



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

Annual Activities Report 2020

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



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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 on 1 January 2018 to resolve complaints from consumers, including small businesses and other organisations, against financial service or pension providers.

The FSPO provides an independent, fair, impartial, confidential and free service to resolve complaints. When a consumer is unable to resolve a complaint with a financial service or pension provider, they can refer their complaint to the FSPO.

The FSPO's governing legislation sets out that the Ombudsman shall try, as far as is possible, to resolve a complaint by mediation. Mediation provides a faster and more efficient way to resolve complaints.

When these early interventions do not resolve a dispute, the FSPO will formally investigate the complaint in a fair and impartial manner. The investigation and adjudication of a complaint results in a decision which is legally binding on both parties to the complaint. Where the complaint is upheld, substantially upheld or partially upheld, the Ombudsman may direct rectification or compensation, or both, in respect of all, or some of the matters complained of. Where the Ombudsman upholds, substantially upholds or partially upholds a financial service complaint, he can direct a financial service provider to pay compensation of up to €500,000 and he can also direct rectification for both financial service and pension complaints. Such rectification can be very significant as it can involve restoring a person's financial position. In the case of a pension complaint, such rectification shall not exceed any actual loss of benefit under the pension scheme concerned and compensation cannot be directed in relation to pension complaints.

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

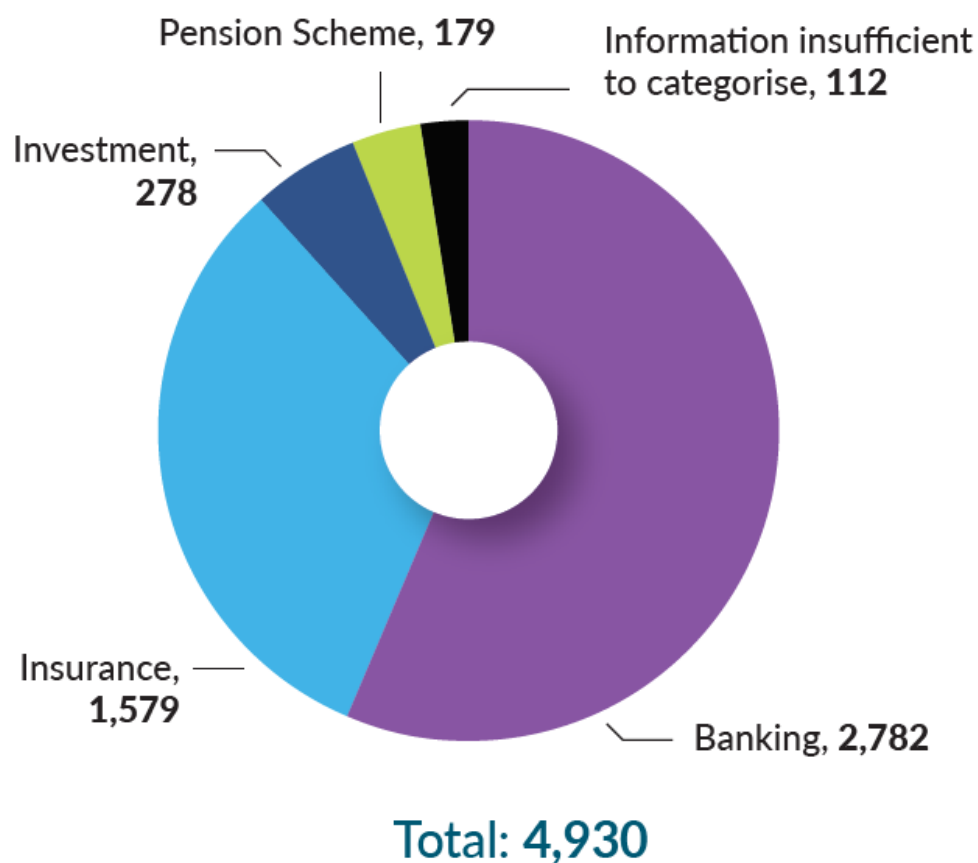
- (a) the number of disputes received and the types of complaints to which they related;
- (b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided 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

The FSPO received 5,395 complaints in 2020. The 2020 total included 465 ineligible complaints, leaving a balance of 4,930 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 the FSPO. Where possible, the complainant is redirected to the appropriate body.

