



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

ADR Annual Activities Report 2021

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 on 1 January 2018 to resolve complaints from consumers, including small businesses and other organisations, against financial service providers and 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 provider 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. Where 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 both financial service providers and pension providers to fix or correct the issue. 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. 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:

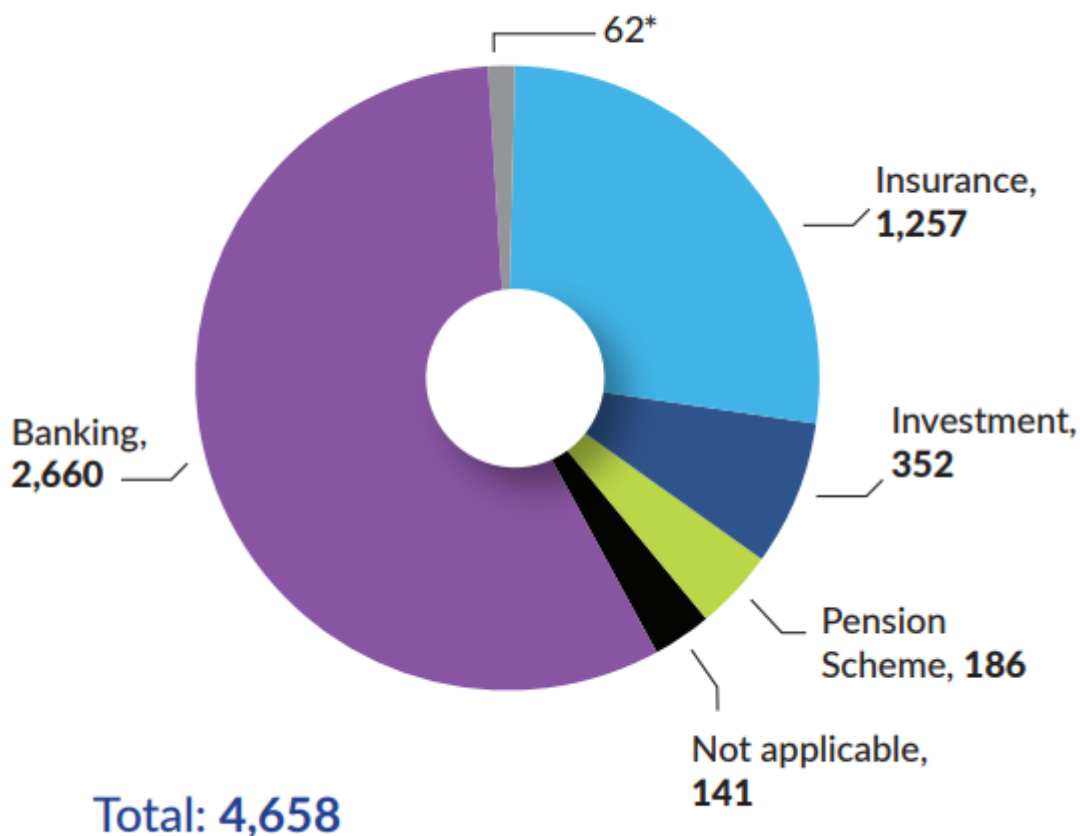
- (a) the number of disputes received and the types of complaints to which they related
- (b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided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

A total of 4,658 complaints were received by the FSPO in 2021. When 130 complaints later found to be ineligible were deducted, 4,528 complaints were received¹.

Of the 4,658 total complaints received in 2021, 57% related to banking products, 27% related to insurance and 8% related to investment products. 4% concerned complaints about pension schemes. The remaining 4% consisted of complaints which were yet to have a sector assigned at the end of December 2021 and complaints where a sector was not applicable.

