal process, the timeframe is determined by the number of submissions received from the parties; as all the evidence must be gathered and exchanged in accordance with fair procedures before the issues are considered and a preliminary decision and subsequently a legally binding decision is issued to both parties. In addition, the adjudication of a complaint will sometimes require an oral hearing where evidence is taken under oath.

We continue to experience increased demand for our services. The number of complaints received in 2018 by the FSPO was greater than the number of complaints received in recent years by the OPO and FSOB combined.

The FSPO inherited 3,178 complaints from its predecessor bodies and received 5,692 complaints in 2018. We closed 4,443 complaints in 2018 leaving a balance of 4,427 complaints on hand at the end of 2018. Such high volumes cause us to be unable to process complaints as quickly as we would wish to.

Our Strategic Plan recognises the increasing number of complaints and anticipates a further increase in the coming years. The overall objective of the Plan is to ensure that the organisation can deal efficiently with this increase and to enhance the experience of customers by delivering services faster and better. We will continue to listen to all feedback and use it to continuously improve our service. The main priority for 2019 will be to improve the timeliness of our service and deliver faster resolution of complaints.

While we are committed to improving processing times and enhancing our customer service and experience, we recognise that this will require additional staff resources. I am very pleased that the Minister for Finance has given approval for my Office to recruit a further 35 people. This will allow us to deliver a better faster service for our customers, keep pace with the speed of change, tackle existing waiting times, and to deliver the objectives in our Strategic Plan 2018 – 2021.

Management of Complaints in 2018

Of the 4,443 complaints closed in 2018, we resolved 2,331 complaints through our informal mediation process and we issued 234 legally binding decisions. In addition, we closed a further 1,639 complaints at registration and referral stage and 139 complaints were either settled or withdrawn during the adjudication process with 100 closed through Legal Services following consideration of jurisdictional issues.

Mediation, by telephone and email and through meetings is the first and preferred option for resolving complaints. By engaging with the parties directly, it was possible to achieve a timely and satisfactory resolution.

Where these early interventions did not resolve the dispute, we continued to use our extensive powers to investigate and adjudicate complaints in a fair and impartial manner.

Full details of how we managed complaints in 2018 are set out in Section 3.

Publication of Decisions

In January 2019, I published 228 legally binding decisions made by the Office during 2018, in respect of complaints against financial service providers. This was the first time that such decisions were published. Publishing these decisions not only enhances the transparency and understanding of the powers of the Office and of the service we provide, but it also plays an important role in providing enhanced protection for consumers, as these decisions will be of assistance to consumers and their advocates and also to financial service providers, in both avoiding and resolving disputes.

I am confident that the publication of these decisions, which can be accessed in our [online Database of Decisions](http://www.fspo.ie/decisions) (www.fspo.ie/decisions), will help to improve the quality of services and protections available to consumers. In addition to publishing the full decision, I also published a '[Digest of 2018 Decisions](#)' which includes a short summary of selected decisions.

Legal Matters

The definition of a “long-term financial service”, as prescribed by the legislation which established this Office, was amended by the *Markets in Financial Instruments Act* in October 2018. I am acutely aware that the provisions regarding time limits for bringing complaints to this Office are complex and for this reason, we make every effort to assist parties in understanding these provisions as they relate to each individual complaint.

Further details of the legislative changes and appeals of our legally binding decisions to the Superior Courts are set out in Section 4.

Tracker Mortgage Complaints

Complaints by consumers about the conduct of their financial service provider in relation to mortgages, made up the largest category (32%) of complaints received in 2018 at 1,766 complaints. Tracker mortgage complaints comprise a large element of these.

I have always maintained that the most effective and efficient way to provide redress and compensation to borrowers who have been wrongly denied tracker mortgages was for the banks to cooperate fully with the Examination directed by the Central Bank of Ireland.

Therefore, whilst the Examination was still underway, individual tracker mortgage-related complaints were placed on hold by this office pending confirmation that the Central Bank Examination had concluded in respect of those complainants.

To date the Central Bank Examination has resulted in almost 40,000 borrowers being returned to tracker mortgages. In July 2018, as the Examination progressed we began to take complaints that could potentially progress, off hold. The duration required to investigate a complaint can vary depending on the number of submissions made by the parties to the complaint. This sometimes involves an extensive exchange of evidence and submissions. Each complaint is considered on its own merits.

In 2018, we received 723 complaints in relation to tracker mortgages. 153 tracker mortgage-related complaints closed in 2018, which meant that at year-end we had 1,221 tracker mortgage complaints on hand.

I expect this Office to close a significant number of tracker mortgage complaints in 2019. As with other complaints, this will be achieved through informal mediation, through the acceptance of settlement offers made by financial service providers, and through investigation and adjudication leading to legally binding decisions.

Voiding of Insurance Policies

In my former role of Financial Services Ombudsman, I drew attention in my Annual Review of 2016 to the issue of insurance companies voiding insurance policies. I regret to say, as can be seen from some of the 2018 decisions published and from the case studies featured in this Overview, that some insurance companies continue to void policies in a manner which I consider to be unreasonable and disproportionate.

Where a person has an insurance policy cancelled by an insurance company due to alleged non-disclosure, or for whatever reason, this can have serious implications and render it very difficult, and in some instances almost impossible, for that person to get any sort of insurance cover subsequently.

I firmly believe the voiding of an insurance policy is something that should not be done lightly. To avoid the risk of non-disclosure and the potential voiding of policies, I hold the view that insurance companies and insurance intermediaries should ask questions prior to the inception of a policy in a clear manner and ensure that customers are clear on what they are being asked and the potential consequences of answering incorrectly. Furthermore, insurance companies should exercise caution and prudence when considering cancelling an insurance policy and should not take steps which might reasonably be considered disproportionate.

Engagement with Stakeholders

We had considerable interaction with a wide range of stakeholders during 2018. We engaged with the Department of Finance, members of the Oireachtas, consumer representative bodies and advocates. In addition, we engaged with industry representatives.

We worked in close cooperation with the Central Bank of Ireland, with a particular focus on tracker mortgage-related issues. As part of a European Commission initiative, FIN-NET, we cooperated with other financial services ombudsman schemes in the European Economic Area (EEA) to provide consumers with easy access to out-of-court complaint procedures in cross border complaints across the EEA.

We also participated in the International Network of Financial Services Ombudsman Schemes (INFO Network) which is the worldwide association for financial services ombudsman schemes and other independent offices operating as out-of-court dispute resolution mechanisms in the financial sector. We hosted the INFO conference 2018, the highlight of the INFO Network's annual calendar, which attracted over 100 delegates from around the world to Dublin in September 2018.

Acknowledgements

For our achievements in 2018, I want to thank all of my colleagues in the FSPO including the Deputy Ombudsman, Elaine Cassidy, the directors of services, managers and all the staff for their continued dedication and commitment to ensuring we provide the best possible service. Staff have shown great commitment throughout 2018 to ensure the successful establishment of the FSPO and the on-going management of a very high volume of complaints.

I would like to thank the Chairperson, Maeve Dineen, and members of the Financial Services and Pensions Ombudsman Council for their support, guidance and assistance throughout 2018. I am grateful also to the complainants and financial service providers who cooperate with our processes on an on-going basis.

I want to express my appreciation to the Minister for Finance and his officials for their ongoing support and cooperation. Finally, I would like to thank those who take the time to provide us with feedback throughout 2018. This feedback is central to how we design and deliver our processes and is of considerable assistance to us as we continue to improve our services. I believe that in its first year, the Office of the Financial Services and Pensions Ombudsman has got off to a good start. We remain committed to providing a robust, independent and fair service to resolve disputes and to constantly improving the quality of our service.

