

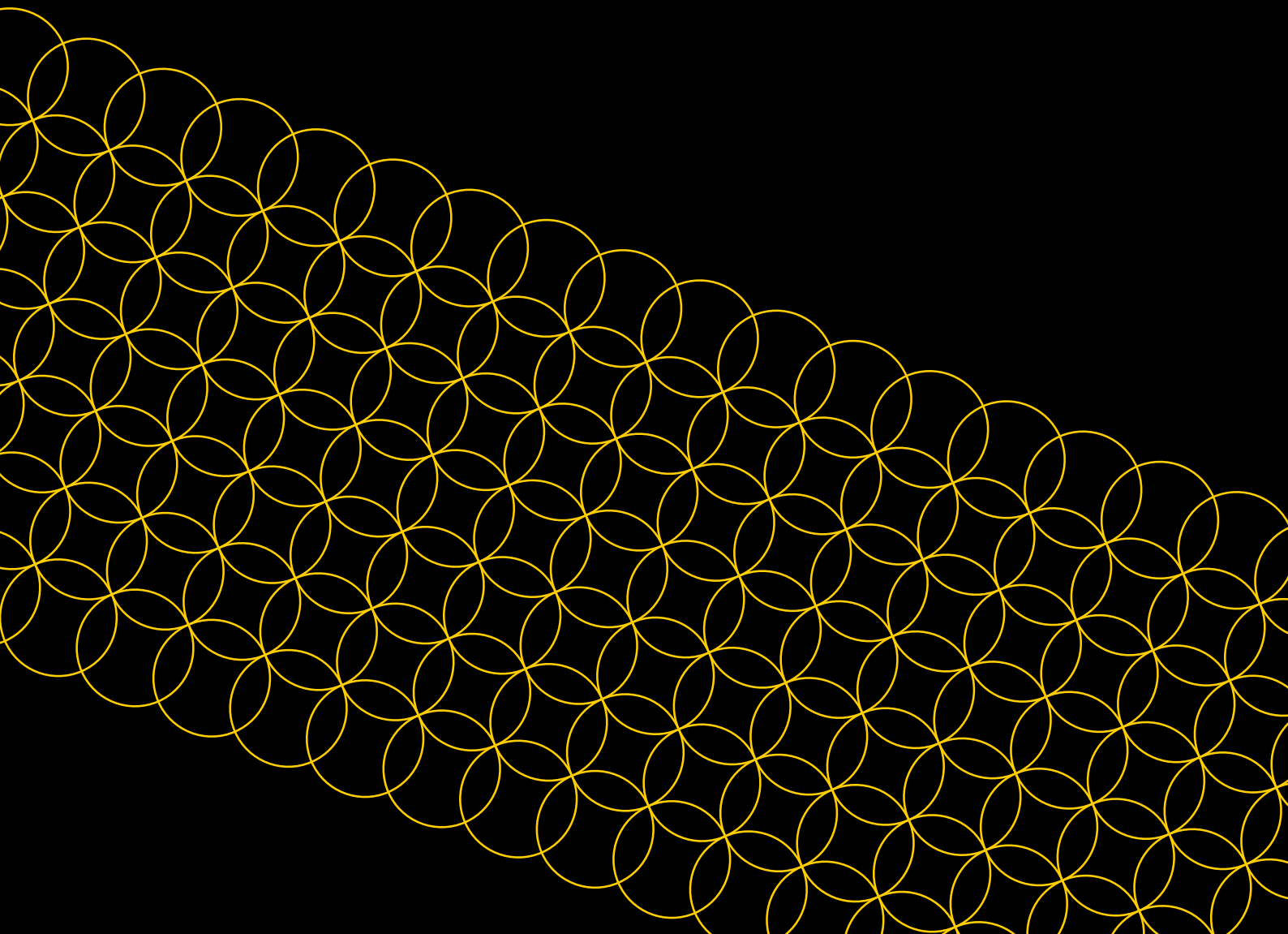


Ministry
of Justice

Claims Management Regulation

Annual Report

2012/2013



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Introduction from Head of Claims Management Regulation

The Claims Management Regulation (CMR) Unit entered its sixth year of operation in 2013 and while the nature of regulatory challenges have evolved since regulation was introduced in 2007, the primary job – to bring claims management companies (CMCs) to compliance and provide better protection to consumers – remains as intense as it ever was. There is something about the nature of the claims industry which breeds, in too many that operate in it, a different kind of business behaviour – one that is less about putting the customer first and best business practice, but more about poor conduct and treating the consumer as little more than a commodity. The distinct absence, until recently, of CMCs making a real effort to generate positive brand awareness for the industry, through the guarantee of good quality, responsive and value for money services, has been striking.

“ We have acted in other areas to make the regulatory regime bite harder. We took the lead to bring in a ban on CMCs from offering cash or similar inducements to consumers ”

That isn't to say that all CMCs are bad – self evidently most are not and many operate very efficient and effective, customer focused businesses. However, at times it's been difficult for the better CMCs to rise above the bad practices of the minority and the perceptions that this generates. As the major claims sectors reshape, following reforms to personal injury claims and as the peak of CMCs' involvement with PPI claims starts to pass, there is an opportunity for the remaining CMCs to carve out a more

collective professional reputation. Crucial to this is a more customer focused ethos, higher standards of professional conduct, better cooperation with the organisations receiving claims, and the presentation of better quality claims information more often.

Over 2012-13 the volume of non-sale PPI complaints submitted to lenders by CMCs has remained of particular concern. While in some cases lenders don't manage to identify at first instance whether the complainant has a PPI product, this can't excuse the high volumes of complaints submitted where it seems little investigation has been carried out by CMCs to establish basic details of the sale/product and the individual reasons why the consumer thinks they were a victim of mis-selling. Too many CMCs continue to pursue claims without performing adequate checks and fail to prepare claims documentation adequately to assist the lender or the Financial Ombudsman Service to assess more quickly the validity and merits of submitted claims.

The CMR Unit remains fully committed to delivering a robust regulatory regime the public can trust and driving out bad practices from the industry. We will continue to look for new ways of securing higher levels of compliance in the industry and for quicker ways to remove those CMCs which abuse their regulated status. We have started publishing more information on enforcement actions to help raise industry standards and ensure consumers have more up-to-date information on the claims sector. Identifying earlier those CMCs we suspect of breaching the CMR Conduct Rules, is an important step forward which will help make consumers more aware of those CMCs

“ We will continue to look for new ways of securing higher levels of compliance in the industry and for quicker ways to remove those CMCs which abuse their regulated status. ”

under scrutiny. The industry should also understand better that positive interaction with the CMR Unit, including cooperation with information and other requests we make, is the sensible approach to take to remedy any regulatory issues arising. Failing to cooperate is more likely to raise suspicions that rules are being breached and lead to formal investigations being launched.

