



An tOmbudsman Seirbhísí  
Airgeadais agus Pinsean

Financial Services and  
Pensions Ombudsman

## Annual Activities Report 2018

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 01 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 requires it to try, as far as possible, to resolve a complaint by way of mediation. The FSPO's research, and our experience to date, highlights that mediation is also the preferred option of those who use the FSPO's services. Mediation can provide a faster, easier and more satisfactory way to resolve complaints.

When these early interventions do not resolve a dispute, the FSPO will 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.

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

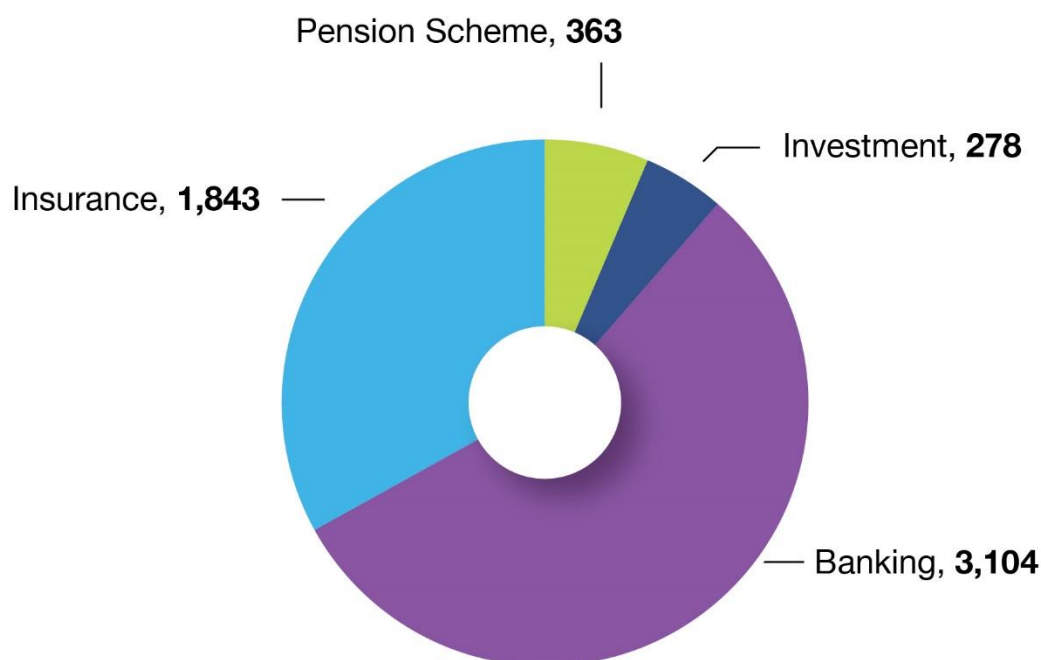
- (a) the number of disputes received and the types of complaints to which they related;
- (b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided 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 5,692 complaints 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 the FSPO. 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

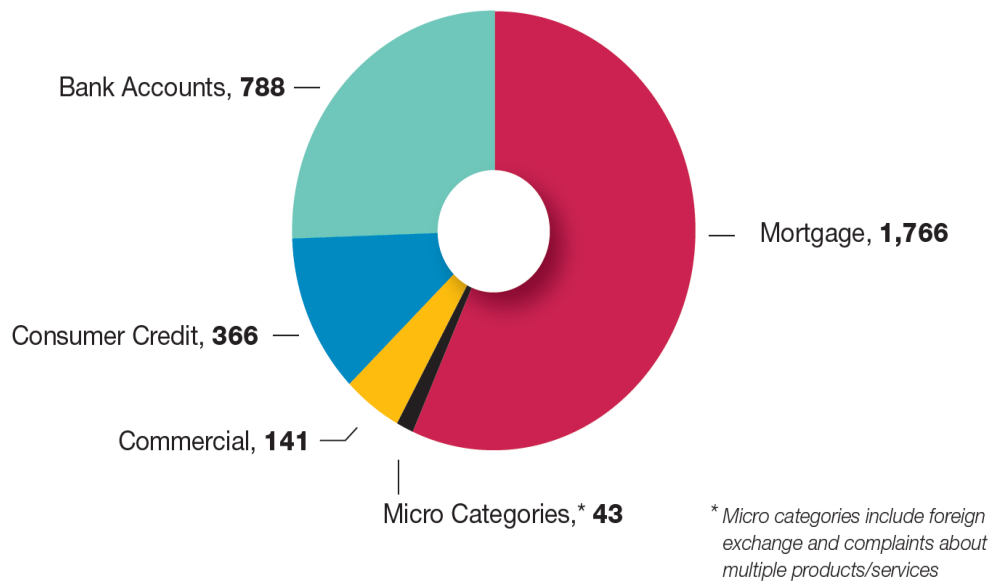


#### Banking Complaints Received

Banking complaints represent 56% of all complaints received in 2018. Mortgages were 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**