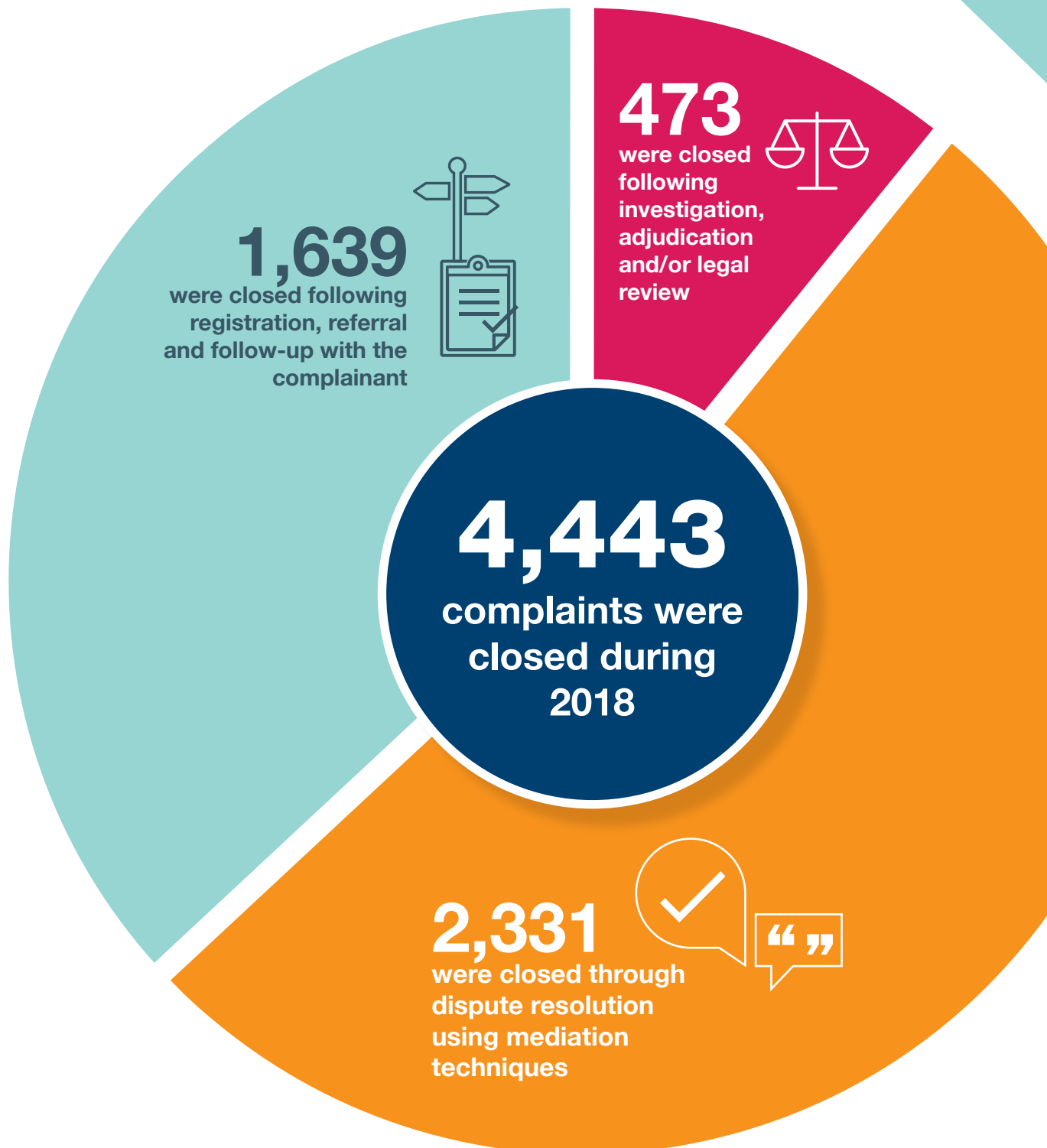


Ger Deering
Financial Services and Pensions Ombudsman

28 March 2019

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How we managed complaints in 2018



Customer Service 2018

Our dedicated Information Services team responded to over 19,000 telephone enquiries in 2018.

Our telephone service continues to play an essential role in providing assistance to our customers by helping them understand how best to engage with their financial service provider to make a complaint, or by supporting them in the initial stages of preparing their complaint for submission to this office.



Telephone Enquiries:
19,000

We also handle a significant number of email queries – some 15,300 general information queries to info@fspo.ie were dealt with in 2018



Email Queries
15,300

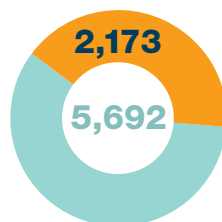


Visits to www.fspo.ie
105,500
of these **73,290** were unique visitors.

Complaints Received

5,692

of which **38%**
were received online



Customer Satisfaction Survey

At the point of registration, all complainants are given a choice to opt in to a survey of our service quality. This resulted in 1,039 complainants being surveyed when their complaint closed. Of the 308 responses received:

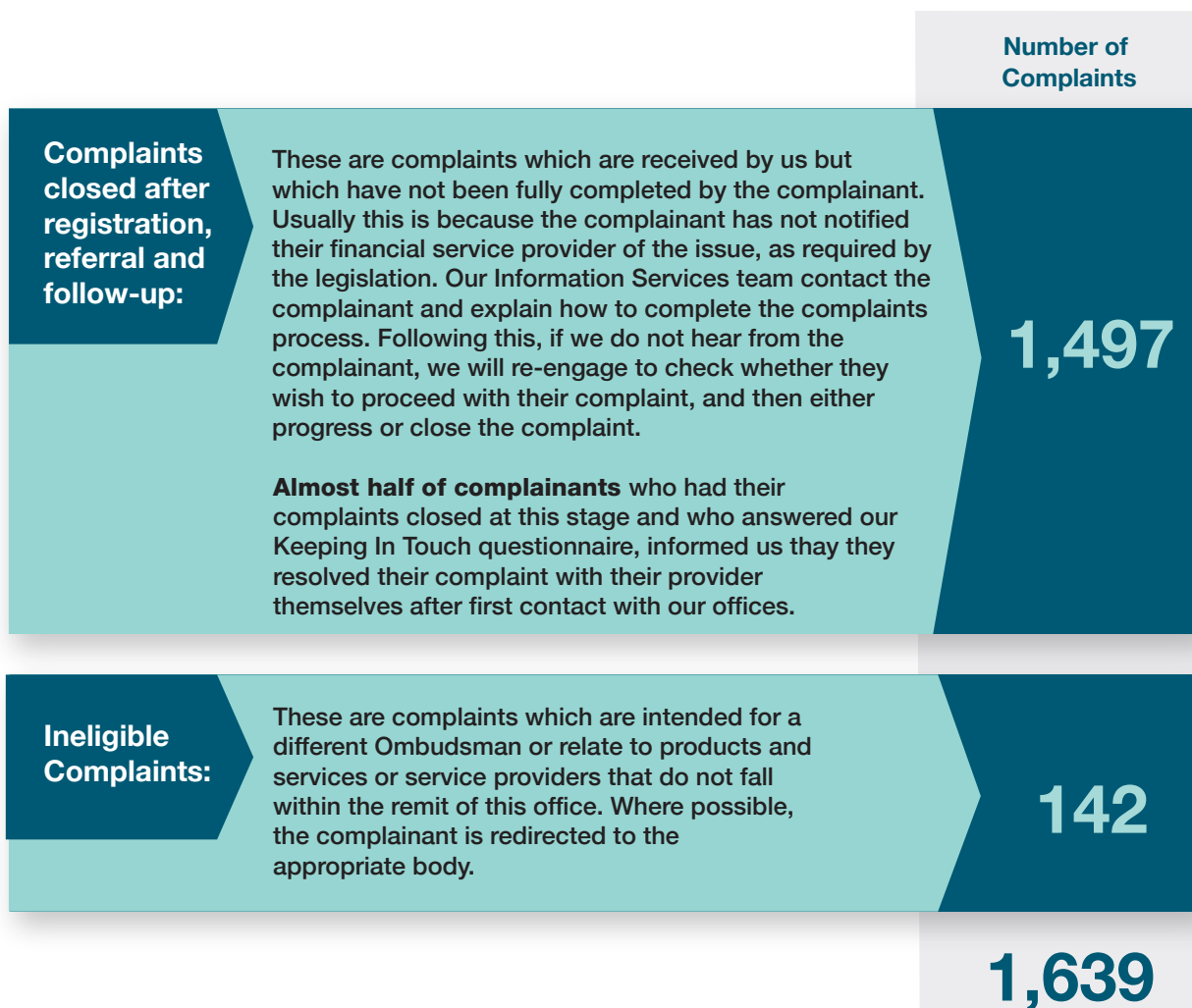
92% said that all stages of the complaints process were clear.

