

August 2008

Our **MONEY**madeclear™ guides –
here to help you

This guide is part of our **If things go wrong** series.



Available from our Consumer Helpline or website
www.moneymadeclear.fsa.gov.uk

No selling. No jargon. Just the facts.

If you would like this guide in Braille, large print or audio format, please call our Consumer Helpline on 0845 606 1234 or Minicom/Textphone on 08457 300 104 (call rates may vary).

To help us maintain and improve our service, we may record or monitor calls.



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No selling.
No jargon.
Just the facts
about making
a complaint.

MONEYmadeclear™
from the UK's financial watchdog (FSA)

With our **MONEY**madeclear™ range of guides, we cut out the jargon and give you just the facts about financial products and services, helping you to make an informed decision.

Just the facts about making a complaint.



The Financial Services Authority (FSA) is the UK's financial watchdog set up by government to regulate financial services and protect your rights.

This is general information to help you make financial decisions. It is not advice, and cannot take account of your individual circumstances. When making decisions about your own circumstances you should consider whether to consult a financial or other professional adviser.

This guide is for you if

You want

to know how to make a complaint about a financial product or service.

It explains:

- what you can complain about;
- your rights when you make a complaint;
- the different types of independent complaint scheme; and
- answers some questions you may have.

Contents

| | |
|---|----|
| How making a complaint works | 2 |
| Key things to think about | 4 |
| Different types of independent complaint scheme | 12 |
| Your questions answered | 17 |
| Next steps | 19 |
| Jargon buster | 20 |
| Useful contacts | 22 |

How making a complaint works

Firms we regulate must have a written complaints process. You should be able to find details in their branches or on their website. If you can't find them, ask the firm for a copy.

We don't investigate individual complaints against firms. We set the rules that firms must follow when dealing with complaints.

If you are unhappy with a financial product or service you have (or are trying to buy), tell the firm straight away. If you delay making your complaint, it may reduce your rights.

Firms can often explain things quickly or straighten them out in a day or two. But if not, firms we regulate must acknowledge your complaint promptly and give you details of their complaints process.

See the *Jargon buster* on page 20 for an explanation of some words you may come across.

When you complain to a firm

Firms should investigate your complaint and give you a clear and fair answer within eight weeks. They should tell you that if you are unhappy with their response you may be able to take your complaint to the Financial Ombudsman Service. You should also be aware that, depending on your complaint, other relevant schemes may be available, for example the Pensions Ombudsman.

Independent complaint schemes

These schemes are free to use and independent of firms. They can:

- look at the details of your case;
- ask for extra evidence if necessary;
- decide if your complaint is justified; and
- if it is, order the firm to put matters right.

For more information see page 12.

Using a complaints management company

Think carefully before using a complaints management company to make your complaint for you – you will usually have to pay for this service – see page 6.

Going to court

You can take your case to court instead of using these schemes. But this is more formal and will not usually be free. So if you decide to do this, it would be a good idea to take independent advice first, for example from your local Citizens Advice Bureau – see *Useful contacts*.

Key points

- Make your complaint as soon as possible.
- Give the firm a chance to put matters right first.
- Remember, you will usually be able to take your complaint to an independent complaint scheme if you're unhappy with the response from the firm.

Key things to think about

Do you have a complaint?

A problem may not be anyone's fault. For example, you may invest in a product that doesn't grow as fast as you'd hoped. The fact that investments grow at unpredictable rates, and may fall as well as rise in value, is not usually a valid reason for a complaint unless you weren't warned about this risk.

Other cases when a financial product or service may have turned out badly because the firm you dealt with did something wrong include:

- unexpected or excessive charges;
- losing money because of a firm's slow administration;
- a dispute over who is at fault if money is stolen from an account;
- incorrect or misleading information about a product;

- a firm's failure to adequately warn you about the risks of a product, or to advise properly on its suitability for you;
- a firm's failure to draw attention to a particularly strict condition in the contract;
- a firm's failure to carry out your instructions;
- not being given adequate notice about changes to a contract.

Tips for making an effective complaint

- You can complain in person or on the phone but make sure you make notes as well as recording the name of the person you spoke to and the date and time you called.
- Keep the notes in a safe place – they are a record of your complaint.
- You will often find you need to follow up any phone calls with a letter.
- In fact it is usually best to make your complaint in writing to start with if you can, especially for more complex complaints.
- Try to make your letter clear and simple and include essential information. This helps the firm to understand the problem. Use the following steps to help you:
 - Write 'Complaint' at the top of your letter.
 - Type the letter if possible, or write clearly in black or blue ink and include any reference numbers.