---

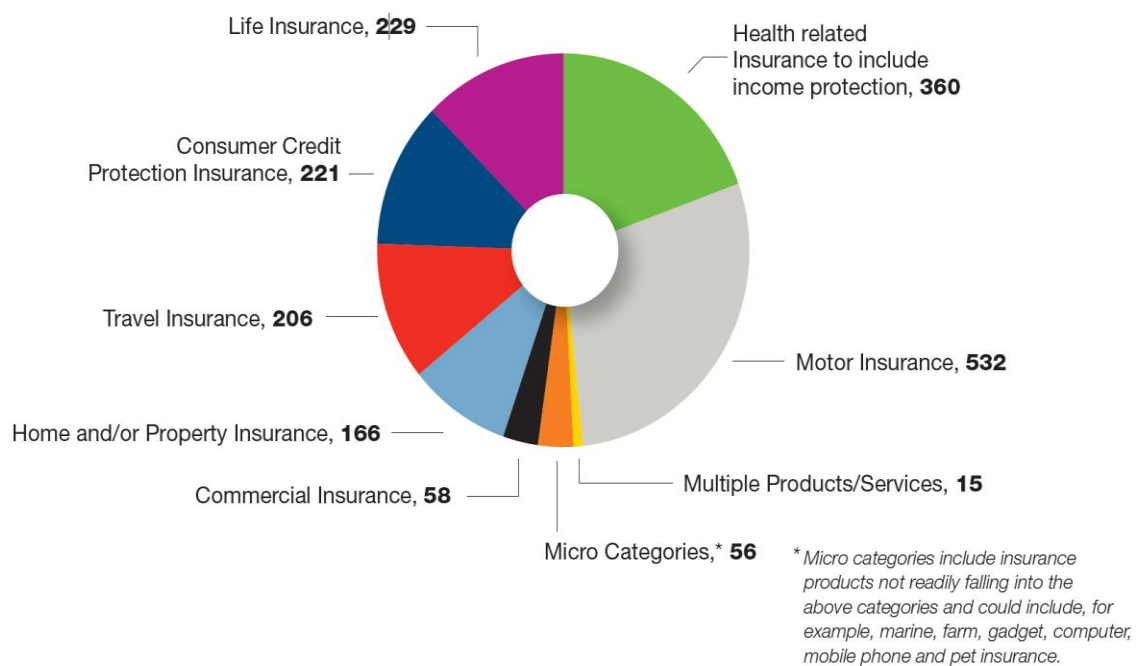


## Insurance Complaints Received

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**

---

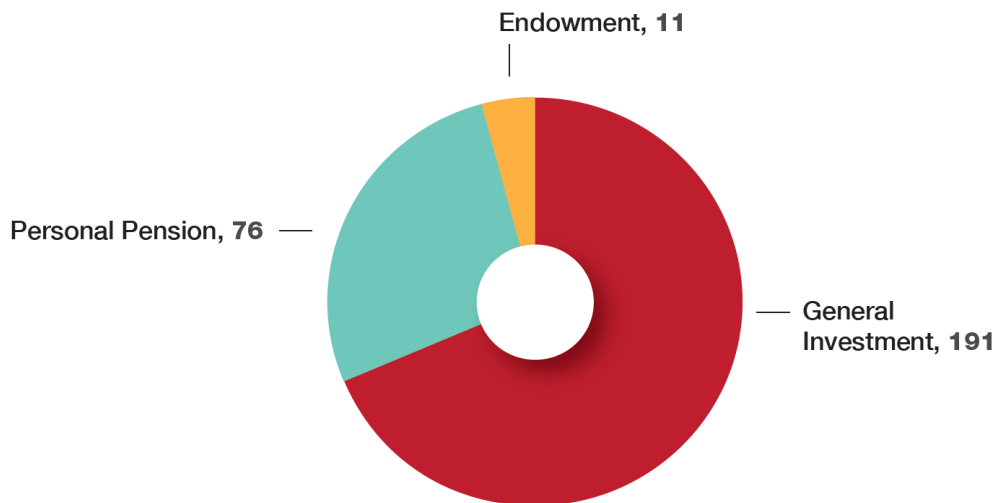


### Investment Complaints Received

Investment product complaints represent 5% of all complaints received in 2018. General investments were the largest portion of these complaint types at 69%.