82% felt our service was fair and impartial.

80% were satisfied with how the FSPD dealt with their complaint.

83% felt the individuals they dealt with were knowledgeable about financial products and services.

Complaints closed through Information Services



Case Study

Cian wanted to pay off his residential mortgage and rearrange his buy to let mortgage. Cian was informed that his new repayment amount would be €1,369, however, the bank withdrew €1,860 from his account. This was not communicated to Cian and he could not get an explanation for the change from the agreed repayment amount.

In the first instance, Cian was informed by us that he must complete his provider's internal complaint process as required by legislation. It was explained to Cian how to complain effectively to his bank.

When Cian made a complaint to his bank, it carried out its own internal review. Cian told us that the bank addressed the points he made and explained its reasons for doing what they did. It apologised for a shortfall in service and offered Cian €300 to make up for any inconvenience caused. Cian was satisfied with this outcome and withdrew the complaint from the FSPO.



Complainant feedback quote

“Just a quick note to say thank you to your office and to your officer for the courteous and efficient way in which my complaint with (named bank) was dealt with”.

Complaints closed through Dispute Resolution Service



		Number of Complaints
Dispute Resolution settlement:	These are complaints which are resolved by agreement reached between the parties through mediation where the complainant receives redress and/or compensation.	1,219
Dispute Resolution clarification:	These are complaints which are resolved by agreement reached between the parties through mediation where the complainant accepts a clarification of the matters at issue.	922
Withdrawn/ outside settlement:	These are complaints which have been notified to us as withdrawn while in the Dispute Resolution Service. Some are withdrawn because a settlement is agreed between the parties directly.	115
Dispute Resolution discussions with complainants only	There are complaints which are closed following contact with the complainant only (i.e. there is no mediation, because mediation involves communication with both complainant and provider). In pension complaints this can occur where the complainant seeks a resolution which is beyond our limited powers in relation to pensions, and our staff will explain this. In financial services, this can occur where the complainant is unhappy about a matter such as high pricing or credit refusal and our staff explain that competition and commercial issues are not within our remit.	75
		2,331



Complainant feedback quote

“Thank you so much for the work you did to bring this matter to a conclusion that I could live with. The manner in which you provided the mediation service created a space for the story to be told and listened to. The process has enabled me to feel that I did what I could and can leave it to others to pick up the challenge”.

Case Studies from Dispute Resolution Service

Insurance

Insurance claim rejected and policy voided

Susan bought a van directly from her brother. After the sale, she rang her insurance company to insure the van in her name. Several months after she had done this, the van was stolen and burnt out. Susan contacted the insurer to make a claim. The insurer investigated and decided to deny the claim, void the policy, and return all the premia paid, because the van was not registered in Susan's name. This caused her significant hardship. She was also denied further insurance cover until Insurance Ireland helped her get a quote from her original insurer who offered her third-party-only insurance at a cost of over €2,700 per annum.

During the FSPO mediation, the policy documents and terms and conditions were discussed, along with the contents of the phone call where Susan changed her insurance to cover her new vehicle. The company accepted that neither the paperwork nor the questions asked of Susan when she changed vehicle made it sufficiently clear that the vehicle had to be registered into her own name. As a direct result of the mediation, the insurer reversed its decision, removed the void from record, upgraded Susan's level of cover from third party only to comprehensive at no extra cost, and admitted the claim for assessment, where the burnt out van had a pre-accident value of €8,000.

Insurance policy cancelled and claim rejected

Lorcan had a car insurance policy and added his partner to his policy as a named driver. When he made a claim, it transpired that his partner had a previous driving conviction, which had not been disclosed when she was added. As a result, the policy was cancelled by the insurance company and the claim rejected. Lorcan had since separated from his partner and stated that he wasn't aware of the previous conviction when adding his partner to his policy at the time. As a result of the cancellation, Lorcan had difficulty obtaining quotes from other insurers each year.

Following the FSPO mediation, Lorcan's insurance company agreed to remove the history of the cancellation from Lorcan's record, which allowed him to seek insurance from other insurance companies.

Policy cancelled for non-disclosure

Karolina took out an insurance policy, but did not advise the insurer that she had been involved in a car accident in the previous five years, as she was not liable for the accident in question. The insurer discovered this event during a renewal call and subsequently cancelled the insurance.

Karolina explained that she had not fully understood the questions she had been asked when setting up the policy and thought she only had to declare those accidents for which she was liable.

Following mediation with the FSPO, the insurer agreed to rescind the previous voidance of the policy as English wasn't Karolina's first language and they offered to continue to insure her, which she accepted.

Policy voided and claim rejected for non-disclosure

Frank submitted a claim to his insurer after wedding presents, cards with money, handbags and jewellery were stolen. After the claim was made, the company claimed that the risk was outside of the insurer's new business acceptance criteria, due to two previous claims not being disclosed. These related to storm damage and the loss of a hearing aid.

As a result, the insurer voided the policy from inception and returned the premium of €389.47 to Frank. Frank had difficulty arranging cover elsewhere due to the need to disclose the matter to other insurers.

Following the FSPO mediation, the insurer accepted that their response may have been disproportionate and they offered Frank the following to resolve the dispute: reversal of the decision to void the policy and reinstatement of his policy cover, reopening of the claim discussion as per standard procedure and the offer of a new policy commencing immediately.

Frank accepted this outcome.

Fire service insurance claim rejected

Pedro was involved in an accident when another vehicle crashed into his car. As there was smoke coming from his car a bystander called the fire service to the scene of the accident. Pedro had fully comprehensive insurance and assumed that everything would be covered by his policy. He later found out that the policy limited the fire cover to where the fire service had to cut passengers out of the car or put out a fire.

Pedro managed to get out of the car himself and though there was smoke from the engine, it did not catch fire. The local authority presented Pedro with an invoice for the fire service and the insurance company refused to pay it.

Pedro did not know who called the fire service and could not understand how he was now being charged for it. He argued that he was unable to take out any further insurance to cover himself for this fee, and that surely "comprehensive insurance" was "comprehensive". In response, the insurance company quoted the part of the policy that allowed them to reject the claim.

During the FSPO mediation, the insurer agreed to pay the fee of €515.63 when the local authority refused to waive it.

Rejection of storm damage insurance claim

Sean and Jenny owned a house with an extension that sustained significant storm damage. Their claim under their house insurance was denied because it was found that the extension was not of standard construction and was built with non-compliant materials. Their insurer was of the view that they ought to have known that this was the case when they bought and insured the house.

During the course of the FSPO mediation, the couple put forward their arguments: that an engineer's report, which they had seen before they bought the property certified that all was well, that the planning permission granted by the relevant local authority showed nothing amiss, and that the extension had been blended so well into the original structure with plastering and painting that it was impossible to tell where the old house ended and the extension began. They also argued that they had no professional background in building, architecture or engineering, which could have helped them identify a problem with the house.

During the course of the mediation, agreement was reached between the parties that the couple would receive €40,000.

Whole of life policy claim rejected

Michelle's father took out a whole of life policy in the late 1990s so that his children would receive a lump sum in the event of his death. Early in 2018 the plan was up for review and Michelle's father had two options; to increase the sum of premium payments he was making in order to sustain the sum assured, or to keep paying the same sum in premium payments in return for a lower sum assured. Michelle's father was told on the phone that if they reduced the premium they paid, the higher pay out would remain in place for twelve months and it was only after twelve months had passed that the lower benefit would take effect. He chose this option. Sadly, he died very shortly after he chose this option. The family received the lower sum assured. The difference between the two figures was more than €79,000. The family explained what had happened to the insurance company and what advice the insurer had given to their father, but received no satisfaction.

During the FSPO mediation process, agreement was reached and a payment of more than €122,500 was made to the family. This comprised of a difference of €79,000, a refund of the premium payments Michelle's father made shortly before he died, and a sum in compensation.