We have acted in other areas to make the regulatory regime bite harder. We took the lead to bring in a ban on CMCs from offering cash or similar inducements to consumers to make claims. This month we implemented new measures to strengthen the conduct requirements on CMCs, including mandatory signed contracts with clients before any fees can be taken by CMCs. We are not planning to stop there and are developing further proposals focused on tackling more directly poor CMC business practices presenting financial claims, in particular for mis-sold PPI. The proposals will take into account problematic CMC behaviours identified by lenders, the Financial Ombudsman Service and Financial Conduct Authority. We are aiming to consult in September 2013. We are also reinforcing the CMR Unit's resources across the board including, increasing the capacity of the PPI compliance team – more CMCs will be audited more quickly with swifter escalation to investigations and enforcement where appropriate.

We make considerable efforts to work with other organisations to tackle bad practices and protect consumers. We are expanding our engagement with other regulators, complaints handlers, and industry bodies to share intelligence on CMC activities and cooperate on

enforcement action where appropriate. This includes working in close partnership with the Information Commissioners Office and Ofcom in relation to concerns around nuisance calls and text messages.

In personal injury, the ban on referral fees is bringing huge changes to the industry. We have taken a proactive approach to enforcing the ban alongside continuing to tackle fraud. Since the ban came into force we have visited over 450 CMCs to assess their business practices and relationships with solicitors and insurers. This work continues and further resources will be deployed to help bring CMCs to compliance or exit them from the market. CMCs complying with the ban of course have nothing to fear. Because there have been so many changes for the personal injury sector, we are also having to consider the general viability of some CMCs' operations and whether they can survive because their main fee income has been cut off or reduced radically.

Regulation doesn't have to be big and expensive to be effective and the full cost of regulating the claims management industry continues to be fully recovered from CMCs. Robust regulation also doesn't have to be a large burden on the industry with unnecessary inspections

“ Regulation doesn't have to be big and expensive to be effective and the full cost of regulating the claims management industry continues to be fully recovered from CMCs ”

and bureaucratic processes. The use of risk related, selective regulatory interventions are essential to target enforcement exactly where it really counts, making best use of proportionate resources, while allowing those CMCs which are compliant to go about their business. Proportionate regulation with teeth.



Kevin Rousell

Chapter 1 - Overview

- Background
- Key actions
- Key summary figures
- Performance against 2012/13 priorities

Background

1. The claims management market continued to develop during 2012/13 – the most notable feature being the sustained growth of the payment protection insurance (PPI) claims sector. Redress payments for mis-sold PPI exceeded £9bn and the Financial Ombudsman Service (FOS) received a record number of complaints about mis-sold PPI. The measures we have taken to address the concerns about the practices of some claims management companies (CMCs) operating in the PPI claims sector are set out in this report.
2. The claims management industry's profile during 2012/13 remained broadly similar to the previous year, although the number of authorised CMCs decreased by 314 (10%) following on from a 6% decrease the previous year. Financial products and services and personal injury remained the two most active claims sectors, accounting for 99% of the declared turnover of authorised CMCs.
3. Our regulatory enforcement work continues to increase with 503 CMCs warned, suspended or cancelled during 2012/13. Consumers of claims management services continue to contact us in significant numbers and we advised more than 16,000 consumers during this period.
4. We made a number of important changes to the rules governing the conduct of CMCs and anticipate the most substantial change to the claims management industry since the introduction of regulation in 2007. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced a ban on the payment and receipt of referral fees in personal injury cases which came into force in April 2013. With around

two-thirds of the claims management industry active in the personal injury sector, this fundamental change will make the overall claims market a very different industry in 2013/14 and beyond.

Key actions

5. During the 2012/13 we took the following measures:
 - We stepped up our approach to tackling malpractice in the PPI claims sector, conducting more audits, working closely with relevant financial stakeholders to identify non-compliant CMCs, and taking enforcement action where appropriate. This work was highlighted in the publication 'The PPI Claims Market: Dealing With Malpractice' issued in February 2013.¹
 - We strengthened our relationships with fellow regulators, complaints handling bodies, the financial services industry and representative bodies. This enhanced our understanding of the problematic behaviours they encounter and presented the opportunity to share more information about the work we are doing and its impact.
 - In April 2013 we started to enforce a ban on CMCs paying or receiving referral fees in personal injury cases and offering cash incentives or similar benefits to consumers to make claims.
 - We expanded our personal injury compliance team to be in a position to monitor and tackle breaches of the referral fee ban by CMCs. We continue to be actively involved with the work of the police and other enforcement agencies in fighting insurance fraud.
 - We worked closely with the Information Commissioner's Office (ICO), Ofcom, the Office of

¹ <http://www.justice.gov.uk/downloads/claims-regulation/ppi-market-dealing-with-malpractice.pdf>

Fair Trading (OFT) and other relevant stakeholders to identify and target CMCs in breach of the rules in relation to unsolicited calls and text messages.

- In order to ensure an ongoing stable self-financing position we increased the regulation fees paid by new entrants to the claims industry, larger CMCs and those that operate in the financial products and services sector.
- We completed work on further measures to tighten the Conduct Rules, which came into effect in July 2013. This will strengthen consumer protection across the various claims sectors, including mandatory requirements for written and signed contracts with clients before any fees can be taken by CMCs.
- We commenced work on developing proposals to further amend the CMR Conduct Rules to tackle more effectively the poor business practices of some CMCs when presenting financial claims, in particular mis-sold PPI.
- We introduced a more robust application process which ensures businesses seeking to enter the market are suitable, competent and equipped to provide the services they intend to offer.
- We assisted thousands of consumers who contacted us about CMCs and provided more information online about the enforcement work we undertake to tackle malpractice. This ensures that consumers have all the up-to-date information they need to make decisions when using a CMC.

Key summary figures

6. Summary of claims management regulation activity from April 2012 to March 2013.

Number of authorised CMCs (at end March 2013)	2,693
CMCs authorised during this period	591
Applications refused	4
Authorisation varied (with conditions)	6
Authorisation suspended	7
Authorisation cancelled	211
Authorisation surrendered	677
Warnings issued	285
Audits conducted	129
Other*	17

*Companies that have changed their legal entities and are effectively no longer trading

Average number of various contacts dealt with each month:

Requests for business advice	814
All consumer contacts	1,111
Applications	47

Performance against 2012/13 priorities

We have tackled the following priorities for 2012/13 as set out in last year's report:

Tackling malpractice in handling of PPI claims

7. We audited over 100 PPI CMCs and provided guidance and advice to hundreds more. We continue to work closely with stakeholders to share intelligence on CMC activities which assists us with targeting those CMCs that are breaching the rules.