Of the 4,930 eligible complaints received in 2020, 56% related to banking products, 32% related to insurance, 6% related to investment products. The remaining 4% concerned complaints about pension schemes. The remaining 2% related to complaints where insufficient information was provided by the complainant to categorise the complaint.

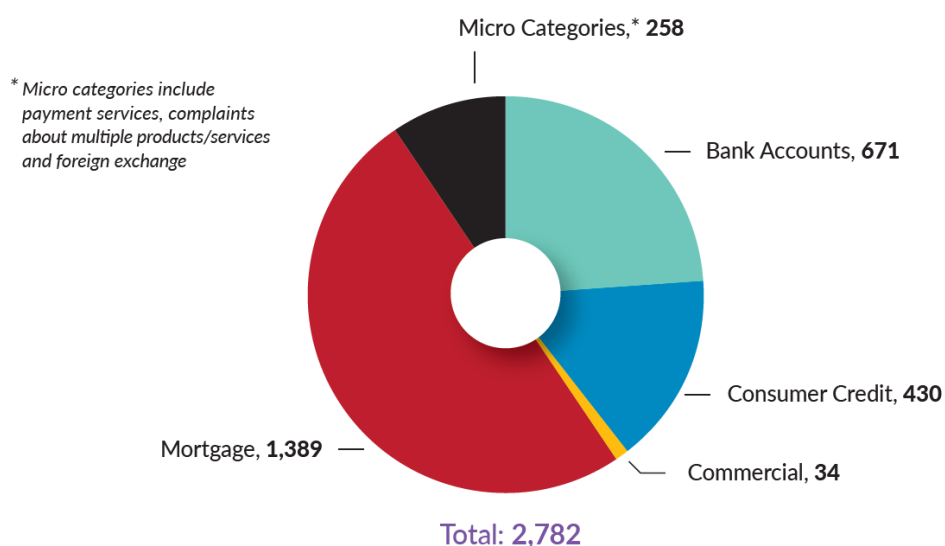
Complaints by sector



Banking Complaints Received

Banking complaints represent 56% of all complaints received in 2020. Mortgages continue to be the product type most complained of in the banking sector accounting for 50% of banking complaints in 2020. Mortgages were the product accounting for the largest number of complaints, across all sectors. Complaints regarding bank accounts are the second largest group, representing 24% of all banking complaints.

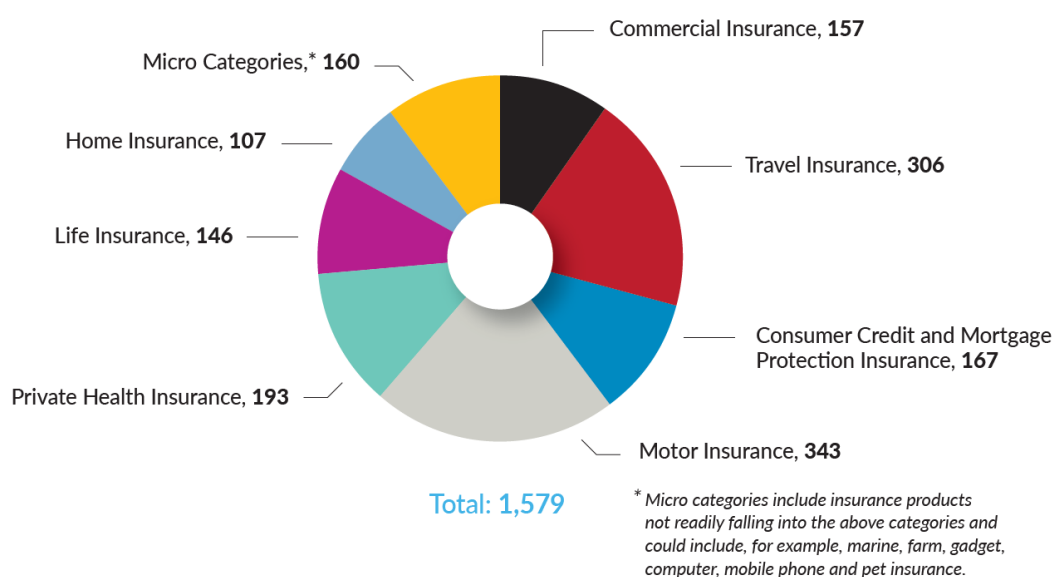
Banking Products



Insurance Complaints Received

Complaints relating to insurance products and services represent almost a third of all complaints received in 2020. Motor and travel insurance were the main product types complained about, representing more than 40% of insurance complaints.