Serious illness policy claim rejected

Sebastian held a serious illness policy. Unfortunately, his mobility deteriorated to the extent that he could no longer undertake his employment. He made a claim under his serious illness policy. However, the insurance company refused the claim stating that Sebastian did not fulfil enough of the medical conditions. During the FSPO mediation, the company accepted the medical evidence provided and the benefit of €223,463 was paid to him.

Banking

Request to remove a person from a mortgage agreement

Ciarán had been awarded the family home by a judge in divorce proceedings. The judge instructed that his ex-partner waive her right to the home and be removed from the house deeds and mortgage. When Ciarán applied to the bank to have the mortgage transferred into his name only, the bank refused, stating that the mortgage had been approved on the income of both him and his ex-partner and that Ciarán could not demonstrate sufficient means to cover the mortgage on his own. Ciarán pointed out that he was in fact meeting the monthly payments on his own. During the FSPO mediation, the bank explained that when Ciarán's income and expenditure was measured it didn't meet Central Bank guidelines for affordability. The bank stated that they could assess it again at a later date if Ciarán's financial situation changed but that for the moment it would not relinquish its contractual right to hold both parties liable. Ciarán accepted the bank's position.

Delay in providing house deeds

Tracey and Joe wanted to change mortgage provider. The request for the release of their deeds from their original mortgage provider took an exceptionally long time, costing them more in legal fees and denying them the lower interest rate they were going to achieve by the move. During the FSPO mediation the provider agreed to pay them €1,500 in compensation for their losses.

Disagreement over mortgage term

Several years ago, Ann and Pat paid €30,000 off their mortgage in a lump sum payment. They wanted their mortgage payments to stay the same so that the money would reduce the length of time they would have to pay the mortgage. A few years later, they noticed on a mortgage statement that the term of the mortgage had not been reduced. They then brought the complaint to the FSPO.

During the FSPO mediation, the bank apologised for the service failure and answered their questions in full. Following this clarification, the couple decided not to reduce the term of their mortgage after all. They reduced their monthly payments instead and accepted the bank's apology.

Concerns over 'shadow transactions'

Oliver was concerned about transactions he had observed on his online bank account. Noticing debits on his account that would then disappear, he suspected someone was making small deductions to his account in preparation for taking larger sums. During the FSPO mediation, the bank explained that when a customer uses their debit card the bank will put a hold on that money in their account. However, it will not finally debit the account until the merchant follows through on the paper work. If there is any subsequent issue with the transaction and the merchant does not follow through on the paper work, the hold will be taken off that money, thereby returning it to the available balance. Oliver accepted this explanation.

Balance outstanding at the end of a PCP term

Rachel had a good relationship with her local car dealership, where she arranged for PCP finance on her vehicles and traded them in at the end of the PCP term. On one occasion when she traded in her old vehicle, she discovered that she had exceeded the mileage limit agreed in her contract, and that each kilometre in excess of this limit attracted a charge. This left her with a bill of over €3,500. Rachel had offered to repay this on a weekly basis, but the terms she offered were not acceptable to her car dealership.

However, the car dealership was keen to return to a good relationship with the complainant and during the FSPO mediation, it reduced the total amount outstanding by almost €1,000 as a gesture of goodwill, and worked with Rachel to come up with a repayment schedule that was acceptable, and that would clear the remaining debt within 30 months of the commencement of payments.



Complainant feedback quote

"Please allow me to thank you and your team for looking after my problem with (named insurer). I really appreciate what you have done for me in resolving this matter satisfactorily".

Disagreement with investment company

Richard took out an investment bond in 1998 for an amount of £16,000 (sterling). Richard decided to make a second, additional investment to this bond of £5,000 (sterling) in 2017. However, Richard's investment company advised that they needed him to provide evidence of the identities of the bond's Trustees before they could add this investment to his bond. Richard felt that there was no need to do this and asked his investment company to proceed in the absence of this proof. Relations between the parties broke down and the £5,000 was frozen in a holding account for over a year.

During the FSPO mediation, Richard accepted that his investment company needed him to provide the required documentation in order to comply with anti-money laundering legislation. The documentation was provided to the company. As a gesture of goodwill, the company agreed to treat the £5,000 as though it had been invested when given to the company in 2017. This meant that Richard's investment was restored to the position it would have been in, had the delays not occurred.

Pensions

Advice on Additional Voluntary Contributions to a pension

Victor was a member of an occupational pension scheme at work. When he changed jobs, he asked the pension scheme administrator whether it was possible for him to make Additional Voluntary Contributions (AVCs) to his former pension. He was told that he could and he invested over €25,000 over the course of several months. The pension scheme administrator then realised that he had given the wrong advice. Due to Revenue rules, AVCs could not be invested once Victor had left service and the pension scheme administrator requested that Victor accept a refund of all the AVCs paid. Victor was very unhappy with this mistake as it left him exposed regarding his tax liability and he complained to the FSPO. During the course of mediation, Victor accepted that the former pension scheme administrator could not circumvent Revenue rules, despite their acknowledgement of their mistake. The respondent agreed to make a refund of all the AVCs paid, as well as a sum of over €1,000 in acknowledgement of the value of the lost investment.

Advice on pension entitlement

Piotr had not been well and started looking at the idea of retirement on grounds of ill health with the assistance of his employer. In order to assist his decision-making, he requested figures on his pension entitlement from his employer. He was told he could either have a short service, once-off gratuity and no monthly payment, or a much smaller once-off gratuity and a small monthly payment. He opted for the first option, took early retirement and the payment was formally confirmed by his employer. However, when the money did not arrive to his bank account as expected, he was told by his employer that someone at work had made a mistake and in fact, he did not have enough service to be eligible for the short service once-off gratuity.

The FSPO cannot instruct pension trustees to pay a member something they are not entitled to under the rules of the pension scheme. While it was acknowledged by all parties that Piotr had been provided with incorrect information by his employer, there was no redress available to him in relation to this matter.

Complaints closed through Investigation, Adjudication and Legal Services



Complainant feedback quote

“I cannot thank you enough for coming to this decision, I have felt that I had no voice with the provider. You have given me hope again. My late husband would be so grateful that a wrong was recognised, acknowledged and rectified. My sincere thanks”.

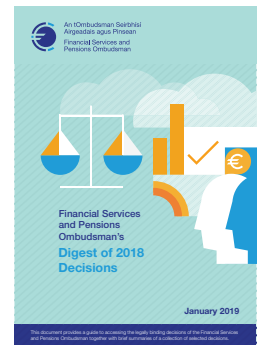
Publication of Legally Binding Decisions

Legally Binding Decisions Issued following Investigation and Adjudication

Section 62 of the *Financial Services and Pensions Ombudsman Act 2017*, provides the FSPO with the power to publish legally binding decisions in relation to complaints concerning financial service providers. In January 2019, we launched an online database which details 228 of the 234 legally binding decisions which issued in 2018.

In addition to publishing the database of full decisions, we also published a '[Digest of 2018 Decisions](#)' which includes a short summary of a selection of 27 decisions as detailed in the table below.

The legislation also provides the FSPO with the power to publish case studies of decisions relating to pension providers, but not the full decision. Summaries of pension decisions are included in the Digest.



[CLICK HERE](#)

Banking	
2018-0223	Engagement with customers who were in arrears on a mortgage loan
2018-0130	Communication of the impact of interest rate increases on a term-loan
2018-0115	Service provided by a debt management agency
2018-0163	Reporting of credit rating to the Irish Credit Bureau
2018-0090	Blocking of a company bank account following a dispute between its directors
2018-0002	Underpayment of credit card debt
2018-0066	Security and identification requirements of a bank
2018-0137	Role of bank in the transfer of money to an alleged fraudulent account
2018-0027	Opening of bank account
2018-0024	Extension of credit by a moneylender
2018-0079	Access to bank services on equal terms
2018-0105	Mortgage application cash back offer
2018-0159	Closed account and old account book balance
Insurance	
2018-0178	Administration of a whole of life policy
2018-0180	Loss of No Claims Bonus following an incident with an uninsured driver
2018-0186	Rejection of a claim on a mortgage protection policy
2018-0140	Processing of a motor insurance claim
2018-0100	Rejection of health insurance claim because of pre-existing condition
2018-0141	Rejection of insurance claim in respect of car seized by the Gardaí
2018-0160	Mobile phone insurance claim
2018-0208	Communication regarding an income assistance claim
2018-0071	Automatic renewal of travel insurance
Investment	
2018-0021	Fees, charges and communications relating to an investment
2018-0073	Processing instructions on encashment of an investment
Pension Scheme	
	Value of the preserved benefit of a pension scheme
	Refusal to grant an injury warrant under the Local Government Superannuation Scheme
	Pension plan investment performance

Establishment of the Financial Services and Pensions Ombudsman

The governing legislation of the FSPO is the *Financial Services and Pensions Ombudsman Act 2017* (“the Act”), which was commenced with effect from 01 January 2018.

