



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean
Financial Services and
Pensions Ombudsman

ORAL HEARING GUIDELINES

1. An Oral Hearing may be necessary where there is an issue of fact in dispute between the parties to the complaint which cannot be fairly resolved without hearing the parties.
2. The Financial Services and Pensions Ombudsman (FSPO) may decide to call an Oral Hearing.
3. One or both of the parties to a complaint may request an Oral Hearing. In that event, the FSPO may or may not agree to the request. It is for the FSPO alone to decide whether it is an appropriate complaint in which to hold an Oral Hearing.
4. If the FSPO deems that an Oral Hearing is necessary or would be helpful, to resolve the issues raised by the complaint, each party to the complaint will be notified. The parties will be informed of the issue(s) in respect of which oral evidence will be required. The parties will be given an opportunity to advise of any dates which are unsuitable for attendance to give oral evidence.
5. The FSPO shall, on his or her own motion or upon the application by or on behalf of a party to the complaint, having consulted with the parties to the complaint and having considered the nature or circumstances of the complaint and whether it is in the interests of justice to do so, decide whether the Oral Hearing shall be conducted in public. In this regard, the FSPO will invite submissions on the form and conduct of the Oral Hearing in advance of issuing the formal Notice of Hearing and will exchange any submissions made in this regard by either party, with the other party to the complaint, prior to reaching a decision on whether the Oral Hearing shall be conducted in public or otherwise than in public. A formal Notice of Hearing will then issue to the parties confirming the date and time and venue of the Oral Hearing.

6. If an Oral Hearing is scheduled, it will be limited to hearing only those witnesses whose evidence is required for the purpose of resolving the disputed issue(s).
7. In advance of the Oral Hearing, the FSPO will notify the parties of the identity of those witnesses, from whom evidence is required at the Oral Hearing, for the purpose of resolving the disputed issue(s).
8. In advance of the Oral Hearing, each party may request the FSPO to allow it to call other witness(es) to give evidence on its behalf in respect of the issue(s) in dispute. Such requests will be considered by the FSPO, having regard to the requirement that an Oral Hearing will be limited to hearing only those witnesses whose evidence it is necessary to hear for the purpose of resolving the disputed issue(s).
9. The FSPO may require any person to attend before the Oral Hearing, either voluntarily or by summons, to be examined on oath in relation to any matter. The FSPO may also require such person to produce any documents or copy documents which in the opinion of the FSPO are relevant to the investigation of the complaint.
10. If a party to the complaint wants a witness to be summoned by the FSPO to appear, a request must be made to the FSPO at least 20 working days before the scheduled Hearing date.
11. Pursuant to **Section 47(8)** of the ***Financial Services and Pensions Ombudsman Act 2017***, the Ombudsman has all the powers, rights and privileges vested in the High Court or a judge of that Court on the hearing of civil proceedings in respect of the examination of witnesses, including the administration of oaths and affirmations and the examination of witnesses outside the State.
12. Witnesses required to give oral evidence are entitled to the same immunities and privileges as if a witness before the High Court.

13. Any information provided by a witness giving evidence or answering questions at an Oral Hearing of the FSPO, is not admissible as evidence against that person in criminal proceedings other than in respect of perjury or in relation to an offence committed under **Section 59** of the **Financial Services and Pensions Ombudsman Act** (Obstruction of the work of the FSPO).
14. No witness shall be required to provide information or produce a document or a copy document, the communication of which is subject to legal professional privilege.
15. If an Oral Hearing is held in public, the Ombudsman may identify the complainant and either the financial service provider or the pension provider concerned when publishing decisions, case studies or reports, as referred to in **section 62(2)** of the **Financial Services and Pensions Ombudsman Act**, as the case may be.
16. Witnesses will be required to give evidence under oath/affirmation.
17. Each party will be entitled to cross-examine the witnesses of the other party. Any cross examination should be as informal as possible, concise, polite and professionally efficient.
18. Each party is permitted to be legally represented, if desired. Any costs incurred by the party in that regard will not be borne by the FSPO and are a matter for the party itself.
19. Other than in very exceptional circumstances, if a party does not attend on the scheduled Hearing date, the FSPO will proceed with the Oral Hearing without that party. It is not the policy of the FSPO to cancel or postpone Hearings. A minimum of 3 days' (72 hours') notice is normally required in the event of any such exceptional circumstances giving rise to a request to have an Oral Hearing cancelled or postponed. Documentation substantiating the circumstances arising, will be required in order for the FSPO to consider any request for a cancellation or postponement.

20. Pursuant to **Section 12(9)** of the ***Financial Services and Pensions Ombudsman Act 2017***, the Financial Services and Pensions Ombudsman may authorise and direct any Deputy Ombudsman or any member of the Ombudsman's staff to chair an Oral Hearing.
21. During the Oral Hearing, each party must do as the Chairperson of the Hearing asks. At the start of the Oral Hearing, if any of the parties has a question as to how the Oral Hearing will be conducted, the Chairperson will answer any such questions. Similarly, if, in the course of the Hearing a party has a question as to the procedures for the Oral Hearing, the Chairperson will respond to any such queries.
22. A Complainant can decide to have somebody else (one person) speak on his behalf or her behalf, but the Complainant must give their own evidence in person. The Complainant may also choose to be represented by a solicitor or other professional, but the cost of engaging professional assistance is a matter for each party themselves and will not be borne by the FSPO. The Complainant may also bring a relative, friend or colleague to the hearing as a support, without that person speaking on the Complainant's behalf.
23. At the Hearing, the party who made the complaint (the Complainant) will be asked to speak first. The other party (the Respondent or the Respondent's representative) may cross-examine/question all those giving evidence on behalf of the Complainant, including the Complainant. When the Complainant and the Complainant's witnesses, have finished giving evidence and have been cross-examined, the Respondent will then be asked to present its evidence and the Complainant (or the Complainant's representative) may cross-examine/question all those giving evidence on behalf of the Respondent.
24. **In summary, at a Hearing you will be entitled and will be given the chance to:**
- **speak**
 - **to have someone speak on your behalf**

- **give evidence and have witnesses give evidence in respect of the complaint**
- **cross-examine/question witnesses about what they have said at the Hearing**
- **cross-examine/question any witness about any Report/Document they have produced in connection with the complaint.**

25. At the end of the Oral Hearing, the Chairperson may invite both parties to make short final oral submissions.

26. This Office will arrange for a stenographer to take a transcript of the evidence and submissions made at the Oral Hearing which will be shared with the parties.

27. Any costs or expenses incurred by either party to a complaint, in relation to an Oral Hearing will not be paid by the FSPO. Any such costs/expenses are a matter for the party incurring the costs/expenses to bear himself/herself/itself.

28. It is the practice of the FSPO to schedule Oral Hearings in a location which is wheelchair accessible.

29. If any particular requirements arise, for example sign language interpretation, please advise this Office in the period during which the parties are given an opportunity to advise of any dates which are unsuitable for attendance to give oral evidence, as referred to above at Paragraph 4, or as soon as possible thereafter.