



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

Annual Activities Report 2019

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 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, as part of an investigation, try, as far as possible, to resolve a complaint by mediation. The FSPO's research, and its 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:

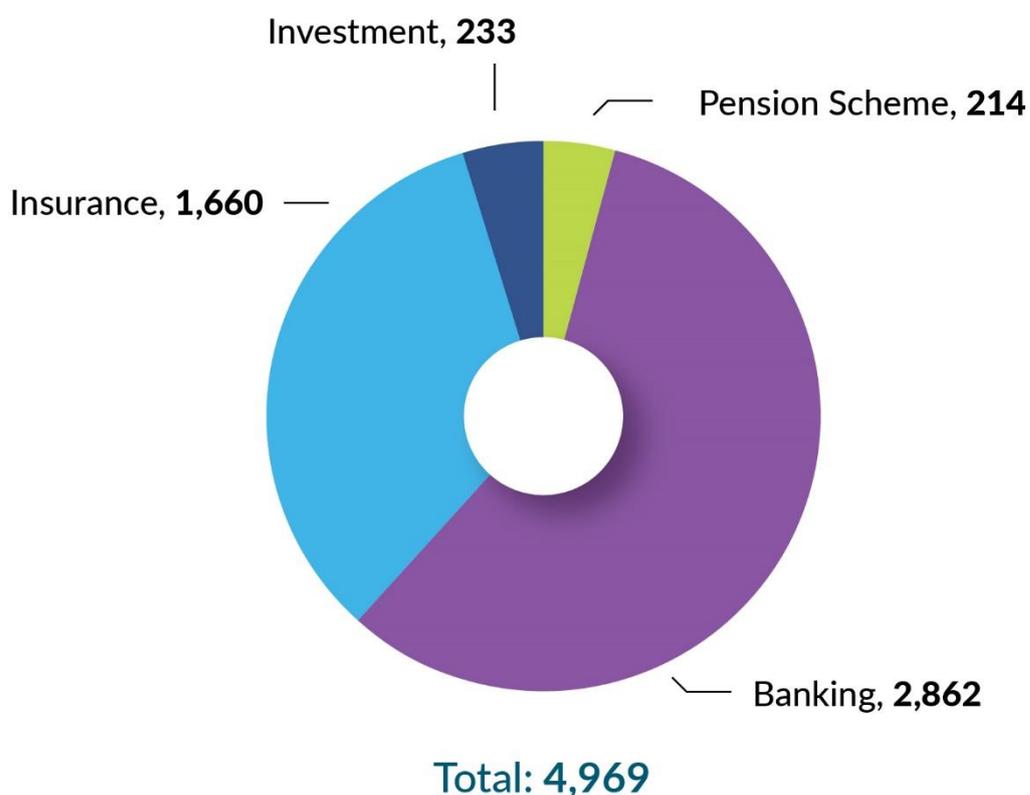
- (a) the number of disputes received and the types of complaints to which they related;
- (b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders and such information may be accompanied by recommendations as to how such problems can be avoided 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 5,275 complaints in 2019. The 2019 total included 237 ineligible complaints, leaving a balance of 4,969 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 4,969 eligible complaints received in 2019, 58% related to banking products, 33% related to insurance, 5% related to investment products. The remaining 4% concerned complaints about pension schemes.

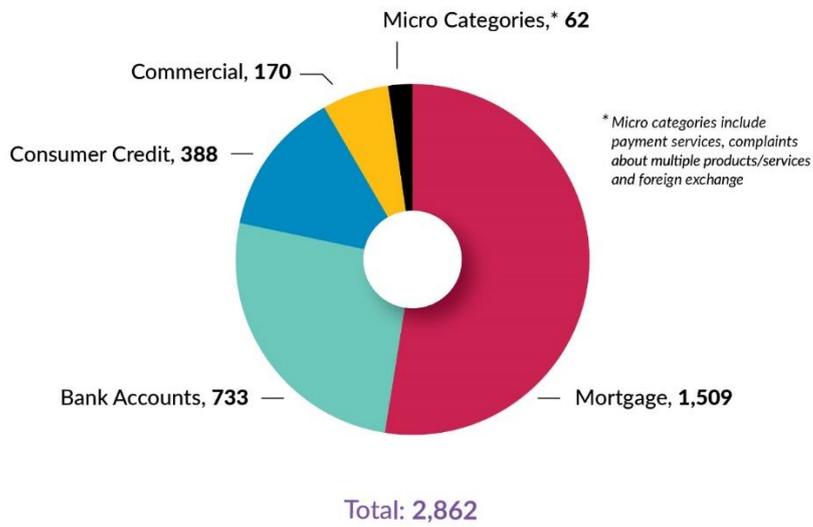
Complaints by sector



Banking Complaints Received

Banking complaints represent 58% of all complaints received in 2019. Mortgages were to be the largest product type complained of in the banking sector at 53% of banking complaints and in 2019, mortgages represented the largest product type of all sectors. Complaints regarding bank accounts are the second largest group representing 26% of all banking complaints.