This legislation established the FSPO and sets out the jurisdiction of the office to deal with complaints against financial service providers and pension providers. The Act sets out a broad range of powers and functions and includes provisions in relation to time limits for making complaints, related legal proceedings and publication of decisions.

Time Limits for Making Complaints to the FSPO

Significant changes to the time limits for making a complaint to the Financial Services Ombudsman were made by the Oireachtas in July 2017. These changes were carried over to the FSPO as per Section 51 of the Act. As a result, any complaint about a “long-term financial service”, can now be made not only within a period of six years of the date of the conduct complained of, but also within a period of three years of a certain “date of knowledge” as prescribed within the Act. In addition, the Ombudsman has a statutory discretion, regarding such complaints, to extend the time if there are reasonable grounds for requiring a longer period and it would be just and equitable in all the circumstances to do so.

Considerable work has been undertaken by the FSPO in its interactions with complainants and providers, to assist them in understanding what constitutes a “long-term financial service”. Section 2 of the Act originally prescribed what a “long-term financial service” constituted.

That remained the position until 29 October 2018, when the definition of a “long-term financial service” was amended by Section 9 of the *Markets in Financial Instruments Act 2018* and the definition now includes additional provisions.

From 29 October 2018, this statutory amendment and the additional provisions became part of the FSPO’s consideration of its remit, in active complaints. In some instances the FSPO had to undertake considerable work in order to come to a determination as to whether the office had jurisdiction to deal with a complaint where a complainant and a provider were of differing opinions as to whether a complaint was made within the time limits laid down by statute.

Please click [here](#) to read more about this somewhat complex statutory amendment which now forms an integral part of the FSPO’s remit.

Complaints to the FSPO and related Legal Proceedings

Section 50(3) of the Act, prevents the FSPO from investigating a complaint where the issues arising are, or have been, the subject of court proceedings. The Act however, also provides an avenue for one of the parties involved, to make an application to the Court, so that the FSPO can be permitted to proceed with the investigation of the complaint. Such a decision is entirely a matter for the Court and may involve the Court determining whether the issues raised in the litigation and the complaint are so enmeshed that it may be best for the Court to deal with all aspects of the matter. Alternatively, the Court may be willing to permit the investigation of the complaint by the FSPO, prior to the issues in the litigation then being progressed.

The FSPO has no discretion in this matter, as the governing legislation makes it clear that it is for the Court to make that decision.

Publication of Legally Binding Decisions

Section 62 of the Act provides the FSPO with the power to publish decisions. In January 2019, the FSPO published 228 of the 234 legally binding decisions issued during 2018. These decisions are available in our [online database of decisions](#). In addition to publishing the full decision, the Ombudsman also published a '[Digest of 2018 Decisions](#)' which includes a short summary of selected decisions.

Appeals to the High Court challenging a Legally Binding Decision of the FSPO

When a complaint proceeds to a formal adjudication and a decision is issued by the FSPO, the terms of that decision are legally binding upon the parties, subject only to an appeal to the High Court within a period of 35 calendar days.

In the event of an appeal to the High Court, all of the evidence put forward to the Ombudsman for the purpose of the adjudication is examined to assess whether the Ombudsman came to a decision correctly, and whether the procedures offered to the parties were fair, in the course of that decision-making process. Should the Court take the view that the decision of the Ombudsman is unsound, the decisions can be amended as considered appropriate by the Court, or the complaint can be remitted back to the Ombudsman for a fresh consideration of the issues.

On the commencement date of the FSPO, there were 10 existing FSO complaints under appeal to the Superior Courts which transferred to the FSPO. Nine of these matters were appeals to the High Court, with one additional matter which had been appealed to the Court of Appeal, in 2013.

	Complainant	Provider	Total
High Court Appeals			
At 31 December 2017	7	2	9
Initiated in 2018	2	-	2
Settled	0	2	2
Dismissed by the Court	5	0	5
At 31 December 2018	4	-	4

	Complainant
Court of Appeal	
At 01 January 2018	1
Initiated in 2018	-
At 31 December 2018	1

During 2018:

- Two new appeals to the High Court were received from one Complainant.
- The High Court refused to extend the time to enable a Complainant to bring an appeal to challenge the terms of a Finding which had been issued by the FSO in January 2013. Access to this High Court Judgment is available [\[here\]](#).
- Two ongoing appeals from Providers were settled.
- Four appeals were dismissed, by the High Court, with an order for costs in favour of the FSPO. These four appeals were from two different Complainants, each of whom had two complaints and therefore two appeals. Access to the two High Court Judgments is available [\[here\]](#) and [\[here\]](#).

On 31 December 2018, the FSPO had four remaining High Court appeals on hand, all from Complainants, with no hearing date listed yet in three instances, and with judgment reserved in one matter. In addition, at the end of 2018, the FSPO was awaiting a hearing date in relation to the matter which had been appealed to the Court of Appeal, in 2013.

In any litigation, the FSPO in appropriate cases, seeks recovery of its legal costs by applying to the Court for an order for costs against the appropriate parties to the litigation. During 2018, the FSPO recovered €24,906 in legal costs, against a number of parties.

5

Reporting on Named Financial Service Providers

The table below identifies regulated financial service providers who, in 2018, had at least three complaints against them upheld, substantially upheld, or partially upheld. Service providers are listed in order of the combined total number of complaints upheld, substantially upheld or partially upheld. The names listed are the official names by which financial service providers are detailed in the Central Bank of Ireland's Register of Regulated Entities. The name of the business group is provided where the financial service provider is a member of a business group.

	Provider	Member of Business Group	Complaints Upheld	Complaints Substantially upheld	Complaints Partially Upheld	Total
 Irish Life	Irish Life Assurance plc	Great West Lifeco Group	6	3	10	19
 Irish Life health	Irish Life Health dac	Great West Lifeco Group	2	1	4	7
 permanent tsb	Permanent TSB plc trading as Permanent TSB	Permanent TSB Group Holdings plc	1	3	2	6
 AIB	Allied Irish Banks plc	AIB Group	1	1	3	5
 AVIVA	Aviva Life and Pensions UK Limited	Aviva Group	1	1	3	5
 Bank of Ireland	The Governor and Company of the Bank of Ireland	Bank of Ireland Group	0	0	5	5
 ZURICH®	Zurich Life Assurance plc	Zurich Insurance Group	1	0	3	4
 AA	AA Ireland Ltd t/a AA Insurance, AA Business Insurance, AA Select	Not Applicable	1	2	0	3
 Bank of Ireland	Bank of Ireland Mortgage Bank	Bank of Ireland Group	1	1	1	3

6

Sectoral Analysis of complaints received in 2018

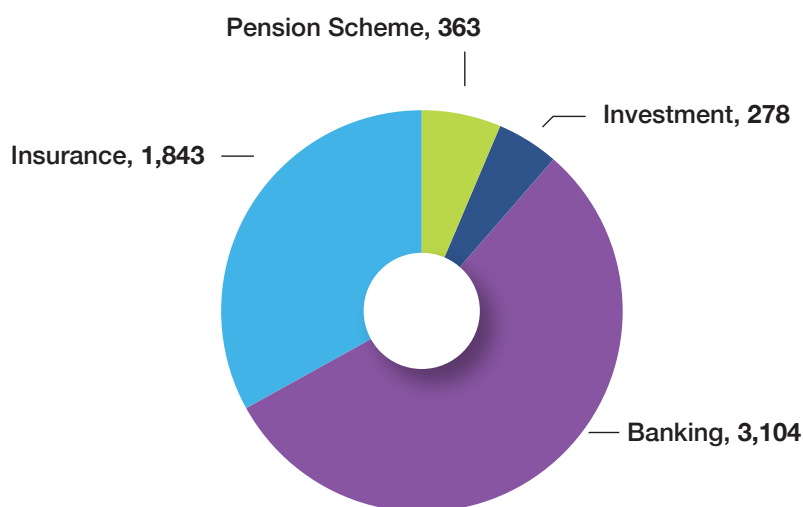
This section sets out details of the complaints received in 2018 in the three financial sectors; insurance, banking, and investment, along with details of complaints about pension schemes by the type of product complained about.