- State your case clearly, and include relevant dates.
- Put down the facts in a sensible order. Be firm but remain polite.
- Every time you write, keep a copy of your own letter for reference.
- You may want to send the letter recorded delivery.

How firms should respond

The firm should investigate your complaint and then, within eight weeks, send you:

- an initial answer. This will ask you to tell the firm if you are still not satisfied; or
- a final response. This will tell you that this is the firm's last answer and that you have six months to take your complaint to the Financial Ombudsman Service if you're still unhappy; or

- a response that explains that despite eight weeks having passed, it cannot give you an answer yet and that if you are unhappy with this delay, you can now take your complaint to the Ombudsman.

Complaints management companies

Some companies offer to help you make your complaint to a firm or the Ombudsman in return for payment.

You don't have to use this type of help. Firms we regulate are obliged to handle your complaint clearly and fairly and the Ombudsman is straightforward to use – see page 12.

But if your particular circumstances mean you might find it helpful to use one of these companies, remember to check the following:

- the costs and benefits of using a complaints company;
- the fees and conditions before you sign any contract; and
- that the company is regulated by us or the Ministry of Justice or by a professional body (the Law Society, for example) because regulated firms have to meet certain standards – see *Useful contacts*.

Key points

- Use the firm's complaints handling service – it's free to use.
- Take your case further if you're not satisfied with the firm's response.
- You must take a complaint to the Financial Ombudsman Service within six months of receiving a final response letter from a firm.
- Make sure you understand the costs you'll have to pay if you use a complaints management company.

Protect yourself. Scams come in many forms. Even if you think you would never be fooled, make sure you remain sceptical about offers that seem too good to be true – remember they usually are.

Being prepared will make it easier to complain effectively if problems arise. Think about the following before you commit yourself to a financial product or service. They may help you avoid the need to complain later.

Check

that you're dealing with a firm regulated by us. Firms we regulate have to meet certain standards set by us. For how to find out, go to the **Check our Register** section of our Moneymadeclear website or contact us – see *Useful contacts*.

Check

any information about the benefits of an investment or the rate at which an investment will grow. This is usually just an illustration not a guarantee of what you'll get in the future.

Check

that you've read all the documents you're given. Ask questions about anything you're unclear about.

Check

that you understand the risks involved and the charges you'll have to pay.

Other complaints

Unfair contract terms

If your complaint is about a term in a consumer contract, then as well as complaining to the firm (and where necessary the Ombudsman) you may also want to bring it to our attention or the Office of Fair Trading (OFT) – see below. Complaints about unfair terms in consumer contracts help us in our work to protect consumers.

If you have a complaint about a contract for personal loans, hire purchase, credit cards or other credit products, write to the OFT. They deal with these kinds of contracts – see *Useful contacts*.

We don't have the power to compensate you if, for example, you've lost money because of an unfair contract term. We also will not become involved in any individual dispute you may have with the firm. You must complain to the firm directly. If you are unhappy with how the firm handles your complaint, you can take it to the Financial Ombudsman Service.

Contacting us

Write to us enclosing a copy of the contract – sometimes called the 'terms and conditions' – telling us which terms you think are unfair and why, and giving details of any discussions you have had with the firm about these terms – see *Useful contacts*.

We will look at the contract and assess whether we think it is unfair.

What we do

We will follow up your complaint and take action if we think we should. We may not be able to tell you what action we have taken as a direct result of your complaint for legal reasons. But we do publish examples of terms we've found unfair on our website – see *Useful contacts*.

Examples of possible unfair terms include those that:

- allow the firm to change the terms of the contract, without telling you why or without giving you notice as soon as possible so you can leave the contract immediately;
- bind you to hidden terms;
- exclude or limit your legal rights unfairly; or
- charge you a disproportionately large sum if you don't fulfil any of your obligations under the contract.

Remember though that a term won't necessarily be unfair just because it looks like the examples above – that will depend on the precise details of the contract as a whole.

Also, terms in consumer contracts that set out the price or the product or service being supplied are 'core terms'. We cannot assess the fairness of a core term unless the term is unclear.

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Financial advertising

Firms advertising financial products or services must make sure their promotions are clear and fair, and do not mislead you.

Promotions can be:

- adverts in the media (eg radio, press, television);
- direct mail sent to your home;
- leaflets or posters;
- letters to customers;
- shop window advertising;
- text messages;
- teletext;
- emails; or
- websites.

We try to make sure that firms we regulate which issue financial promotions meet our standards.