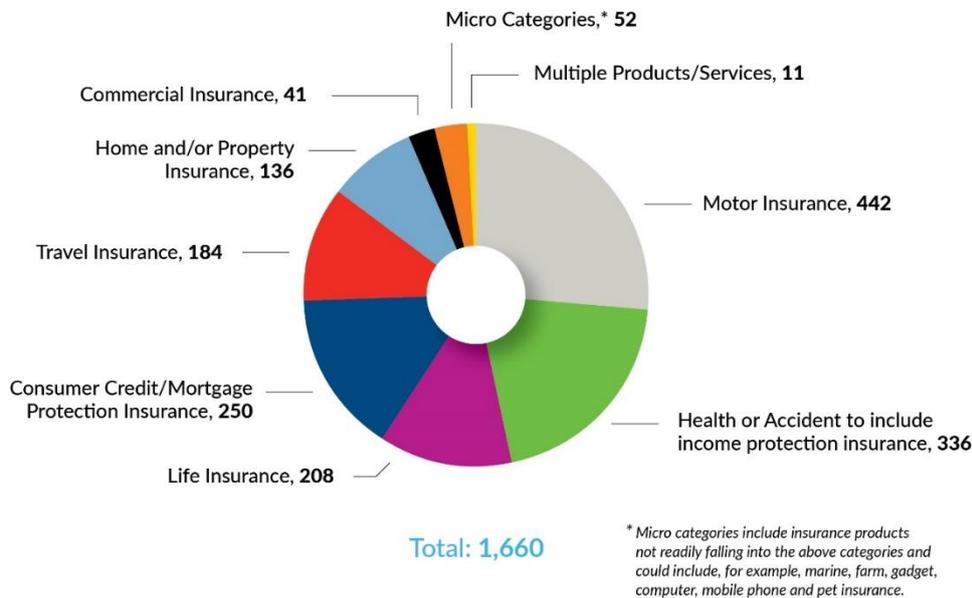
Products complained of **Banking Products**



Insurance Complaints Received

Complaints relating to insurance products and services represent a third of all complaints received in 2019. Motor insurance was the main product type complained about, representing 27% of insurance complaints.

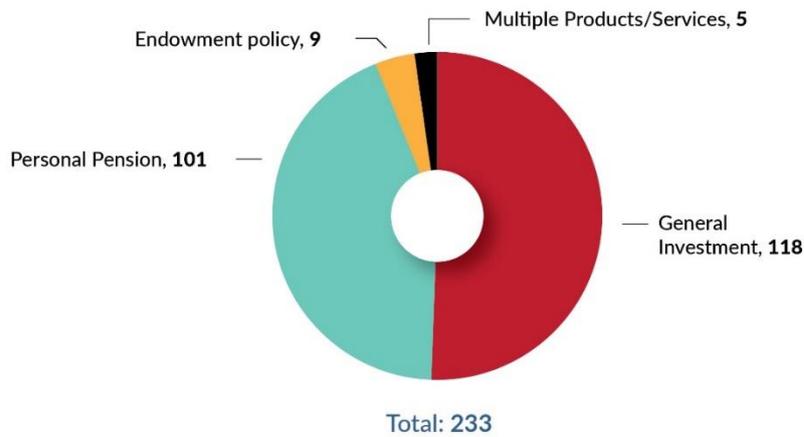
Products complained of **Insurance Products**



Investment Complaints Received

Investment product complaints represent 5% of all complaints received in 2019. General investments were the largest portion of these complaint types at 51%.

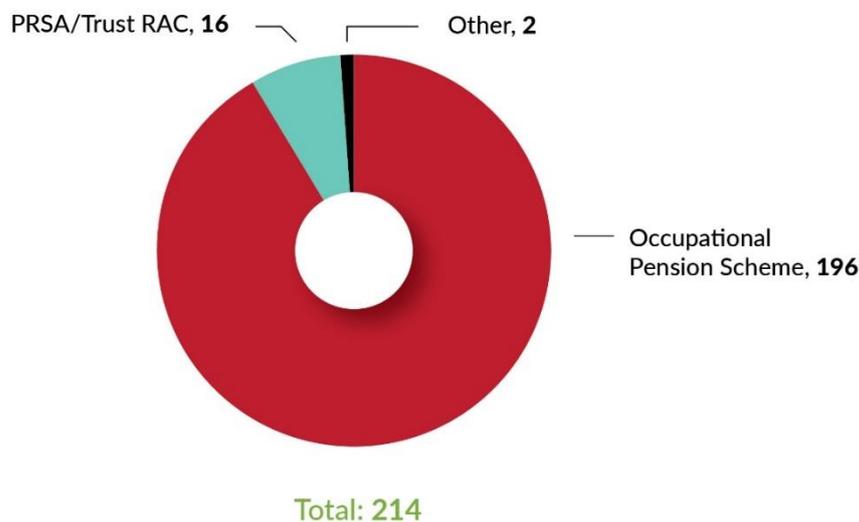
Products complained of **Investment Products**



Pension Scheme Complaints Received

Pension scheme complaints represent 4% of all complaints received in 2019. 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 2019 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. To provide the maximum possible 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 2019 include:

[Volume 2](#) published in February 2020 contains summaries and case studies based on decisions issued between January and December 2019.