A total of 5,692 complaints were received by the office in 2018. The 2018 total included 104 ineligible complaints, leaving a balance of 5,588 eligible complaints.

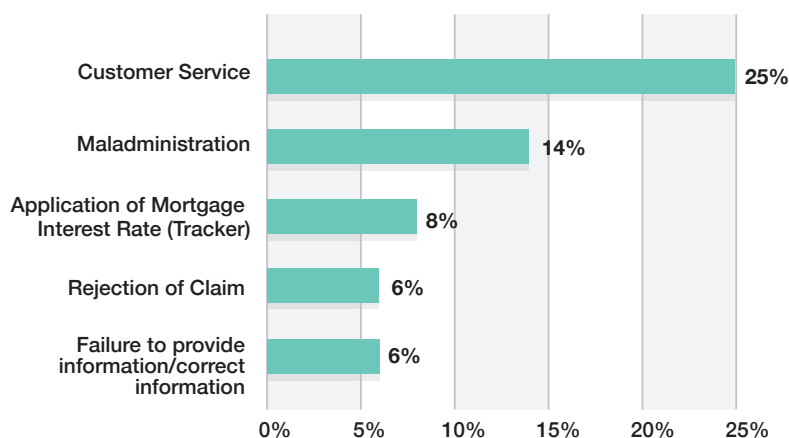
Complaints are considered to be ineligible where they are intended for a different Ombudsman or relate to products and services or service providers that do not fall within the remit of this office. Where possible, the complainant is redirected to the appropriate body.

Of the 5,588 eligible complaints received in 2018, 56% related to banking products, 33% related to insurance, 5% related to investment products. The remaining 6% concerned complaints about pension schemes.

Complaints by sector



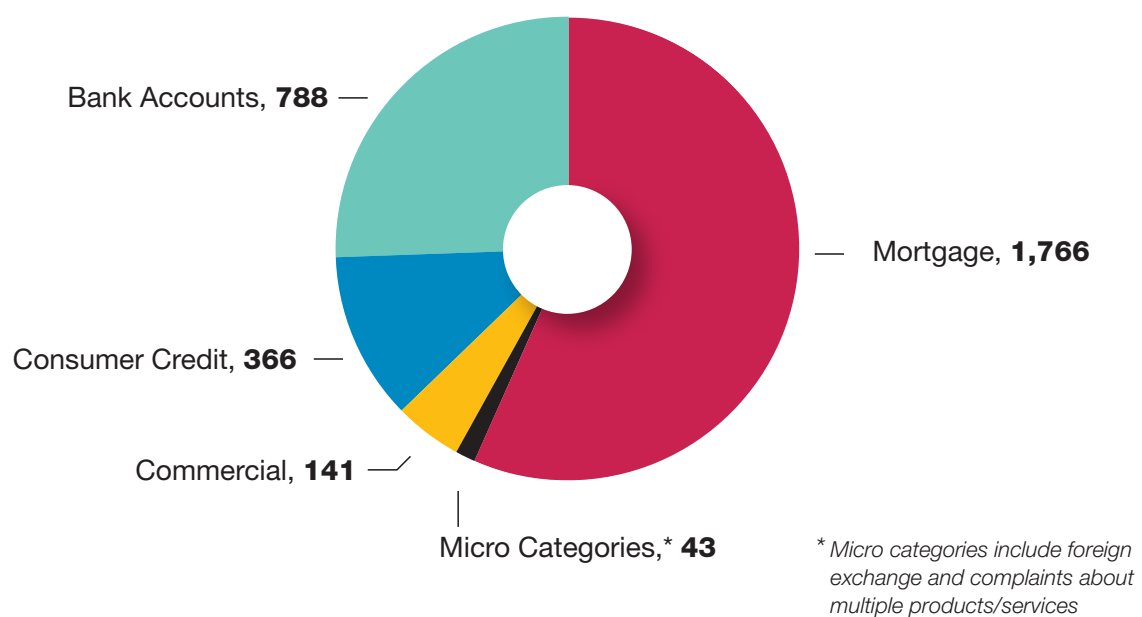
Top 5 conducts complained of:



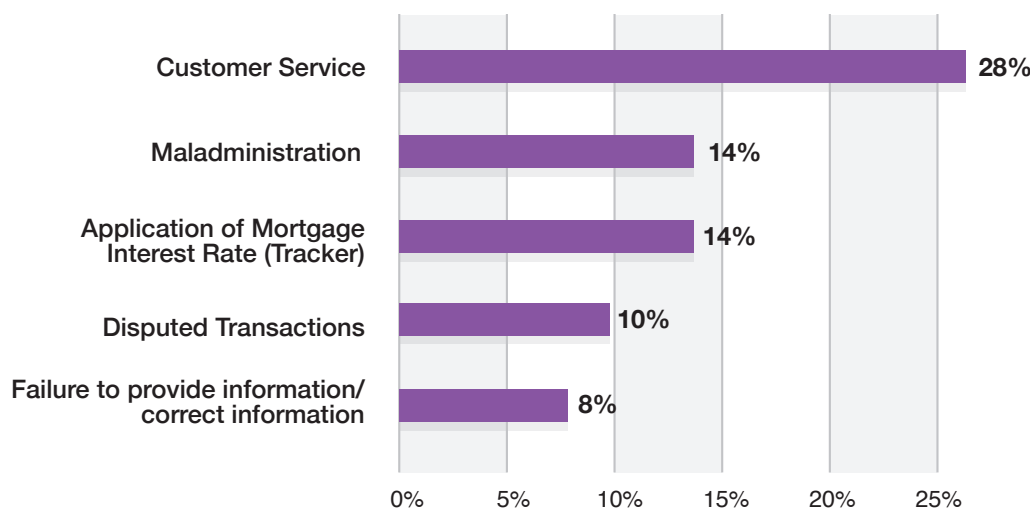
Banking Complaints Received

Banking complaints represent 56% of all complaints received in 2018. Mortgages continue to be the largest product type complained of in the banking sector at 57% of banking complaints and in 2018 mortgages represented the largest product type of all sectors. Complaints regarding bank accounts are the second largest group representing 25% of all banking complaints.