You can help by reporting adverts to us relating to most financial products and services.

If your complaint is about credit cards, store cards and charge cards, personal loans, overdrafts, loan consolidation services and some second charge mortgages, report them to the OFT. You can also send complaints about credit cards or loan adverts to your local Trading Standards Office.

If you think you've lost money, complain directly to the firm that sold you the product or service. If you're unhappy with the way the firm handles your complaint, you can take it to the Financial Ombudsman Service.

Contacting us

You can call our Consumer Helpline – see *Useful contacts*. We will ask you for all the information we need to investigate further.

If you prefer, there is an online reporting form on our website – see *Useful contacts*.

Or you can send a copy of the promotion to us – see *Useful contacts*.

Please write 'Financial Promotion' at the top of your covering letter and let us know what you think is unclear, unfair or misleading about the promotion.

If you're not able to send us a copy of the promotion, please give us as much detail as you can, so that we can identify it and investigate your report.

What we need

We need the following types of details to help us:

- the name of the firm;
- the product being promoted;
- what you feel is misleading;
- where you saw the promotion (including a page number when relevant);
- when you saw the promotion; and
- the type of promotion (eg newspaper advertisement, direct offer pack or internet site).

What we do

We will follow up your complaint and take action if we feel we should. But for legal reasons we can't tell you what actions we have taken as a direct result of your complaint.

Key points

- Send us financial contracts that have terms that you think are unfair, stating why.
- Report unclear, unfair or misleading financial adverts or other promotions to us.
- You should still complain to the firm if you've lost money.

Different types of independent complaint scheme

These schemes have been set up to resolve disputes between you and a financial services firm.

Financial Ombudsman Service

The Financial Ombudsman Service can deal with most types of financial complaint, though there are some types of dispute they can't deal with, for example the mishandling of occupational pension schemes – see page 13.

The Ombudsman operates independently from us – we can't intervene in the handling and outcome of individual cases.

The Ombudsman is not a regulator. The job of a regulator is to set standards and monitor market behaviour.

How the scheme works

The Ombudsman's role is to be impartial and investigate the dispute between you and the firm. They will try to help you reach agreement by a process of mediation.

Generally, their aim is to put you in the position you'd be in if things hadn't gone wrong. This might include telling the firm to do something or pay compensation.

The firm has to co-operate with the Ombudsman. When making a decision the Ombudsman will consider what is fair and reasonable and will take into account the law, industry rules and good practice.

You can choose whether or not to accept an Ombudsman's decision. If you accept the decision, it is binding on both you and the firm. If you don't accept, you can take your case to court if you want to.

If the firm fails to comply with the Ombudsman's award you will have to go to court to enforce the award. The Ombudsman may also refer the case to us to take action against the firm but this may not necessarily result in you getting compensation.

What the scheme costs

The scheme is free to consumers. You shouldn't need to use a solicitor or other complaints handler, but if you choose to, you will have to pay the legal or other costs – you can't normally claim them back through the Ombudsman.

How to contact the scheme

The Ombudsman has a dedicated Consumer Contact Centre that you can call for advice and a complaints form.

For more information see *Useful contacts*.

The Pensions Advisory Service and the Pensions Ombudsman

The Pensions Advisory Service and the Pensions Ombudsman cover problems with the way occupational and personal pension schemes are run.

They can be used by anyone who has rights (or believes they may have rights) under a pension arrangement. This includes people:

- currently paying contributions; or
- with a deferred pension from previous employment; or
- receiving a paid pension; or
- who are the dependant of someone in any of these groups.

They cannot normally help if you are just disappointed with the investment performance of your pension fund. And if your complaint is about the selling or marketing of a pension, you have to take it to the Financial Ombudsman Service.

If you are unsure about who to refer your complaint to, the Pensions Advisory Service will advise you.

How the Pensions Advisory Service works

The Pensions Advisory Service gives help and advice. This can be enough to clear up misunderstandings and sort out complaints. If not, the Pensions Advisory Service may write to the pension scheme on your behalf to try to resolve matters.

How the Pensions Ombudsman works

The Pensions Ombudsman investigates cases and makes a decision that is binding on you and the other parties. You only have the option of going to court to appeal on a point of law or to enforce the decision if the Ombudsman's directions were not carried out.

When to contact them

You should complain first in writing to the firm or body you consider to be at fault.

You may have to use a formal internal dispute resolution procedure. If this does not resolve the matter to your satisfaction, the next step is to contact either the Pensions Advisory Service or the Pensions Ombudsman – see *Useful contacts*.