Unsolicited SMS text marketing

8. We have continued to work with partner agencies that have lead responsibility and specific powers in this area, most notably, the ICO. Intelligence to establish the role and involvement of CMCs has been gathered, shared and action taken where needed. As well as supporting the work of other agencies, we have investigated and taken action against a number of CMCs breaching rules related to direct marketing.

Increase awareness of charges made by claims management companies and alternatives

9. We reviewed the paperwork and customer agreements of hundreds of CMCs during the last year. If fee information is not clear enough, we require the CMC to amend their paperwork to ensure it is compliant.

Contract compliance and fairness

10. We reviewed the contracts of all CMCs applying to enter the financial products and services sector, and those seeking to move there from other claim areas to ensure clarity of information (particularly the fees payable by consumers) and to remove any unfair contractual terms. We also reviewed and advised

many more CMCs in other sectors about problems with their contracts and pre-contract information.

Complaints handling

11. We conducted a targeted exercise to remind all CMCs of their complaint handling obligations in June 2012. Where we found that CMCs had fallen short of required standards we took enforcement action against them.

Misleading marketing

12. We reviewed the marketing practices of CMCs throughout the year, including advertising on TV, press, radio and websites, as well as other marketing literature and the content of sales calls. We have challenged CMCs where we have identified breaches and taken enforcement action where the CMC has failed to act on advice or where the breaches are serious.

Cancellation of agreements

13. Many consumers asked us about their right to cancel any agreement they have with a CMC. We provided appropriate advice and also alerted them to the potential costs of doing so. We took action where CMCs were failing to provide their clients with details of how to cancel an agreement or were making it difficult for clients to cancel.

Fraud/staged accidents

14. We assisted the police and other enforcement agencies on numerous investigations and operations during the last year. We provided statements to the police and gave evidence in court where the police have prosecuted those suspected of being involved in insurance fraud.

“ We made a number of important changes to the rules governing the conduct of CMCs and anticipate the most substantial change to the claims management industry since the introduction of regulation in 2007. ”

Unauthorised trading

15. We carried out 32 investigations and warned 57 unauthorised businesses about their activities. This has resulted in them ceasing any unauthorised claims management activity, including taking down websites immediately.

Validation of authorised claims management companies' information

16. We update the information held about CMCs at the beginning of each regulation year where needed. We issued guidance to remind CMCs that they are required to keep us informed of any changes to their business and used the audit process to ensure that our records were up to date.

Chapter 2 – Claims Management Regulation Background

- About us
- Regulatory objectives
- Who and what we regulate
- Working methods

About us

1. The Ministry of Justice (MoJ) has been responsible for directly regulating the activities of businesses providing claims management services since April 2007 under Part 2 of the Compensation Act 2006. The Compensation Act defines claims management services as "advice or other services in relation to the making of a claim". Secondary legislation defines the scope of regulation including the regulated sectors and the regulated activities subject to the authorisation regime.
2. Any business providing regulated claims management services in England and Wales is, unless exempt, required to be authorised irrespective of their registered address or location of the business. Exemptions under the Act include those already regulated, for example, solicitors and insurers – and independent trade unions. Businesses authorised under the Compensation Act are subject to a range of statutory conditions, including compliance with Conduct Rules geared firmly towards consumer information and safeguards. Businesses that do not comply with the conditions of authorisation (including the conduct rules) are subject to appropriate enforcement action.
3. Claims management regulation is delivered by the MoJ's Claims Management Regulation (CMR) Unit. The CMR Unit is responsible for managing the operation of the regulatory system, which includes handling applications and complaints, monitoring compliance, investigating malpractice and taking enforcement action. Duties also include approving statutory decisions made on behalf of the Secretary of State in respect of authorisations, suspensions and cancellations, and managing policy, funding,

communications, and stakeholder relations. The CMR Unit operates on a self funding basis with all operating costs recovered through regulation fees paid by CMCs.

Regulatory objectives

4. Our ongoing regulatory objectives are:
 - Protecting and promoting the interests of consumers
 - Protecting and promoting the public interest
 - Improving standards of competence and conduct of authorised persons
 - Improving access to justice
 - Promoting practices to facilitate competition between different providers of regulated claims management services

Who and what we regulate

5. The claims sectors subject to Compensation Act 2006 regulation are:
 - Personal injury
 - Financial products/services
 - Employment
 - Industrial Injuries Disablement Benefit
 - Criminal injuries compensation
 - Housing disrepair

6. The types of claims management activities regulated include:
 - Advertising for, or seeking out (for example direct marketing) persons who may have a cause of action
 - Advising a claimant or potential claimant in relation to his claim or cause of action
 - Referring details of a claim/claimant or cause of action for a fee to another person
 - Investigating or commissioning investigation of a claim with a view to using results in pursuit of the claim
 - Representing the claimant
10. Analysis of other intelligence informs the TAG meetings and enforcement strategies including consumer contacts and information provided by a variety of stakeholder agencies. Enforcement partners and stakeholders include law enforcement agencies, industry regulators, consumer protection agencies such as Trading Standards authorities, as well as industry counter fraud groups such as the Insurance Fraud Bureau and the Insurance Fraud Investigators Group.
11. The decision to investigate a CMC is made at the TAG meeting. Where it is necessary to take enforcement action, this is done in accordance with our published Enforcement Policy. The decision to take statutory enforcement action (variation, suspension or cancellation of a CMC's authorisation), is made by the Head of Claims Management Regulation following discussions and consideration of a report and recommendations from the enforcement team.