Complaints by sector



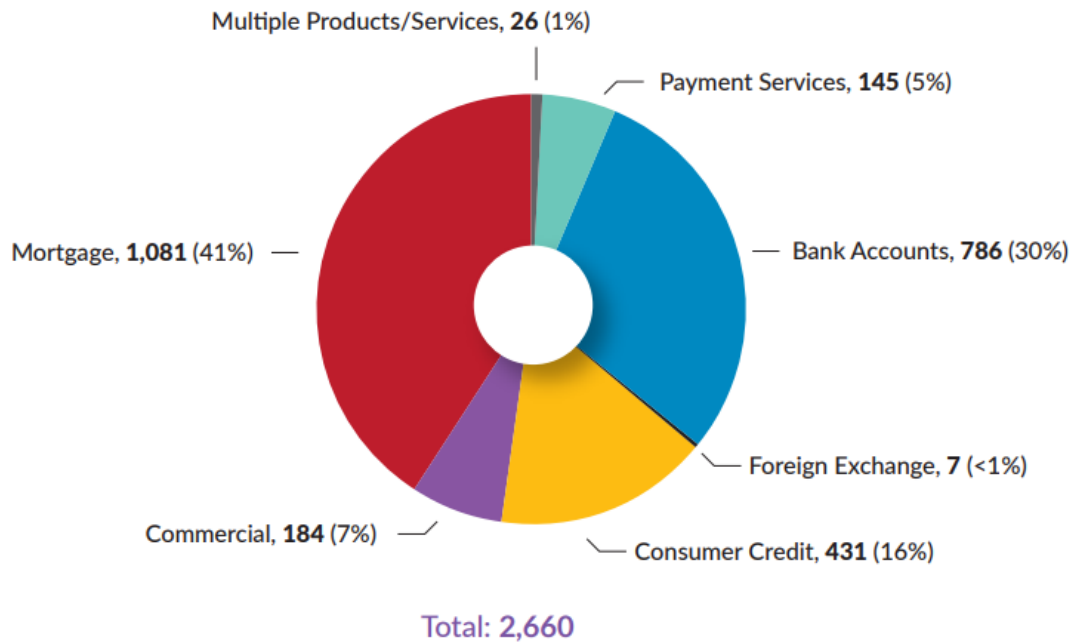
*No confirmed sector at 31 Dec 2021

¹ Complaints are considered to be ineligible where they are intended for a different Ombudsman or relate to non-financial 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.

Banking complaints

Banking complaints represented 57% of all complaints received in 2021. Mortgages were the product type most complained of in the banking sector, accounting for 41% of banking complaints in 2021 and mortgages also accounted for the largest number of complaints across all sectors. Complaints regarding bank accounts are the second largest group in the banking category, representing 30% of all banking complaints.

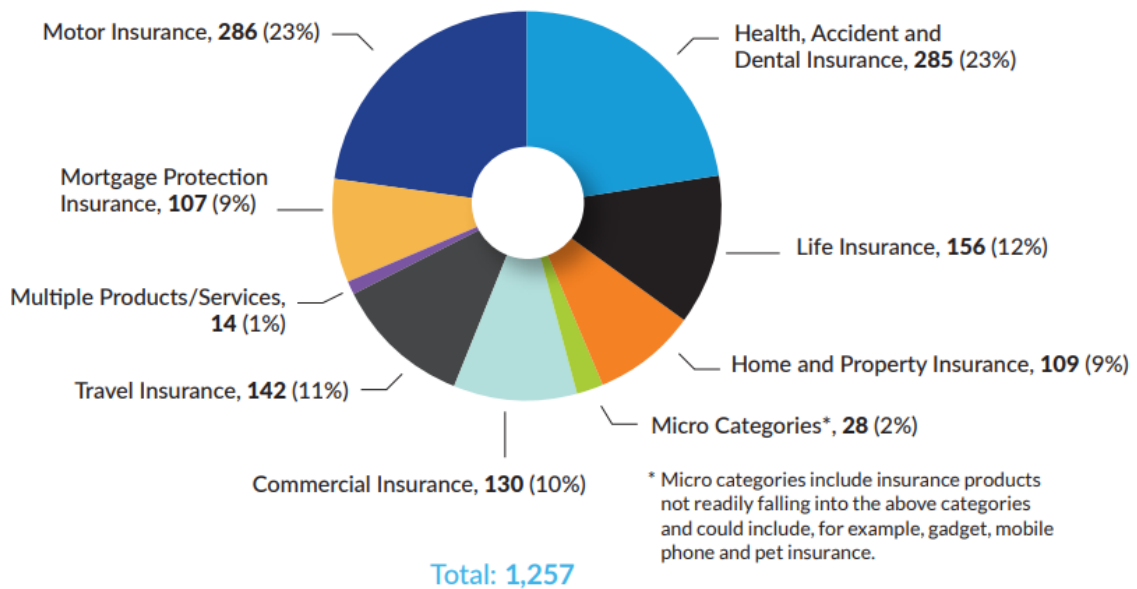
Banking Products



Insurance complaints

Complaints relating to insurance products and services represented 27% of all complaints received in 2021. The two categories of insurance products most complained about in 2021 were motor insurance and health, accident and dental insurance policies.