The Pensions Ombudsman and the Pensions Advisory Service are separate organisations and are independent of each other.

Both services are free to consumers.

The Financial Services Compensation Scheme (FSCS)

If you can't contact the firm you want to complain to because it has gone out of business, the Financial Services Compensation Scheme (FSCS) may be able to help you.

The FSCS is the UK's fund of last resort for customers of regulated financial services firms. This means that if a UK financial services firm has stopped trading and can't (or is likely to be unable to) pay claims against it, you may be able to get compensation through the FSCS. The service is free to consumers.

You should first try to complain directly to the firm, or its liquidators, as it may still be able to meet your claim. You can **Check our Register** online or by calling our Consumer Helpline for the firm's last known contact details – see *Useful contacts*. If we no longer regulate the firm, Companies House may have more up-to-date information – see *Useful contacts*. If you still can't trace them, contact the FSCS – see *Useful contacts*.

The FSCS doesn't always cover 100% of your loss. For more information about compensation limits, look on the FSCS website – see *Useful contacts*.

Taking your complaint to court

If you do not accept a decision by the Financial Ombudsman Service or have not used an independent complaints scheme at all, you can go to court if you wish. You can't usually take your complaint to court if you have already been through an arbitration scheme or the Pensions Ombudsman.

In England, Wales and Northern Ireland, you normally bring your case in the county court. In Scotland, you go to the sheriff court. Your case can usually be dealt with through the 'small claims track' or 'small claims court', if the amount you are claiming is no more than:

- £5,000 in England and Wales;
- £2,000 in Northern Ireland;
- £750 in Scotland.

The small claims track or court is less formal than other court procedures and you do not need a solicitor or barrister.

You pay a fee to use the court (the amount varies with the size of your claim). You may not need to pay the fee if you are getting certain State benefits or can show that paying a fee would cause you financial hardship.

If your complaint is not suitable for the small claims track or court, going to court should generally be a last resort because:

- it can be a long time before your case comes to court and reaches settlement, especially if the dispute is complicated;
- you may need to employ a solicitor and even a barrister, which may be expensive;
- if you lose the case, you may face a large bill for the firm's legal costs as well as your own.

Contact your local county court or sheriff court for information on how to bring a case. The Citizens Advice website also has information on the small claims system – see *Useful contacts*.

You may decide to get help from a solicitor. If you are receiving certain State benefits or your earnings are low, you may be able to get free advice and free solicitors' letters under the Legal Aid Advice and Assistance Scheme.

Legal Aid may also help with your expenses if you have to go to court, but only if your income, savings and other property are below certain limits and you are judged to have a good case. If you win your case, you must normally repay some or all of the Legal Aid you received.

For guidance on getting Legal Aid, talk to your solicitor, local Citizens Advice Bureau or local legal advice centre – see *Useful contacts*.

Key points

- The Financial Ombudsman Service is easy to use. It is independent, impartial and is free to consumers.
- If you have a complaint about the mishandling of your pension scheme, take it to the Pensions Advisory Service or the Pensions Ombudsman.
- If you take your case to court bear in mind that, if the Financial Ombudsman Service has already decided your complaint is unjustified, a judge may well take the same view.

Your questions answered

Question

If I get financial compensation from the Financial Ombudsman Service, how much is this likely to be?

Answer

The Ombudsman aims to put people in the position they would have been in if things hadn't gone wrong. Whether or not you get financial compensation will depend on the nature of your complaint.

The Ombudsman will always aim to get agreement between you and the firm; this may not always result in financial compensation. But if you've clearly lost out financially, the Ombudsman can make an award of up to a maximum of £100,000.

Question

How much compensation can I expect if I have a complaint against a firm that has gone out of business?

Answer

The Financial Services Compensation Scheme (FSCS) can pay compensation only for financial loss. The FSCS doesn't always cover 100% of your loss. The amount of compensation you get will depend on the type of financial product you have.

To find out more, contact them or visit their website – see *Useful contacts*.

Your questions answered

Question

Are there time limits for taking a complaint to the Financial Ombudsman Service?

Answer

You have six months from the firm's final response to take your complaint to the Ombudsman.

Question

I think I have a complaint, but I'm not sure how to make it. Who can I go to for help?

Answer

You can contact your local Citizens Advice Bureau, independent advice centre, legal advice centre or our Consumer Helpline and ask them to help you. These services are all free – see *Useful contacts*.

Next steps

Step 1

Check whether you have grounds for complaint. Read the paperwork to make sure you understand how your financial product works.