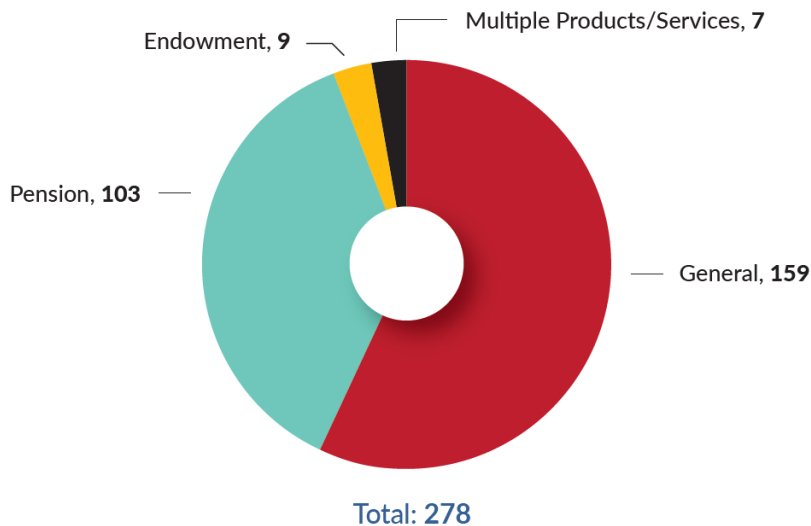
Insurance Products



Investment Complaints Received

Investment complaints represent 6% of all complaints received in 2020. General investments represented the largest portion of these complaint types, at 57%. Pension complaints in this category relate to personal pensions.

Investment Products

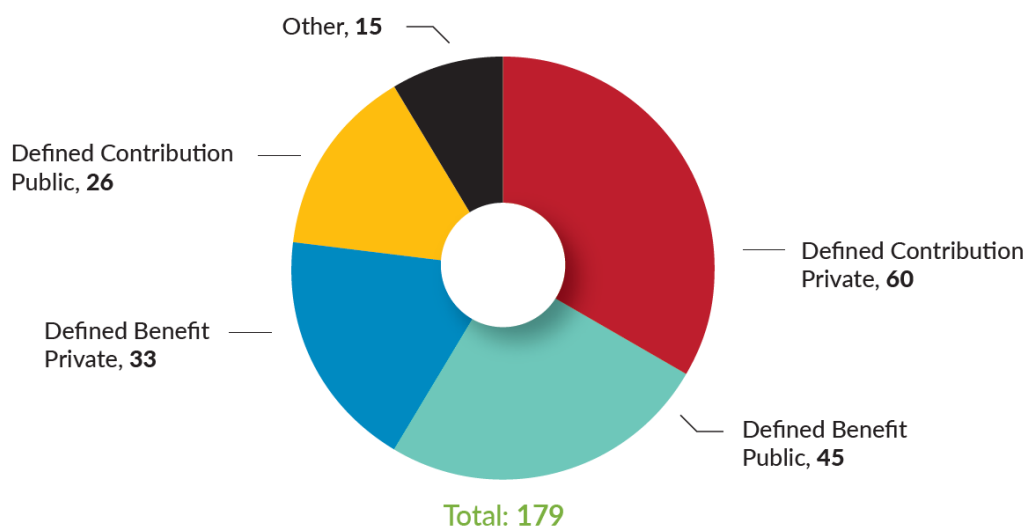


Pension Scheme Complaints Received

Pension scheme complaints represent 4%

Pension scheme complaints represent 4% of all complaints received in 2020. Pension scheme complaints may be made to the FSPO by a consumer who believes they have suffered loss of pension scheme benefits because of maladministration of the scheme. These complaints relate to public and private occupational pension schemes, trust Retirement Annuity Contracts (trust RACs) and Personal Retirement Savings Accounts (PRSAs).