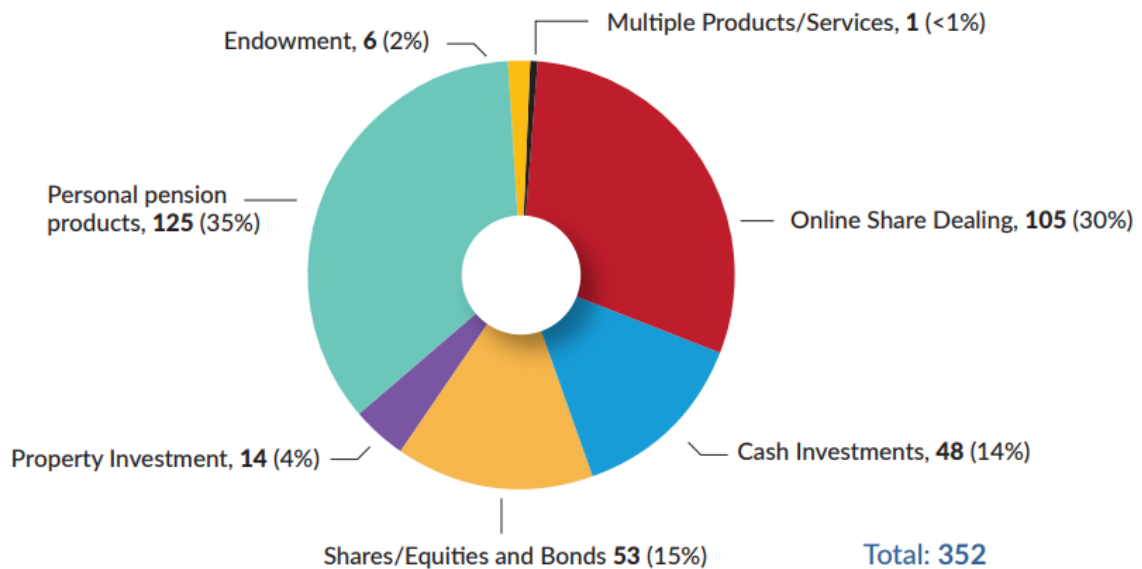
Insurance Products



Investment complaints

Investment complaints represented 8% of all complaints received in 2021, a slight increase on 2020 (6% of all complaints received). Personal pension products represented the largest portion of these complaint types, at 35%, closely followed by online share dealing, which made up 30% of investment complaints.

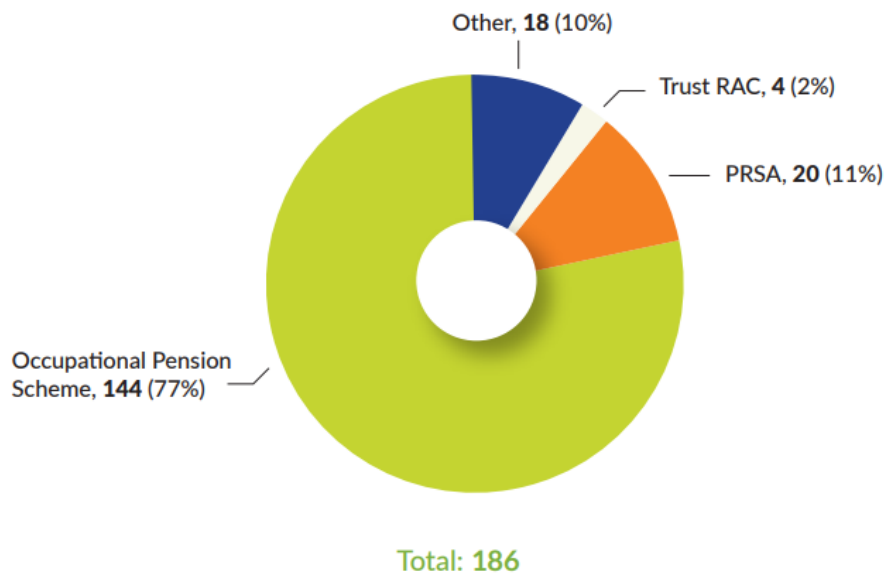
Investment Products



Pension complaints

Pension scheme complaints represented 4% of all complaints received in 2021. Pension scheme complaints can be made to the FSPO by an actual or potential beneficiary of the scheme 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 basis².