Ask questions if anything is unclear. This will help you work out if you have grounds for complaint.

Step 2

Complain as soon as possible when you realise you have a complaint – there are time limits.

Use the firm's complaints-handling process – it's free.

Step 3

If you need to make a complaint, keep copies of any letters and notes of telephone calls.

State your case clearly, remembering to include any relevant dates.

Send copies of documents if these are needed, but always hold onto the originals.

The firm should respond within eight weeks.

Step 4

If you are unhappy with the response from the firm, take your complaint to the Financial Ombudsman Service, or other independent scheme, also as soon as possible.

Jargon buster

Some key words and phrases explained.

Acknowledgement

Where a firm confirms receipt of your complaint.

Adjudication

A decision on a dispute by an alternative dispute resolution scheme.

Alternative dispute resolution

What Ombudsmen schemes do, through mediation and, where necessary, by issuing a decision.

Final response

A response sent by a firm we regulate giving its final answer to a complaint and telling the complainant they have six months in which they can go to the Ombudsman if still unhappy.

Initial response

A response sent by a firm we regulate giving its initial answer to a complaint (within eight weeks).

Mediation

Helping two parties who are in dispute to reach a mutually acceptable settlement.

Redress

Actions and/or payments to put the complainant back in the position they would have been in before things went wrong.

Regulators

Official bodies who set and monitor standards of market behaviour.

Small claims track

A less formal court process for smaller sums and disputes.

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Useful contacts

Call rates may vary – check with your telephone provider for their charges.

To order other MONEYmadeclear™ guides, check our Register, report misleading promotions, or for general information or guidance

Financial Services Authority (FSA)

Consumer Helpline: 0845 606 1234
Minicom/Textphone: 08457 300 104
www.moneymadeclear.fsa.gov.uk

Other MONEYmadeclear™ guides

- About the Financial Services Authority
- Borrowing money
- Getting financial advice
- Making your budget work for you
- Mortgages
- Pensions
- Proving your identity

To send us copies of promotions

The Financial Promotions Team
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Email: finprom1@fsa.gov.uk

To write to us regarding an unfair contract

Unfair Contract Terms Unit
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Independent complaint schemes

Financial Ombudsman Service

South Quay Plaza
183 Marsh Wall
London E14 9SR

0845 080 1800

www.financial-ombudsman.org.uk

Financial Services Compensation Scheme (FSCS)

7th floor
Lloyds Chambers
1 Portsoken Street
London E1 8BN

020 7892 7300

www.fscs.org.uk

The Pensions Advisory Service

11 Belgrave Road
London SW1V 1RB

0845 601 2923

www.pensionsadvisoryservice.org.uk

The Pensions Ombudsman

11 Belgrave Road
London SW1V 1RB

020 7834 9144

www.pensions-ombudsman.org.uk

Useful contacts

To find your local county court or sheriff court

Look in the Phone Book under 'Courts'.

To find a solicitor

Look in the Yellow Pages under 'Solicitors'.

The Law Society

The Law Society's Hall
113 Chancery Lane
London WC2A 1PL

020 7242 1222
www.lawsociety.org.uk

The Law Society of Northern Ireland

40 Linenhall Street
Belfast BT2 8BA

028 9023 1614
www.lawsoc-ni.org

The Law Society of Scotland

26 Drumsheugh Gardens
Edinburgh EH3 7YR

0131 226 7411
www.lawscot.org.uk

Ministry of Justice

Selborne House
54 Victoria Street
London SW1E 6QW

020 7210 8500
www.justice.gov.uk

To find your local Citizens Advice Bureau

www.citizensadvice.org.uk

Look in the Phone Book under 'Citizens Advice Bureau'.

Citizens Advice website

www.adviceguide.org.uk

To find a local legal advice centre

Community Legal Service

0845 345 4345
www.clsdirect.org.uk

Or your local council office may have details.

Other organisations that can help

Companies House

Crown Way
Maindy
Cardiff CF14 3UZ
0870 333 3636
www.companieshouse.gov.uk

The Office of Fair Trading

Enquiries Unit
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX

www.offt.gov.uk

To report an unfair contract term or misleading promotion for personal loans, hire purchase, credit cards or other credit products

Trading Standards

www.tradingstandards.gov.uk

Look in the Phone Book under 'Trading Standards', or your local council office may have details.

To report misleading promotions about personal loans, hire purchase, credit cards or other credit products.

Consumer Direct

0845 404 0506
www.consumerdirect.gov.uk

Telephone and online consumer advice service supported by the OFT.