Working methods

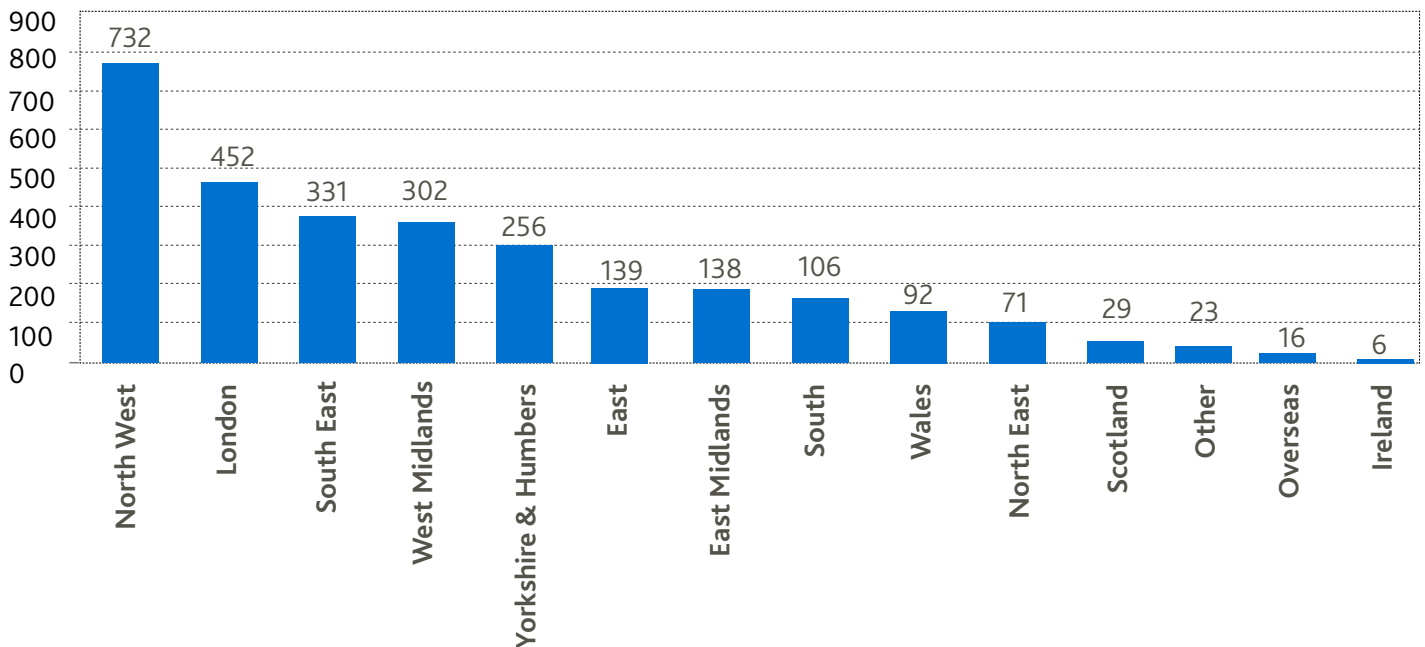
7. We use the National Intelligence Model (NIM) as our enforcement work model. NIM was introduced to enable the police to take an intelligence led and problem solving approach to crime, and has been adopted as best practice by public and private bodies. The model promotes partnership working and effective management of information and intelligence.
8. We constantly review the claims market to anticipate what CMCs may do next so that we are able to deal with malpractice before it becomes a major problem. We also conduct a detailed strategic assessment of the claims market each year which enables us to identify future problem areas and set our enforcement priorities for each year.
9. This annual exercise is supported through a Tactical Assessment Group (TAG) which involves regular meetings between our intelligence analyst and key enforcement staff. The TAG assesses the ongoing developments and problems in the market and examines whether our enforcement priorities are effectively addressing them. The TAG also identifies CMCs which present the highest risk and develops an enforcement strategy to deal with their malpractice.

“ We constantly review the claims market to anticipate what CMCs may do next so that we are able to deal with malpractice before it becomes a major problem. ”

Chapter 3 – Analysis of Specific Claims Sectors

- Geographical distribution of CMCs
- CMC turnover
- Applying for authorisation
- Personal injury
- Financial products and services
- Other regulated claims sectors

Authorised Business by Region - 2012-13



Geographical distribution of CMCs

1. Over a quarter of all authorised CMCs are based in the North West region. These figures are similar to last year although the South East is now the area with the third largest concentration of CMCs (previously West Midlands).

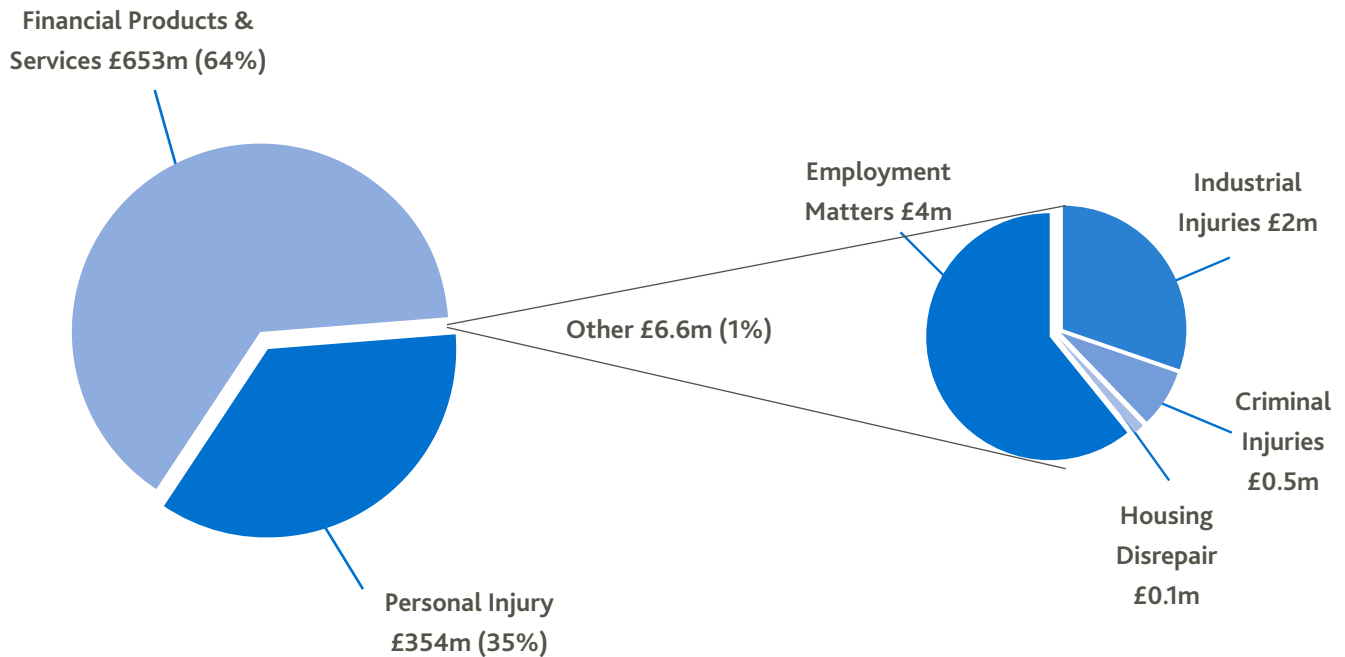
CMC turnover

2. Details of CMCs' turnover are requested for the 12 months to 30 November each year. The total turnover declared (for the 12 months to 30 November 2012) was £1.01 billion, up £240 million on the previous year. The total turnover declared across all regulated claims sectors has increased by 31% in 2012/13.

3. For the first time the turnover for financial products and services claims sector has exceeded that of the personal injury sector. Whilst the turnover in the personal injury sector has decreased by 22% (£101 million), the financial products and services sector has increased by 108% (£340 million).
4. The increased turnover in the financial claims sector can be attributed to the activity of those CMCs operating in the PPI claims market. This market has grown continuously since the High Court judgment in April 2011² which rejected a legal challenge by the banks against the FOS and the Financial Services Authority's PPI complaint handling requirements. The turnover figures for PPI CMCs reflect that growth and also represent the first full 12 month period of PPI settlements.