[Volume 3](#) published in February 2020 contains summaries of decisions in relation to tracker mortgage interest rate complaints, which issued between January 2019 and January 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 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 2019 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 2019, discussed the considerable progress in dealing with complaints relating to tracker mortgage interest rates during 2019. The FSPO has been in ongoing communication and interaction with over 1,800 complainants and their providers in relation to tracker mortgage complaints since the establishment of the FSPO in January 2018. This work was undertaken while at the same time managing more than 5,000 other complaints that did not relate to tracker mortgages. The FSPO closed 516 tracker mortgage complaints in 2019. Of these, 264 complaints were resolved through the informal mediation process, 174 were closed during the investigation, adjudication or legal services process, and 78 were closed at registration and assessment stage. At the end of 2019, the FSPO had 1,152 tracker mortgage complaints on hand.

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 2019 the Ombudsman reported thirteen 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:	Insurance
Reason for Referral:	Concerns in relation to integrity and reliability of certain telematics data which was supplied to the financial service provider via its agent and resulted in the provider cancelling the policy holder's policy.
Sector:	Banking
Reason for Referral:	Concerns in relation to a company's business account and the manner in which the provider withdrew certain banking services and the manner in which the provider subsequently made the decision to issue a notice to terminate the company's account.
Sector:	Banking
Reason for Referral:	Notice of enforcement proceedings against provider to pay compensation to complainant.
Sector:	Banking
Reason for Referral:	Concern that provider withdrew access to on-line banking facilities at a time when the customer was in arrears.
Sector:	Banking
Reason for Referral:	Concern at the serious nature of the allegation at the core of the complainant's complaint, concerning the amendment of the terms of a standing order form which the complainant had signed and submitted to the provider.
Sector:	Banking
Reason for Referral:	Concern that it was improper for the bank to sell/transfer the complainant's loan in the manner in which it did.
Sector:	Insurance
Reason for Referral:	Concerns that the provider failed to act appropriately in advising the complainant, had not furnished the complainant with proper documentation, failed to comply with its obligations pursuant to the Consumer Protection Code and failed to act reasonably and fairly in its conduct with the complainant in respect of the cancellation of her new policy.

Sector:	Banking
Reason for Referral:	Concerns that (i) the provider's unclear communications in relation to the due date for the payments of the complainants' mortgage caused serious difficulty for them, and (ii) that this approach by the provider may have implications for other customers.
Sector:	Banking
Reason for Referral:	Concerns that there appears to be a systemic issue relating to SEPA on the part of the provider.
Sector:	Banking
Reason for Referral:	Concerns that (i) the provider is of the view that there is no obligation to exclude other extraneous matters i.e. to set out that the Tracker Rate would not apply and (ii) that this approach by the provider may have implications for other customers.
Sector:	Banking
Reason for Referral:	Concerns that the Bank had failed to comply with its obligations pursuant to the SEPA Direct Debit Rules and the potential for errors in question to have affected other customers.
Sector:	Banking
Reason for Referral:	Concern there is a significant misunderstanding by the provider of its entitlements in relation to the variation of contracts where joint mortgagors are separated or, at a minimum, a failure by the provider to properly apply its own procedures in relation to such circumstances.
Sector:	Insurance
Reason for Referral:	Concern regarding the absence of adequate records held by the provider and the provider's actions in creating a new loan in the complainant's name, without any contemporaneous records of the complainant's consent.

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 signed a Memorandum of Understanding to facilitate this on the 6 November 2019.

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

The FSPO closed 4,569 complaints in 2019. 1,450 complaints were closed through Registration and Assessment, which comprised of 32% of complaints closed. 2,154 complaints (47%) were closed through the Dispute Resolution Service and 965 complaints (21%) 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 Registration and Assessment Services, 1,213 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 Registration and Assessment team contacted the complainants and explained how to complete the complaints process. 237 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 2,154 complaints closed within the Dispute Resolution Service, 104 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 31 complaints which are closed following contact with the complainant only, meaning there was no mediation between the parties.

Of complaints that entered into investigation, 313 complaints were settled or withdrawn and 213 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. The table below details complaints closed in the FSPO’s Dispute Resolution Service.

Time open	Percentage of complaints closed
2 months or less	2%
2-4 months	9%
4-6 months	21%
Over 6 months	68%

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 in 2019.

Time open	Percentage of complaints closed
1 year or less	18%
1-2 years	37%
2-3 years	25%
Over 3 years	20%

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 2019, the FSPO sought to have one decision enforced 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 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 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.