Products complained of **Banking Products**



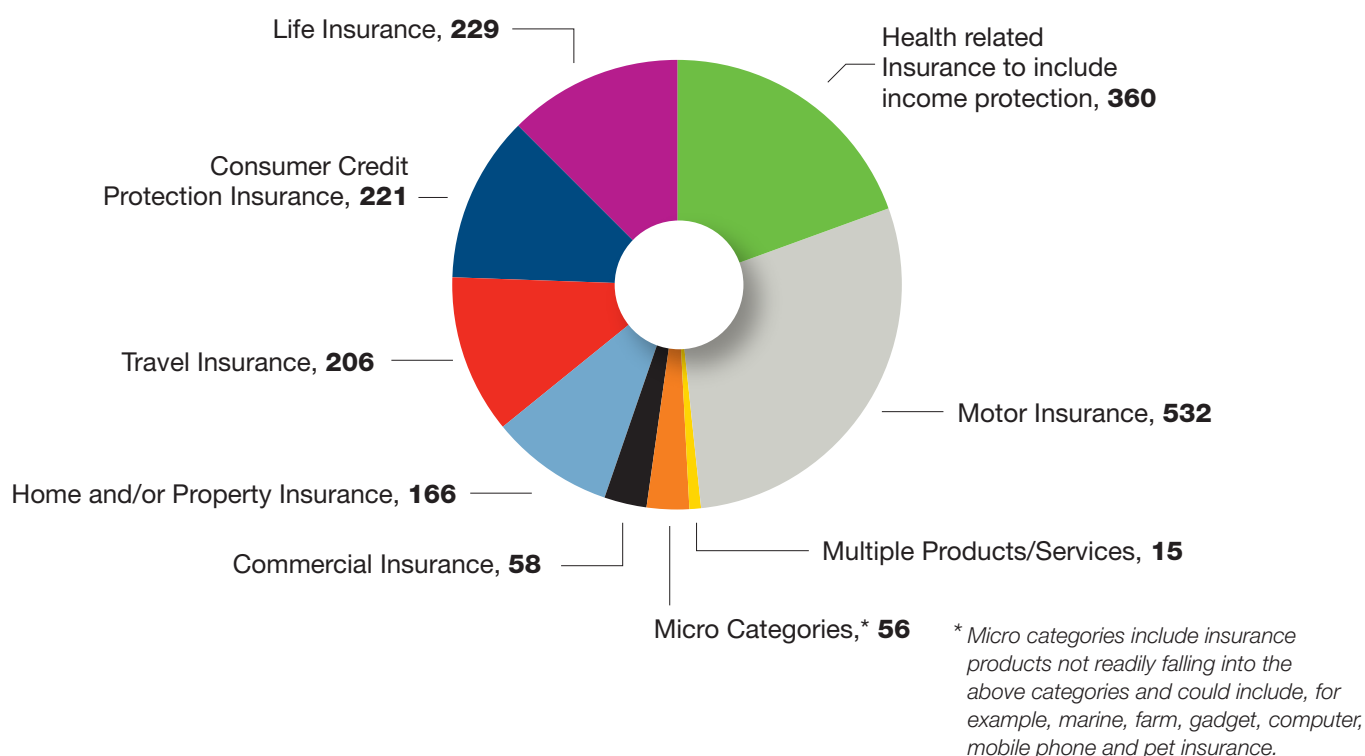
Top 5 banking conducts complained of:



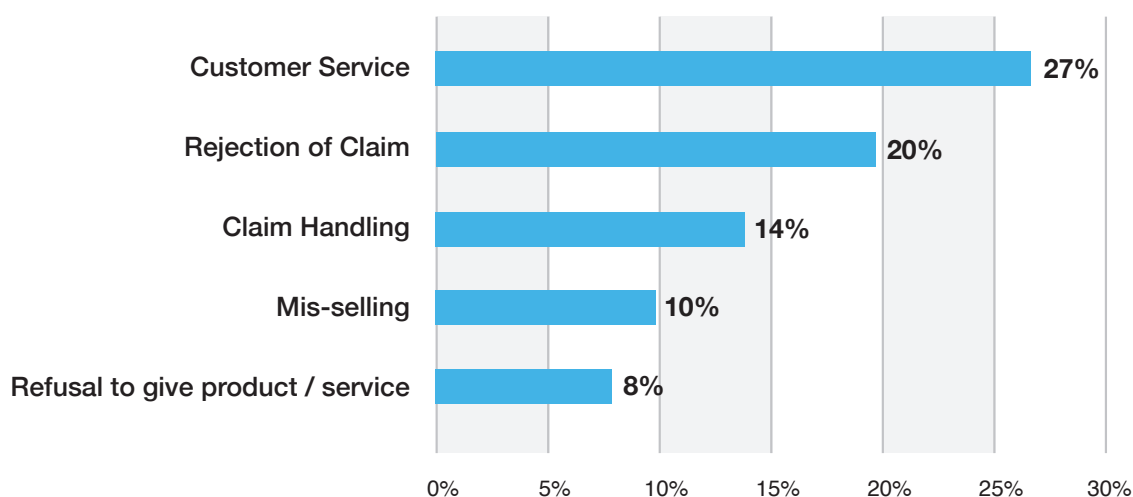
Insurance Complaints Received

Complaints relating to insurance products and services represent 33% of all complaints received in 2018. Motor insurance was the main product type complained about, representing 29% of insurance complaints.

Products complained of Insurance Products



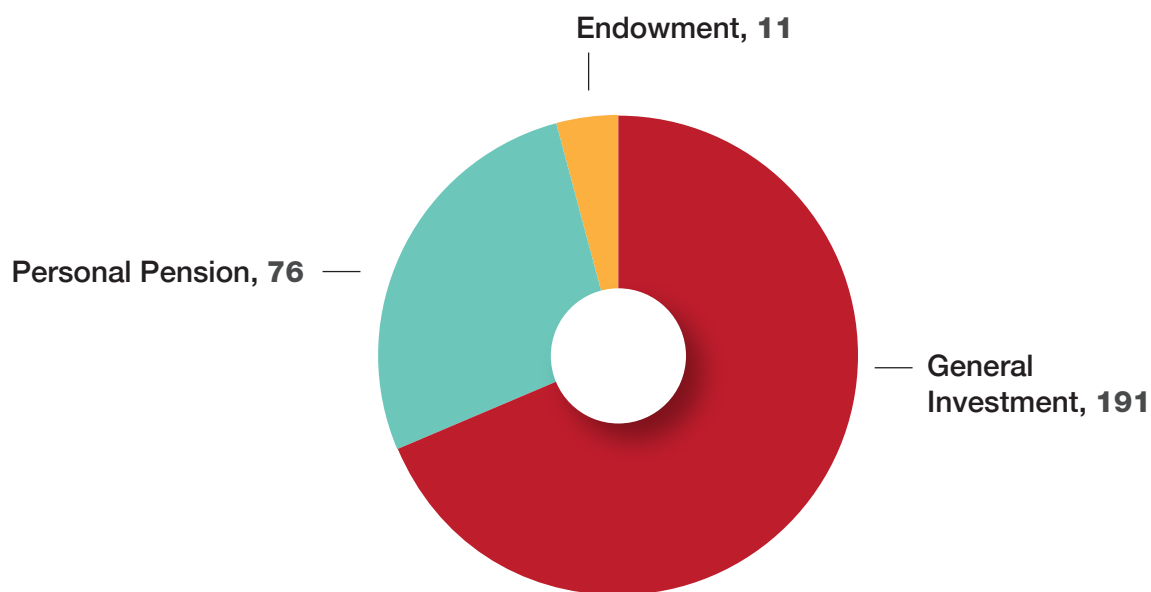
Top 5 Insurance conducts complained of:



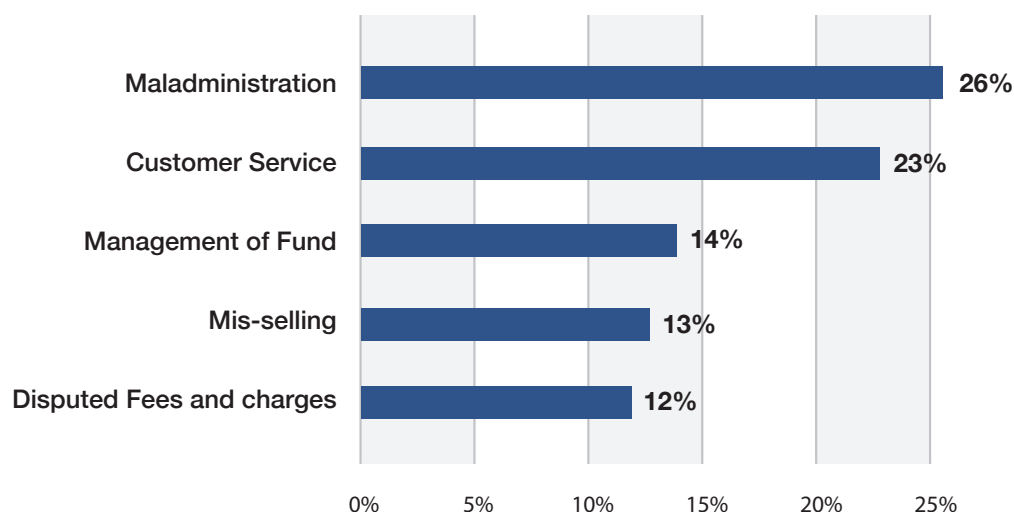
Investment Complaints Received

Investment complaints represent 5% of all complaints received in 2018. Complaints relating to investment products are a small part of the overall complaint type received. General investments remain the largest portion of these complaint types at 69%.