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 2021 include:

- [Volume 5](#) published in February 2021, contains summaries of decisions in relation to complaints, which issued from 1 June 2020.
- [Volume 6](#) published in July 2021 contains summaries of decisions issued in 2020 and 2021 concerning complaints from businesses, including details of business interruption insurance complaints.

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

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.

The Digests of Decisions published in 2021 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.

² As at 21 June 2022, the database holds 1,713 decisions, with decisions issued up to end February 2022 having been published.

The Ombudsman, on publishing the [Overview of Complaints for 2021](#), discussed the confusion that can be caused by branding and re-branding, and by the complex relationships and arrangements in place between some providers, together with the increased role of technology firms that provide gateways to products and services which are provided by other entities.

In addition, the Ombudsman highlighted that the role of intermediaries is not always clear or understood. Sometimes, a customer may not know that the intermediary they are dealing with is only selling and not providing the product or service. This can cause particular difficulties, for example with insurance policies. If the intermediary does not collect the required information during the sale of a policy, this can lead to the insurer rejecting an insurance claim or voiding a policy, or both, at a later stage.

The FSPO shared its views regarding these potentially confusing aspects of service provision, by making submissions to the Central Bank of Ireland, in the context of its ongoing review of the Consumer Protection Code.

During 2021, there was a noticeable increase in the number of complaints made to the FSPO in the area of investment fraud and cryptocurrency. Global advances in technology across the digital world over the last ten years have, unsurprisingly, left many consumers at a disadvantage in terms of their digital knowledge. This has unfortunately led to an increase in fraud incidents, particularly in the area of online trading and cryptocurrency. The Overview of Complaints 2021 included case studies that illustrated these risks.

The FSPO cooperates with regulatory authorities with a view to ensuring that the Financial Services and Pensions Ombudsman Act 2017 (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's Bureau (FSOB), one of the FSPO's precursor bodies. The FSOB and the CBI agreed a [Memorandum of Understanding](#) (MoU) which sets out the terms under which both parties give effect to these provisions.

In 2021, the Ombudsman reported 13 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.

Table 1.0 Complaint issues referred to the Central Bank of Ireland in 2021

Decision Reference	Issues raised by the complaint
2020-0483	Issues created by a person switching from one health insurer to another, during an accounting period
2021-0566	The provider's failure to supply very important and relevant information and its inability to acknowledge the unreasonable nature of its conduct
2021-0156	The provider's dispute of its obligation to ensure clarity in documents sent to customer – and the potential impact on other customers
2021-0181	The provider's offer of convertible options within a policy that were ultimately not available during final months of policy
2021-0213	The provider's conduct in refusing to meet its obligations to respond to and supply evidence for the FSPO's investigation of a complaint
2021-0227	The provider's failure to adequately explain a change of calculation methodology, which resulted in an immediate decrease of some €15,000 in a customer's arrears balance, which was difficult to reconcile
2021-0246	The position of customers who remain unable to secure household insurance, a decade after an issue of non-disclosure.
2021-0274	The potential for other accounts managed by the provider to be impacted by its method of crediting accounts
2021-0326	Serious concerns about the provider's ability to ensure the security and confidentiality of its customers' information, and potential impact on other customers, given its apparent condoning of the practices involved
2021-0342	The provider's failure to adequately explain a change of calculation methodology, which resulted in an immediate decrease of some €44,000 in a customer's arrears balance, which was difficult to reconcile and failure to clearly or adequately explain this to the customer
2021-0327	The provider's failure to adequately explain a change of calculation methodology, which resulted in an immediate decrease of some €25,000 in a customer's arrears balance, which was difficult to reconcile and failure to clearly or adequately explain this to the customer
2021-0369	The provider's continuous use of an incorrect description for a policy as a "serious illness policy", even though no cover was included for any serious illnesses.
2021-0333	The difficulty experienced by the customers in identifying the entity supplying their health insurance cover, and serious risk of potential difficulty for other customers, owing to the practice of the provider during the sale of its international health cover

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.