² http://www.fsa.gov.uk/pages/consumerinformation/product_news/insurance/payment_protection_insurance_/ppi_court_judgment/index.shtml

Annual Turnover by Claim Sector 2012-13



Applying for authorisation

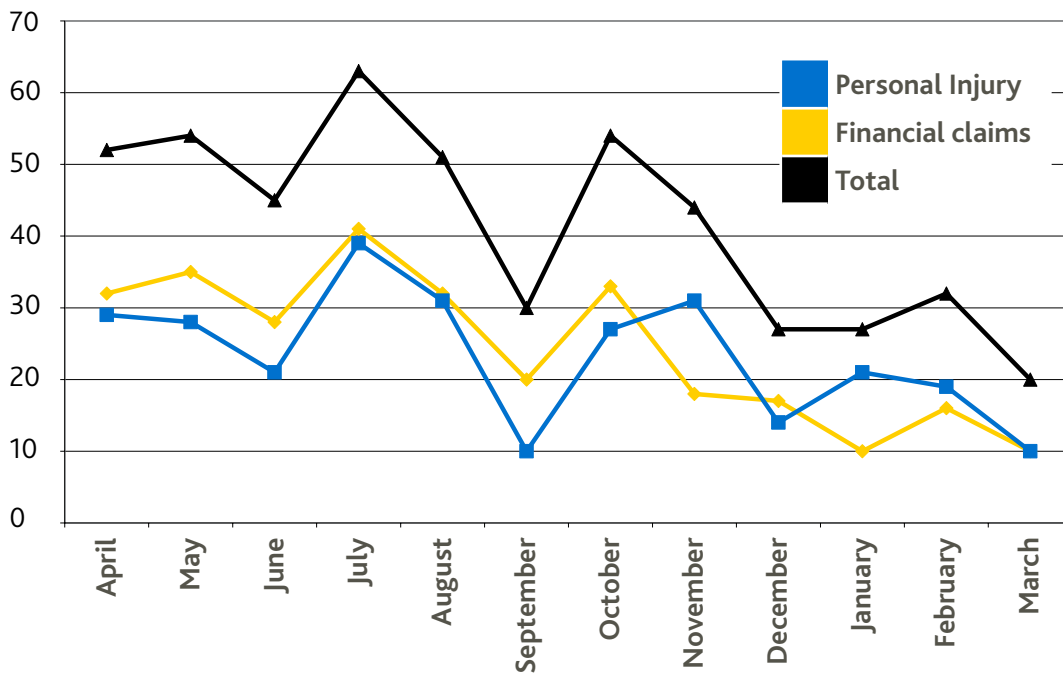
5. During 2012/13 we received an average of 10 applications for authorisation a week, which is down from an average of 15 per week in the previous financial year. There was a slight increase in March 2013 which was likely to be due to the application fee rising from £950 to £1,400 from April 2013.

6. Historically we have always received more applications for the personal injury sector but we are now beginning to see a change with more applications from businesses wishing to operate in the financial products and services sector. This development is likely to be the result of the referral fee ban in personal injury cases which came into effect in April 2013 and has meant that we authorised equal numbers of personal injury and financial products and services CMCs last year. More evidence of this trend can be seen in the first quarter of 2012/13, where we have authorised an average of two CMCs per month in the personal injury sector, compared to 15 per month in the financial products and services sector.

Average number of authorisations each month	2011/12	2012/13	2013/14 (First quarter)
Personal injury	36	28	2
Financial products and services	17	28	15

“ We anticipate that the personal injury sector will continue to significantly contract in 2013 as CMCs who are unable to adapt their business model to comply with the referral fee ban, exit the market. ”

New Applications per Month for Authorisation 2012-13



Personal Injury

7. The personal injury sector remained the largest sector with 1,902 CMCs authorised at the end of March 2013, although this represents a reduction in numbers compared to 2,435 last year. This reduction can be largely attributed to the impact of civil justice and related reforms to this sector, in particular the ban on referral fees and ban on cash incentives or similar benefits to make claims. We anticipate that the personal injury sector will continue to significantly contract in 2013 as CMCs who are unable to adapt their business model to comply with the referral fee ban, exit the market. By June 2013, the number of personal injury CMCs had fallen to around 1,700.

8. The personal injury sector is made up mainly of small, locally operated CMCs, typically referring road traffic accident claims to solicitors. However, some much larger CMCs advertise and operate regionally and nationally and have high referral volumes. The role that personal injury CMCs usually play – during only the initial stages of the claims process – means that we receive significantly fewer complaints about this sector when compared for example with those CMCs handling PPI claims. Complaints about personal injury CMCs therefore account for less than 5% of the consumer complaints we receive. Most of these complaints relate to the direct marketing practices (unsolicited text messages and cold-calls) of businesses that are difficult to identify. Unsolicited text messages are generally not sent by CMCs but by others to generate 'leads' for other businesses, including CMCs.

Financial products and services

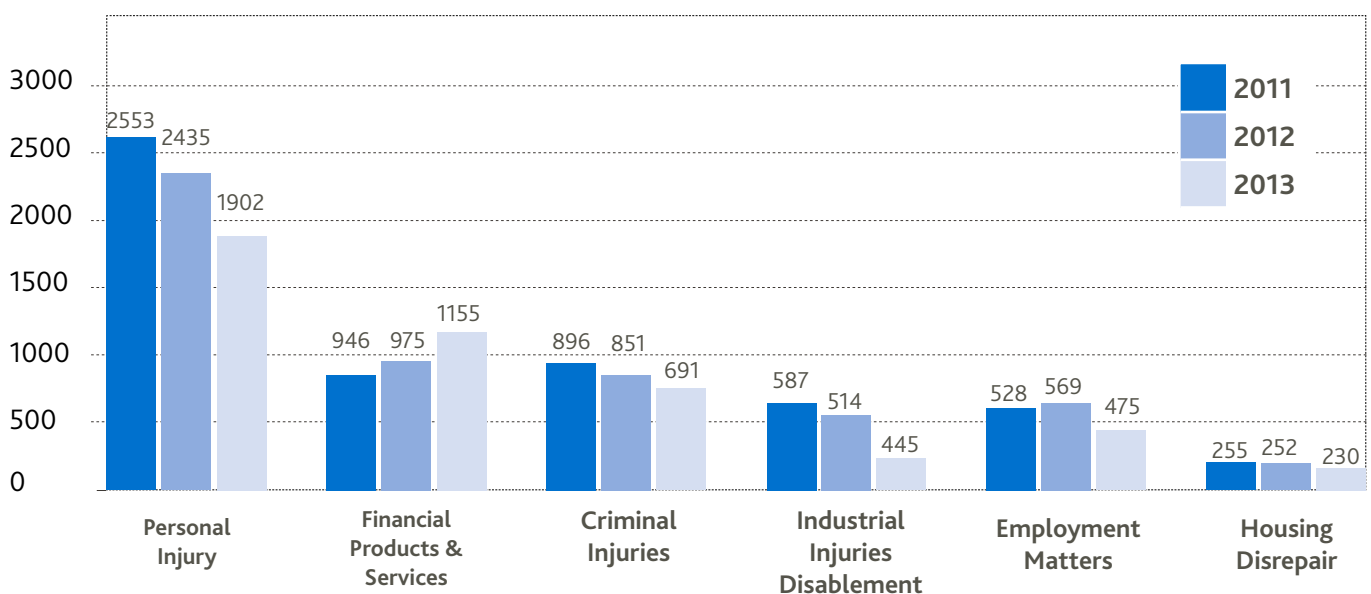
9. The financial products and services sector has grown in the last year and now almost exclusively consists of CMCs providing PPI claims services. A further 180 CMCs now operate in this sector compared to last year, taking the total number of this sector’s CMCs to 1,155.
10. One of the main features of this sector is that it generates the overwhelming majority of consumer complaints we receive (94%). Another feature is that the turnover of this sector has increased considerably during 2012/13 due to the growth of activity in the PPI claims market. This is a reflection of the fact that more than £9bn has now been paid out in redress to consumers who were mis-sold PPI (with almost £6bn paid during this 12 month period).³
11. The ongoing high level of activity and consumer interest in the mis-sold PPI claims market means that there has been little incentive for CMCs in this sector to explore other claims areas. A small number of CMCs have considered new revenue streams – we have seen for example, some CMCs tentatively look at mortgage mis-selling and investment mis-selling. Some specialists have also entered the sector to represent business clients in interest rate swap claims. The focus of this sector is likely to remain on mis-sold PPI claims until