Pension Schemes



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.

The FSPO has the power to publish legally binding decisions in relation to complaints concerning financial service providers under Section 62 of the *Financial Services and Pensions Ombudsman Act 2017*. To provide full access to the Ombudsman's decisions, the FSPO has created an online database of legally binding decisions. This can be accessed at 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. Decisions are added on an ongoing basis.

This Ombudsman also publishes Digests of his 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 2020 include:

[Volume 4](#) published in August 2020 contains summaries of decisions in relation to complaints, which issued between January and May 2020.

[Volume 5](#) published in February 2021 contains summaries of decisions in relation to complaints, which issued from 1 June 2020.

All published decisions are available at www.fspo.ie/decisions.

By publishing these decisions and the Digest, the Ombudsman aims to enhance transparency and understanding of his powers and the services provided by the FSPO. 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.

The Digests of Decisions relating to 2020 highlight the broad range of issues leading to complaints made to the FSPO and the decisions made by the Ombudsman, including directing providers to rectify the conduct complained of by reinstating insurance policies, admitting insurance claims for payment, correcting credit ratings and/or paying compensation.

The Ombudsman, on publishing the Overview of Complaints for 2020, discussed the considerable impact his decisions have, including those who have not brought a complaint to the FSPO who nevertheless benefit from the FSPO's interventions and its work. This was particularly evident in 2020, when more than 7,000 consumers received rectification or compensation on foot of a small number of his decisions. This was because some financial service providers applied the directions from a number of the Ombudsman's decisions, in relation to tracker mortgage complaints, to other customers in similar circumstances. It has been publicly recorded that the value of the redress applied to the other customers exceeded €300 Million.

The FSPO cooperates with regulatory authorities with a view to ensuring that the Financial Services and Pensions Ombudsman Act (the Act) operates in a way that contributes to promoting the best

interests of consumers and actual or potential beneficiaries of financial or pension services, and to the efficient and effective handling of complaints. The Act provides that the Ombudsman may make recommendations to the Central Bank of Ireland (CBI) in relation to measures that the CBI might take in order to effectively deal with persistent patterns of complaints. A similar provision existed in the legislation concerning the Financial Services Ombudsman (FSO), one of the FSPO's precursor bodies. The FSO and the CBI agreed a [Memorandum of Understanding](#) (MoU) which sets out the terms under which both parties give effect to these provisions. That MoU continues to operate and is available on the FSPO website.

In 2020, the Ombudsman reported seven issues to the Central Bank of Ireland under the MOU. In each complaint referred to the Central Bank of Ireland, which are listed below, the Ombudsman outlined the reason for the referral and enclosed an anonymised copy of the legally binding decision.

Sector:	Investment
Reason for Referral:	Concerns that there could be other customers of the provider affected by the errors identified in this complaint, i.e. there was a failure on the part of the provider to ensure the complainants received their dividend payments.
Sector:	Insurance
Reason for Referral:	Concerns about the provider's contention that there is an industry practice that "In Ireland, it is not possible to use one 'no claims bonus' on multiple policies". This was reported both to the Central Bank and the Competition and Consumer Protection Commission.
Sector:	Banking
Reason for Referral:	Concern regarding the truncated manner in which the transaction took place on a tracker mortgage, together with the lack of clarity in the documentation as to the nature of the transaction.
Sector:	Banking
Reason for Referral:	Concern about the provider's view that it does not have an obligation to inform the complainants that they could lose their tracker rate of interest
Sector:	Investment
Reason for Referral:	The provider's failure to disclose its commission and fees to the complainant and its failure to provide any (or any adequate) explanation for its conduct.
Sector:	Banking
Reason for Referral:	Concerns that the manner in which the provider reports to the ICB may have adverse implications for other customers
Sector:	Banking
Reason for Referral:	Concerns that an explanation for the conduct complained of was not given when it should have been, and the fact that letters appeared to have been consistently posted days after they were issued, as evidenced by the documentation provided in evidence by the complainant.

