

Recommendation 9 of the 2018 Independent Review of the Financial Ombudsman Service: Casework audit

Recommendation: ‘*check an appropriate sample of casework, to make sure that decisions made during the early stages of the reorganisation were handled in accordance with the controls and standards put in place at the time.*’

Validation of the proposed approach

Independent validation of the proposed audit approach and the sample size: necessary to check that cases resolved by newly created investigation teams during the first ‘wave’ of the reorganisation, *were handled in accordance with the controls and standards put in place at the time.* The sample should include an appropriate number of cases that are more *complex in nature.*

To be undertaken by independent auditors Deloitte₄

First stage review

A statistical sample review to identify any case which was not *handled in accordance with the controls and standards put in place at the time.*

To be undertaken by independent auditors Deloitte.

Second stage review

A detailed consideration of the outcome of cases identified at the first stage to assess ‘*Wednesbury reasonableness*’₆ and whether there has been any resulting consumer detriment.

To be carried out by an independent reviewer, Carol Brady MBE, a former legal ombudsman, author of the Brady report for the Ministry of Justice on the future regulation of CMCs and a current Advisory Member of the Commission for the Local Government and Social Care Ombudsman.

Customer remediation

If there are any cases identified as having resulted in consumer detriment, the complainant will be contacted for a discussion about next steps.

Audit results

The results of the audit will be published on the Financial Ombudsman Service website before the end of the 2018, as part of the commitment to publish progress against all the recommendations.

notes

1. 8,390 cases were resolved by the investigation teams during the relevant period, broken down as 4,279 banking, 702 mortgages, 2,679 insurance, 534 investment and 196 pensions. To provide a statistically valid sample size across the 8,390 cases, 947 would need to be reviewed. This sample size provides a 95% degree of confidence that the results returned are representative of the entire population. Deloitte will verify the methodology and sample size before commencing the review.
2. The relevant period (the first 'wave') is from 1 May to 30 November 2016 inclusive
3. We receive cases from consumers with diverse backgrounds, differing levels of familiarity with financial services and products, and in a range of personal and financial circumstances. And we deal with complaints where there is a significant amount at stake for the customers – in both monetary terms and in terms of what impact the outcome will have on their lives both now and in the future. All of these factors – in addition to the type of product or service being complained about – are relevant when thinking about the 'complexity' of an individual complaint.
4. Deloitte provide independent internal audit services to the Financial Ombudsman Service.
5. Part XVI, Section 228 of the Financial Services and Markets Act 2000 requires that '*A complaint is to be determined by reference to what is, in the opinion of the ombudsman, fair and reasonable in all the circumstances of the case.*'
6. A decision is *Wednesbury Unreasonable* if it is so unreasonable that no reasonable person acting reasonably could have made it. The *Wednesbury Unreasonable* test would apply if the ombudsman's decision was challenged by Judicial Review.

While the review will initially focus on whether the cases '*were handled in accordance with the controls and standards put in place at the time*', we will also take the opportunity to use the outcome of review to improve our service wherever possible.