the market shows any signs of a significant decline in the rate at which PPI redress is being paid out. Another significant factor however is that more consumers are bringing PPI complaints themselves rather than using a CMC – evidenced by the fact that the proportion of cases which FOS dealt with where the consumer was represented by a CMC fell during 2012/13.

Other regulated claim sectors

12. The remaining four regulated sectors are employment, criminal injuries compensation, industrial injury disablement and housing disrepair. These sectors account for a comparatively minor amount of activity in the claims management market.
13. Of those sectors, employment is the most active with around 475 CMCs declaring that they operate in that area. However, only 50 of these declared a turnover of over £20,000. These practitioners are usually employment law experts who advise employees and act for them in Employment Tribunals if they require representation. Although there are relatively few CMCs operating in this area, and few complaints are received, the issues raised can be serious and complex. There are only a handful of CMCs actively engaged in the three other sectors.

Total Authorised Businesses by Sector 2011-2013



³ <http://www.fca.org.uk/your-fca/documents/ppi-payouts->

Chapter 4 – Complaints and Enquiries

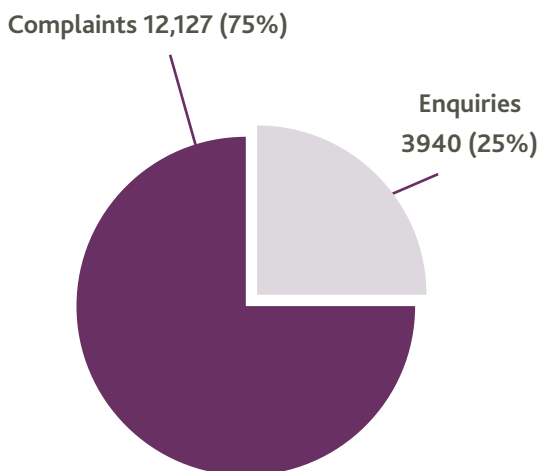
- Consumer contacts about CMCs
- Complaints from financial services providers and others
- Complaints handling by CMCs
- Parliamentary interest

Consumer contacts about CMCs

1. 16,067 people contacted us in 2012/13 about CMCs. Consumers often contact us to enquire whether a CMC is authorised and legitimate or whether a CMC can do what they have promised to do. We class these as consumer enquiries.
2. Where a consumer is unhappy with a CMC, we record this as a complaint. Not all complaints are about matters that relate to a breach of the Conduct Rules. Similarly, not all complaints are justified.

3. The most common types of issues consumers contact us about are:
 - The level of fees they are being charged at the successful conclusion of a claim (primarily PPI);
 - The CMC they are using is not providing the service originally promised – usually related to some sort of delay in the claim service being provided; and
 - The marketing used by CMCs, in particular unsolicited sales calls, SMS text messages and emails, and concerns around how their details were obtained.

Customer contacts by nature 2012-2013



Consumer complaints by type and source

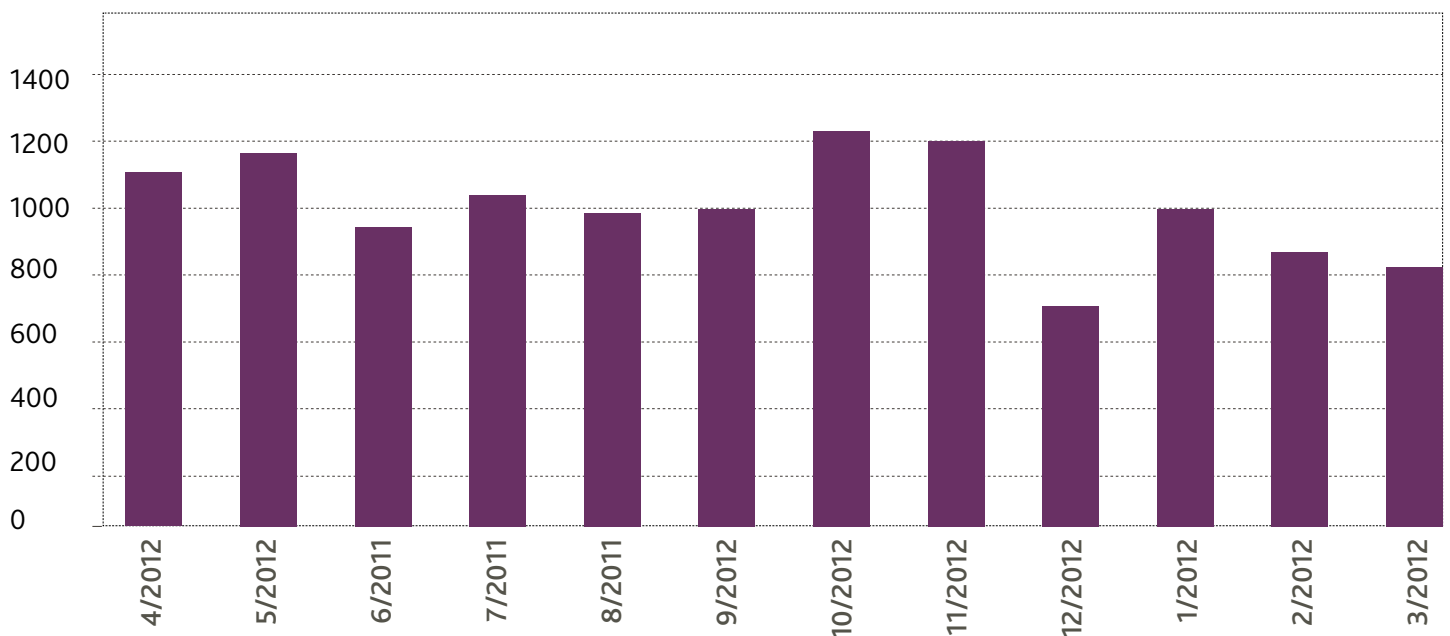
4. The overwhelming majority of consumer complaints we receive (94%) are about CMCs in the financial products and services sector – in most cases these are related to claims for mis-sold PPI. The only other notable area has been the complaints we receive about personal injury CMCs – these are usually related to unsolicited marketing, often by unidentified businesses.
5. Most consumers contact us by telephone (66%) and if appropriate we advise consumers to make the complaint direct to the CMC in the first instance. We obtain information from the consumer to identify evidence of any possible breach of the Conduct Rules, and this information is assessed to determine what further steps are necessary. Where we have concerns, action is taken to ensure the CMC is aware of the problem and takes the necessary remedial steps. This could also result in an audit of the CMC concerned and where the issues are serious, or appear to be systemic, we take appropriate enforcement action.