The table below sets out the complaints which, during 2021, were referred by the FSPO to the Pensions Authority.

Table 2.0 Complaint issues referred to the Pensions Authority

Decision Reference	Issues raised by the complaint
Case study *	Relating to the level of the provider's communication, and the unacceptable manner in which such communications with the complainant were recorded
Case study *	Relating to delays in issuing of annual pension benefit statements

* In accordance with section 62(2) of the Financial Services and Pensions Ombudsman Act 2017, the Ombudsman shall publish case studies in relation to complaints concerning pension providers. The full decisions are not published in these complaints.

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

In 2021, the FSPO received 4,658 complaints and successfully closed 5,010 complaints including 130 (2.6%) found to be ineligible³.

Of the 5,010 complaints closed in 2021, 2,169 (43.3%) were closed at an early stage in Customer Operations and Information Management, 1,820 (36.3%) were closed by way of mediation in Dispute Resolution Services, 856 (17.1%) were closed in Investigation Services and 165 (3.3%) were closed in Legal Services.

249 (5%) complaints were withdrawn at various stages of our processes in 2021. Further information on these withdrawn complaints is outlined below. The reason for withdrawal of a complaint may 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 for a period of time, if appropriate.

In 2021, the majority of complaints were closed through the Registry and Assessment team of Customer Operations and Information Management (COIM). 140 (2.8%) complaints were withdrawn at this stage and 160 (3.2%) complaints were resolved without the need for further investigation.

1,025 (20.5%) complaints were closed in COIM at an early stage in the process. In some cases, the complainant did not provide enough information to proceed. In others, the complainant had not completed their provider's internal complaint resolution process and once we re-directed the complainant back to the financial service provider, they were able to get their complaint resolved.

714 (14.3%) complaints were closed in COIM due to legal issues. For example,

- 158 (3.2%) complaints were closed as it was determined they would be more appropriately dealt with by the Courts.

³ Complaints were considered ineligible mainly because they were related to businesses that were not financial service providers or were for providers that operated outside Ireland. Where appropriate, the FSPO will refer a complainant to the appropriate Alternative Dispute Resolution (ADR) body in another country.

- 123 (2.5%) complaints were closed because they were complaints concerning a non-regulated financial service provider, or an entity that was not providing a financial service.
- 131 (2.6%) complaints were assessed as being outside the time limits for making a complaint.
- 127 (2.5%) complaints were closed as the person or entity making the complaint did not meet the definition of a complainant under the Financial Services and Pensions Ombudsman Act 2017 or was not otherwise eligible to make a complaint.
- The remaining 174 (3.5%) were considered more appropriately dealt with by another forum and there was one outside settlement (<1%).

Of complaints discontinued in the Dispute Resolution Service, 11 were closed when settled between the parties and 32 were withdrawn. Of complaints closed in Investigation Services, 136 were settled on foot of an on-the-record offer from the provider, 97 were withdrawn or otherwise closed and 46 were closed following an outside settlement.

(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.

Table 3.0 Percentage of complaints closed in DRS in 2021

Time open	Percentage of complaints closed in DRS in 2021
2 months or less	9.12%
2-4 months	37.91%*
4-6 months	25.60%*
Over 6 months	37.36%*

*This data was amended on 20 July 2023 to correct a transcription error and notified to the CCPC, as the designated competent authority under S.I. No. 343/2015 - European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015.

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 2021.

Table 4.0 Percentage of complaints closed in Investigation Services in 2021

Time open	Percentage of complaints closed in Investigation Services in 2021
1 year or less	15.62%
1-2 years	32.19%**
2-3 years	26.51%**
Over 3 years	25.68%**

**This data was amended on 20 July 2023 to correct a transcription error and notified to the CCPC, as the designated competent authority under S.I. No. 343/2015 - European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015.

(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 2021, no decisions required enforcement through the Courts.

(g) 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 which passport their products and services to consumers on a 'freedom of service basis' to the EEA. The FSPO may also accept complaints made by 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 assist consumers in progressing their complaint where English or Irish is not their first language.



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