The 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.

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

The FSPO closed 6,193 complaints in 2020. 1,401 complaints were closed through Registration and Assessment, which comprised of 22.6% of complaints closed. 2,960 complaints (47.8%) were closed through the Dispute Resolution Service and 735 complaints (11.9%) were closed through the Investigation Service and 536 (8.6%) following Legal Review.

Of the complaint categories listed above, 428 (6.9%) complaints were withdrawn at various stages of our processes in 2020.

- Of the 2,960 (47.8%) complaints closed within the Dispute Resolution Service, 69 (2.3%) complaints were notified as withdrawn while in the Dispute Resolution Service. Some were withdrawn because a settlement was agreed between the parties directly. A further 43 (1.5%) complaints were closed following contact with the complainant only. This includes where complaints were intended for another Ombudsman or where the complainant resolved their issue without the provider's assistance.
- Of complaints that entered into Investigation Services, 69 (9.4%) complaints were settled or withdrawn.

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 put the complaint on hold if necessary.

Registration and Assessment (R&A) services, which closed 1,401 complaints, provides information to our customers on how to engage with their financial service provider or pension provider to make a complaint to their provider, if they have not already done so. Information is also given on how to submit a complaint to the FSPO and how it will be dealt with by the FSPO. This sometimes involves the FSPO dealing directly with a financial service provider or pension provider, in order to secure a final response to the complaint for the consumer. This may be necessary when the provider has not engaged sufficiently with the complainant. In many cases, this preliminary work allows the complaint to close if the complainants are satisfied with their provider's final response.

In February 2020, a new Early Jurisdictional Assessment (EJA) service, was set up within Registration and Assessment to assist in informing complainants earlier in the complaints process, where their complaint fell outside the remit of the FSPO due to jurisdictional issues. The most common reason that a complaint might fall outside the FSPO's jurisdiction is where a complaint does not meet the time limits for bringing a complaint to the FSPO. Other common reasons a complaint falls outside jurisdiction are where a complaint has been, or is the subject of legal proceedings, where fraud has

been alleged, where the complaint is more suitably dealt with by a different forum, such as the Data Protection Commission or the Workplace Relations Commission, or where the complaint relates to a commercial decision of the provider, such as the cost of a particular product.

This early assessment service has enabled the FSPO to use its resources in the most efficient manner. More importantly, this service has enabled the FSPO to provide a greatly improved customer service, ensuring the complainant is informed early on in the process, if their complaint falls outside the FSPO's remit. During 2020, 327 (5.3%) complaints were closed within EJA.

An additional 561 (9%) complaints that were ineligible were closed in 2020. Ineligible complaints include those for providers outside Ireland, for services that are not financial services, or duplicate complaints.

d) The average time taken to resolve disputes

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.

Time open	Percentage of complaints closed in DRS in 2020
2 months or less	8%
2-4 months	22%
4-6 months	23%
Over 6 months	47%

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 service 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 significant part of the work undertaken by the FSPO.

The table below details the time taken to close complaints that were closed within this formal investigation process in 2020.

Time open	Percentage of complaints closed in Investigations in 2020
1 year or less	27%
1-2 years	34%
2-3 years	21%
Over 3 years	18%

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. He 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 he can direct. He can also direct a provider to pay compensation to a complainant of up to €500,000. In terms of dealing with complaints against pension providers the Ombudsman can direct rectification that shall not exceed any actual loss of benefit under the pension scheme concerned. The Ombudsman cannot direct a pension provider to pay compensation, as with financial services providers.

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 2020, 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 a competent scheme in the EEA, the FSPO will, as part of its service, direct the consumer to the correct scheme. 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 service providers that are regulated by the Central Bank of Ireland and passport their products and services to consumers on a 'freedom of service basis' to the EEA. The

FSPO may also accept complaints made by Irish consumers who have availed of products and services sold here by financial services providers operating in Ireland on a 'freedom of service basis'.

For consumers making cross border complaints which fall under our remit, the FSPO will offer a translation service in one of the official EU languages to assist consumers in progressing their complaint where English or Irish is not their first language.