Case study: Failure to progress clients' claims

We began to receive complaints about a CMC active in the employment sector that sought customers who wanted to pursue claims against former employers. Their business model operated on a fixed up-front fee basis. Most complaints indicated that the CMC was either not pursuing their customers' claims, or where they did, they carried out the work to a very poor standard.

We opened an investigation into their business practices and based on our findings, we imposed specific conditions on their authorisation which prevented them from advertising services for advising, referring or representing people with a cause of action in the employment sector. Our action allowed us to bring the CMC to compliance, whilst ensuring that the CMC could fulfil their obligations to existing clients and thereby prevent consumer detriment.

Monthly consumer complaints - 2012-13



6. A significant proportion of the complaints we receive are about a relatively small number of CMCs, with almost 80% of all complaints received being about only 5% of CMCs. These include not only those CMCs guilty of malpractice but also some CMCs with large numbers of customers who are therefore statistically more likely to generate more complaints.

Consumer guidance

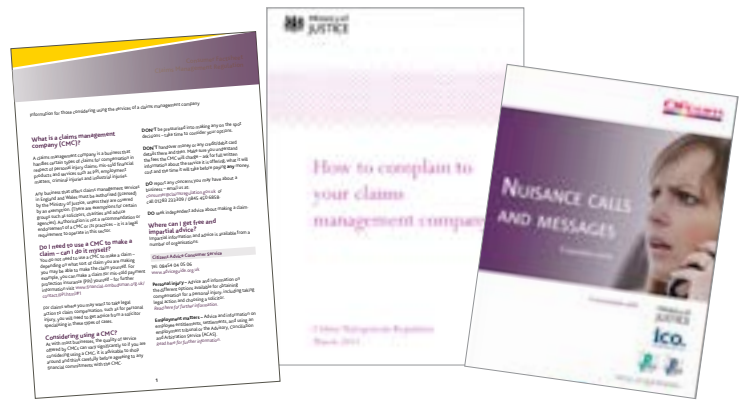
7. We developed and improved our guidance to help educate consumers about making informed choices. This included the publication of new consumer web pages, providing step-by-step guidance on how to make a complaint to a CMC, advice on what action to take when they receive unsolicited text messages and calls, and updated frequently asked questions.



New consumer web page

www.justice.gov.uk/claims-regulation/information-for-consumers

8. We published new 'pre-shopping' advice for consumers considering using the services of a CMC that reminds consumers that they can make a PPI claim themselves without using the services of a CMC. Should consumers choose to use a CMC, our new 'post-shopping' guidance provides advice on their rights in respect of fees, settlement and refunds. The guidance is also used as source material for websites and other publications seeking to advise on this area. As PPI claims account for the majority of consumer enquiries and complaints we receive, we have ensured that our guidance covers the most common PPI issues that arise.
9. In autumn 2012 Ofcom produced a consumer guide on nuisance calls and messages in conjunction with us, other relevant regulators and consumer groups. The guide provides a single source of accurate information to all those in the sector to ensure a consistent message is sent out to consumers. It also includes useful information for stakeholders, such as explanations of the relevant law in this area, and clarification of the regulator responsible for each type of call and message.



Complaints from financial services providers and others

10. We received 2,021 complaints from a range of individuals and organisations other than consumers in 2012/13. These included major banks and building societies, representative bodies, medium-sized to small financial services providers and independent financial advisers who received complaints from CMCs acting on behalf of consumers. The most common issues raised tend to centre on CMCs' failure to obtain sufficient information from consumers or look into the merits of a potential claim before contacting the financial services provider.
11. In such cases the product complained about was often never sold by the financial services provider or it was not sold in the manner alleged. Sometimes the customer was clearly advised of any risks of the product before a sale was made, or they have stated that they were satisfied with the product before making a claim. In some cases the financial services provider has never had a customer relationship with the consumer.
12. As financial services providers are required to investigate the complaints they receive and doing this can take up unnecessary time and resources where there is no valid complaint, we devised a data collection template that allows these businesses to supply us with information about CMCs who routinely carry out this type of behaviour.
13. As well as individual detailed complaints, we also receive statistical information from larger financial services providers, in particular the major banks and building societies. They receive large numbers of

claims and have the systems and resources to deal with this volume. The management information they have access to assists us with identifying any behavioural trends or patterns which may highlight issues of CMC malpractice. Sometimes representative bodies acting for a number of firms also provide us with some of this industry information. These include the British Bankers Association, Building Societies Association, Finance and Leasing Association, Association of Professional Financial Advisors and the UK Cards Association. Due to the nature of the information they provide, we rarely record or treat it as a 'complaint', but use it as intelligence to help us target our enforcement work.

Complaints handling by CMCs

14. CMCs are required to operate a complaints handling scheme in accordance with the Complaints Handling Rules 2006. This means that they must treat any expression of dissatisfaction by a client as a complaint and must acknowledge and respond to the complaint within set timescales. This process gives CMCs the opportunity to remedy matters if there has been a failing on their part.
15. The number and nature of complaints we receive about some CMCs can provide evidence that they are not handling complaints properly. In many cases, those CMCs are failing to recognise or treat an expression of dissatisfaction as a complaint and invoke their complaints handling procedure.