Products complained of **Investment Products**



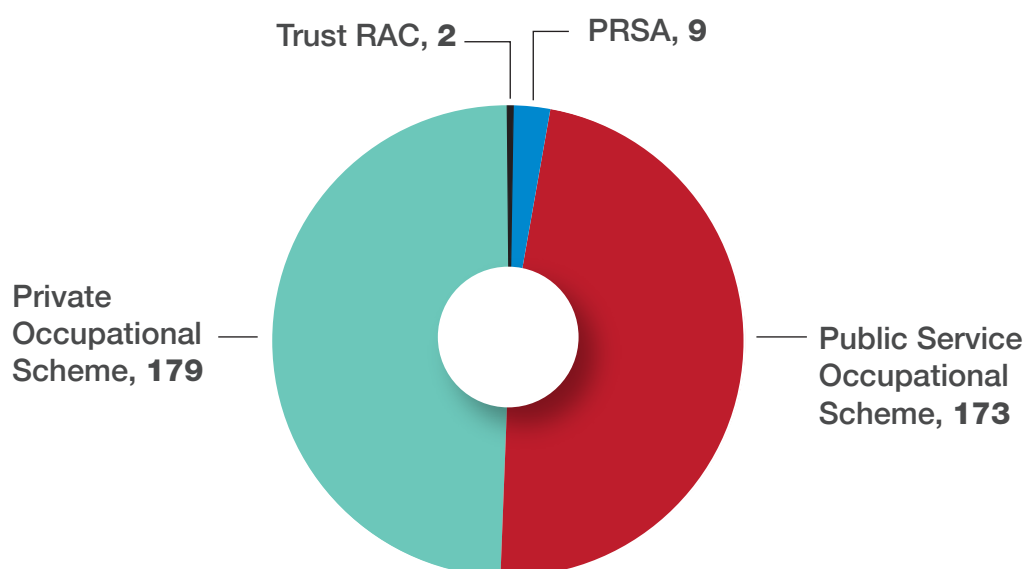
Top 5 Investment conducts complained of:



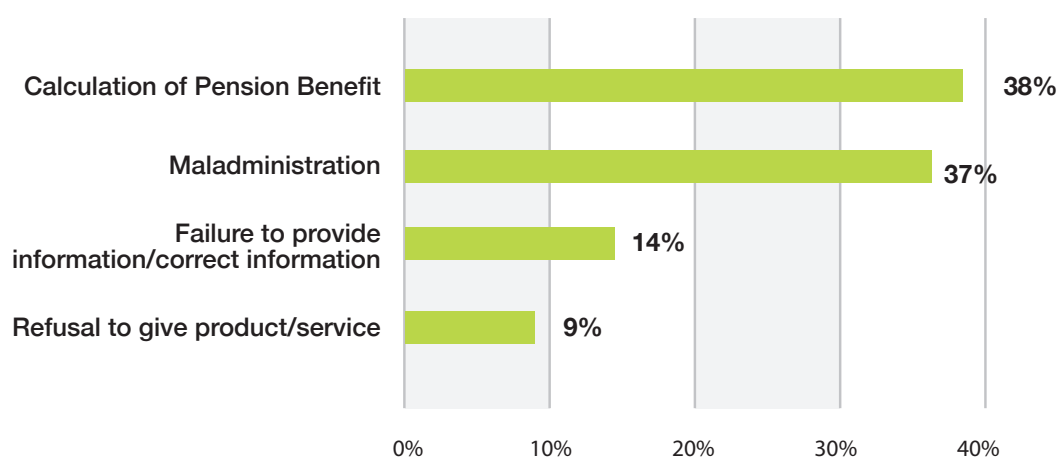
Pension Scheme Complaints Received

Pension scheme complaints represent 6% of all complaints received in 2018. Pension scheme complaints may be made to the FSPO by a consumer who believes they have suffered financial loss because of maladministration of the scheme. The complaints relate to private occupational schemes, public occupational schemes, other occupational schemes, trust Retirement Annuity Contracts (trust RAC) and Personal Retirement Savings Accounts (PRSA).

Products complained of Pension Schemes



Top 4 Pension conducts complained of:



How to search our decisions on **www.fspo.ie**

Accessing our database of decisions

Our database of legally binding decisions is available online at www.fspo.ie/decisions. To refine your search, you can apply one or a number of filters, or alternatively you can search the entire database by keyword.

1 Applying **filters** to narrow your search

To filter our database of Decisions, you can firstly select the relevant sector:



Filter our Database

Financial Services Sector:

All

☒ Banking

Insurance

Investment

Product / Service:



2

Having filtered by sector, the search tool will then help you to filter our **Decisions** further by categories relevant to that sector such as:

- product / service
- conduct complained of



Sector



Product / Service



Conduct complained of



Filter our Database

Financial Services Sector:

All

☒ Banking

Insurance

Investment

Product / Service:

Foreign Exchange

Conduct Complained Of:

To narrow your search, you may also

Product / Service:

☒ All

Accounts

Commercial Banking

Consumer Credit

Foreign Exchange

Mortgage

Multiple Banking Product/Service

All

Conduct complained of:

☒ All

Advice Incorrect/Unsuitable (post sale)

Application of interest rate

Arrears handling

Customer Service

Disputed Fees and charges

Disputed Transactions

Failure to provide information/correct information

Maladministration

Miscellaneous

Mis-selling

Refusal to give product/service

3

You can also filter our database of Decisions by year, and by the outcome of the complaint, i.e. whether the Ombudsman Upheld, Substantially Upheld, Partially Upheld or Rejected the complaint.

Outcome:

- ✓ All
- Upheld
- Substantially upheld
- Partially upheld
- Rejected

OR

4

Search by **Word or Phrase**

If you are not sure what you are looking for, or wish to perform a broader search, you can also search the entire database by word or phrase.



Search our Database

You can search our database of decisions by:

Word or Phrase:

 **Credit Cards** Decision Reference 2018-0002

Sector: Banking

Primary conduct complained of: Arrears handling

All conducts complained of: Arrears handling. Delayed or inadequate communication

Year: 2018

Product/Service: Consumer Credit

Outcome: Substantially upheld

[View Document](#)

Once you have found the Decision you are looking for, click **View Document** to download the full text in PDF.



3 STEPS TO MAKING A COMPLAINT TO THE FSPO

1

Contact your provider

You should make your complaint with whoever provided the service or product to you, this could be your bank, insurance company, credit union, money lender etc.

You should speak or write to either the person you usually deal with, or ask for the complaints manager to make a complaint.

What information should you give them?

- ✓ Make it very clear that you are making a complaint.
- ✓ Explain your complaint.
- ✓ Suggest how they should put it right.


BEFORE MAKING A COMPLAINT TO THE FSPO, YOU MUST GIVE YOUR PROVIDER A CHANCE TO SORT OUT THE PROBLEM.


Provide detailed information, including:


-  **Relevant dates, places and times**
-  **Details of any phone conversations and meetings** (e.g. who was involved, when they took place and what was said)
-  **Copies of relevant documents**, such as contracts, statements, emails, letters, invoices and receipts.

2

Be patient and persistent

 **The provider should deal with your complaint through its complaint handling process.** The provider may take up to 40 working days to deal with your complaint.

 **When you complain to the provider be persistent.** If nothing happens, call the provider to check on the progress of your complaint.

 **The provider should fully investigate your complaint.**



Resolved

In the majority of cases the provider will resolve your complaint.



Not yet resolved

If they don't resolve it, they will issue a final response letter to you.

A final response

should set out what the provider has done to investigate your complaint through its complaint handling process. It should advise you to contact the FSPO as your next step, if you remain unhappy.

3

Contact the FSPO

If you remain unhappy after receiving your final response letter, you may contact the FSPO. To progress your complaint, we will need:

A A completed complaint form

&

B A copy of your final response letter.

If you are having difficulty getting the final response and 40 working days has passed or if your provider is not engaging with you please let us know and we will follow up on the complaint for you.



**Complainant
feedback quote**

“I wish to thank you and your staff for all the help you gave me in dealing with my dispute with the might of a financial company such as (named insurer). Without the help of your office, I don’t know how I could have resolved the issue”.





An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

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