#### Products complained of **Investment Products**

---

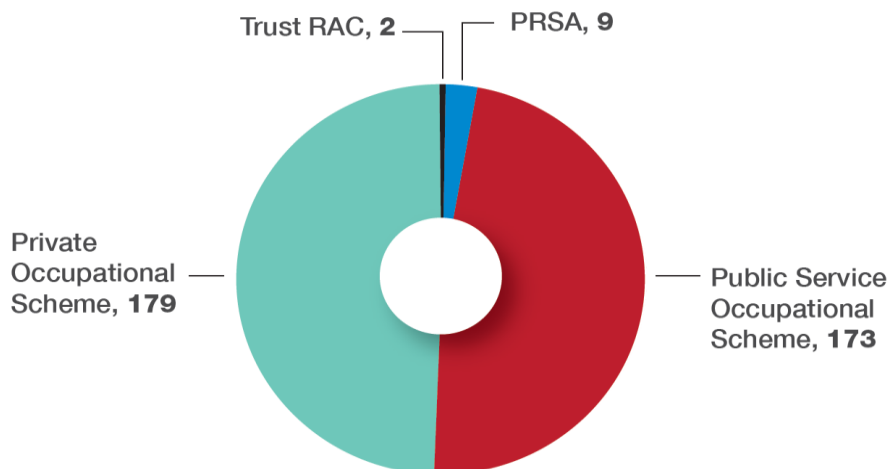


### Pension Scheme Complaints Received

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 in 2018 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**

---



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. In January 2019, the FSPO launched an online database of the Ombudsman's decisions which contained 228 of the 234 legally binding decisions which were issued in 2018. In addition, the Ombudsman published his first Digest of Decisions, containing summaries and case studies based on decisions issued between 1 January and 31 December 2018.

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 Ombudsman's decisions contributes to an enhanced consumer protection framework and is a valuable tool for providers in understanding the Ombudsman's decisions.

The Digest of Decisions relating to 2018 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 2018, highlighted that some insurance companies continued to void policies in a manner which he considered to be unreasonable and disproportionate and that such situations can have serious implications and render it very difficult, and in some instances almost impossible, for a person to get any sort of insurance cover subsequently. The Ombudsman also highlighted his 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, he highlighted that insurance companies should exercise caution and prudence when considering cancelling an insurance policy and should not take steps which might reasonably be considered disproportionate.

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 2018 the Ombudsman reported four 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.

<b>Year:</b>	<b>2018</b>
<b>Sector:</b>	Banking
<b>Reason for Referral:</b>	Concerns that provider opened a bank account in the complainant's name without her consent and without providing notification to her of the existence of that account.
<b>Sector:</b>	Insurance
<b>Reason for Referral:</b>	The manner in which the complainant's No Claims Bonus (NCB) was dealt with, the lengths the complainant had to go to have the matter corrected and the difficulty he had in having a correct NCB Certificate issued.
<b>Sector:</b>	Investment
<b>Reason for Referral:</b>	Concern with multiple incidents whereby misleading information was provided to the complainants.
<b>Sector:</b>	Banking
<b>Reason for Referral:</b>	Concerns about the dissemination of information, in that the provider should have ensured that important information was brought prominently to the attention of all members and not just those who were in a position to attend a public meeting.

The Act also provides that the Ombudsman shall co-operate 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. A number of meetings were held in this regard.

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

The FSPO closed 4,443 complaints in 2018. 1,639 complaints were closed through Information Services, which comprised of 37% of complaints, 2,331 (52%) of complaints were closed through the Dispute Resolution Service and 473 (11%) of complaints were closed following investigation, adjudication and/or legal review. Complaints can be withdrawn at any stage of the FSPO's processes and complaints which were discontinued and the reasons for their discontinuation are outlined below.

The majority of complaints closed in Information Services, 1,497 complaints, were closed after registration, referral to the provider and follow up. Usually this was because the complainant had not notified their financial service provider of the issue before bringing their complaint to the FSPO, as required by legislation. The FSPO's Information Services team contacted the complainants and explained how to complete the complaints process. 142 complaints were closed at this stage of the process because they were ineligible. This was mainly because these complaints were intended for a different Ombudsman or related to products, services or service providers that do not fall within the

remit of the FSPO. As part of the FSPO's service, customers are redirected to the appropriate body where possible.

Of the 2,331 complaints closed within the Dispute Resolution Service, 115 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 75 complaints which are closed following contact with the complainant only, meaning there was no mediation between the parties.

Of complaints that entered into investigation, 139 complaints were settled or withdrawn and 100 complaints were deemed to fall outside the jurisdiction of the FSPO, following a legal assessment.

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

The FSPO deals with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by telephone. In 2018, 77% of complaints closed in our dispute resolution service were closed within 6 months of receipt of the complaint. The table below details complaints closed in the FSPO's Dispute Resolution Service.

Time open	Percentage of complaints closed
<b>2 months or less</b>	25%
<b>2-4 months</b>	35%
<b>4-6 months</b>	17%
<b>Over 6 months</b>	23%

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. For this reason documentary and audio evidence and other material, together with submissions from the parties, is gathered by the FSPO from those involved in the dispute, and exchanged between the parties. 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 process of investigation and adjudication.

Time Open	Percentage of complaints closed
<b>1 year or less</b>	20%
<b>1-2 years</b>	48%

2-3 years	24%
Over 3 years	8%

#### 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 and can be enforced through the Courts pursuant to Section 65(1) of the Financial Services and Pensions Ombudsman Act 2017. No actions of this nature were required in 2018.

#### 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 in the first instance assesses 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 Service.

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.