Parliamentary interest

16. The behaviour of CMCs and related claims management issues has attracted increasing parliamentary interest over the past year with three debates (one Westminster Hall debate on 8 November 2012 and two Adjournment debates on 29 May 2012 and 19 March 2013, respectively), nine written parliamentary questions, one oral parliamentary question in the House of Lords and 68 letters from MPs.
17. A range of subjects were covered – most commonly the poor practices of CMCs handling mis-sold PPI claims, unsolicited text messages and calls marketing claims services, fraudulent personal injury claims, and reform of the claims management regulatory

regime. In October 2012, Kevin Rousell, the Head of Regulation provided an overview of current claims management regulation issues and future reforms to the All Party Parliamentary Group on Insurance and Financial Services.

Case study: Poor complaint handling procedures

A sharp increase in complaints about a particular CMC raised a number of concerns, including the issuing of duplicate invoices to clients and our telephone number appearing on the CMC's paperwork rather than their own.

At the audit, the CMC explained they had recently changed some of their procedures. By scrutinizing the way the CMC operated during the audit, we were able to identify flaws in the new procedures, including problems with their client packs and the way they were handling complaints.

We explained the consequences of their failure to comply with the Conduct Rules and gave detailed advice about remedial action they must take. The CMC responded and acted upon the advice. They reviewed and revised their procedures and we saw a corresponding reduction in consumer complaints.

“ We developed and improved our guidance to help educate consumers about making informed choices. This included the publication of new consumer web pages... ”

Chapter 5 – Enforcement

- Background
- Applications for authorisation
- Dealing with malpractice
- Variations, suspensions and cancellations
- Tribunal appeals
- Unauthorised trading

Background

1. We take enforcement action to protect the interests of consumers and the general public when a CMC has breached the Conduct of Authorised Persons Rules. In the majority of cases where such breaches are identified, the use of informal enforcement tools such as advice, warnings and undertakings are sufficient to bring a CMC into compliance. Follow up work to ensure that CMCs take the necessary remedial action and continue to operate in a compliant way is always undertaken.
2. Where CMCs fail to take remedial action or make efforts to satisfactorily address breaches, we conduct a formal investigation. We gather and assess any evidence about ongoing misconduct and decide if statutory enforcement action such as imposing conditions (restrictions), suspending or cancelling a CMC's authorisation is required.

Applications for authorisation

3. We assess each application by scrutinising the business models proposed in the application, all intended marketing material/websites, paperwork and client contracts. We also carry out detailed checks into the individuals involved in the CMC before making a decision whether to authorise them.
4. Where our checks raise suitability or competency concerns, we highlight these to the CMC and give them the opportunity to provide further information or assurances. Where necessary we interview individuals to discuss their application and any concerns that we have.

5. During this process we gather sufficient information to make a decision to:
 - Authorise the CMC, with or without specific conditions;
 - Authorise the CMC and request that they sign written undertakings about future conduct and/or increase their risk rating and plan follow up work; or
 - Refuse the application for authorisation.
6. Many CMCs withdraw their application before the authorisation process is complete. For example, applications from 175 businesses failed to complete the process in this financial year. Some are unable or unwilling to answer the questions that we ask following our checks. Others are unable to produce documentation of a suitable standard required for the claims area they propose to work in, such as pre-contract information and clients' terms and conditions for PPI claims.

Dealing with malpractice *PPI claims market*

7. Over the past year the majority of the complaints we received and enforcement work we carried out (including audits) related to the activities of CMCs presenting claims for mis-sold PPI. We continue to work closely with the Financial Conduct Authority (FCA) and FOS to identify those CMCs who fail to follow correct procedures or are representing their clients poorly. Other



stakeholders such as major financial services providers and their representative bodies also share intelligence on CMC activities which assists us with targeting those CMCs that are breaching the rules.

8. Complaints from customers of CMCs also provide us with an excellent source of information that gives us an understanding of where certain CMCs are failing or providing a poor service, and where enforcement action may be necessary. In February 2013 we summarised the targeted and pro-active PPI related work we have undertaken in our publication, *'The PPI Claims Market: Dealing with Malpractice'*.⁴
9. When deciding which CMCs to audit we review complaints, the nature of the issues arising, the size of the CMC and other intelligence available. Our specialist PPI compliance team continues to focus on:
 - Improving CMC compliance through advice, warnings and statutory action
 - Reducing proportions of claims being submitted to financial services providers where no PPI sale exists and no customer relationship existed previously
 - Reducing the proportion of claims escalated (by the larger CMCs) to the FOS prematurely
 - Promoting and facilitating improved relationships between financial services providers and compliant CMCs
 - Reducing the number of (justified) consumer complaints about the largest CMCs
 - Identifying CMCs committing serious or serial breaches of the rules and taking firm enforcement action against them
10. The aim of this strategic and targeted enforcement work is to improve the compliance of those CMCs with a large market share and thereby better protect a broad range of consumers. CMCs that are audited receive a comprehensive report detailing any concerns and rule breaches identified and the remedial action

required. CMCs must respond to the audit report explaining what steps they have taken. We carefully review those responses to assess whether this action is likely to remedy the rule breaches.

11. During 2012/13 we also commenced a targeted programme which involved the re-auditing of those PPI CMCs we had concerns about, to determine whether remedial steps had been taken or if further enforcement action would be necessary. This has been effective as we have seen improvements in conduct with many of those CMCs. Enforcement action has been taken where the necessary improvements have not been made.

Case study: Speculative PPI Claims

Data provided by financial services providers identified a number of CMCs who were submitting a very high number of claims where there was never a PPI product sold to the customer. This met our criteria for selecting CMCs to audit. During the audit of one of those CMCs in summer 2012, we found that the letter of complaint they were sending to financial services providers was based solely on a short questionnaire completed by their clients, and that some letters did not correspond with information provided by the client.

We immediately told the CMC to remedy this practice as it was in breach of the rules and likely to be the reason for their high number of 'no PPI sold' cases. We issued a warning to the CMC advising that they would have their authorisation varied, suspended or cancelled if they did not remedy the breaches.

We monitored the CMC and when re-audited it was evident that the CMC had acted upon the warning and other advice provided. They demonstrated the changes that they had made to their processes and are now contacting clients following receipt of the questionnaire and obtaining further details about the alleged mis-sale. They were also carrying out further investigations into whether PPI was in fact sold.

⁴ <http://www.justice.gov.uk/downloads/claims-regulation/ppi-market-dealing-with-malpractice.pdf>



Marketing and advertising

12. Unsolicited text messages and direct marketing calls related to claims management can be a major nuisance to the public. Other services, including debt management, utilities and insurance are also marketed in this way. The ICO has responsibility for enforcing the legislation⁵ that protects individuals from unsolicited text messages and calls. We work closely with the ICO and other regulators, such as Ofcom and the OFT to tackle malpractice in this area.
13. A principal challenge is to identify who is responsible for this type of marketing, as it is often undertaken by lead generators or agents of CMCs who pass data between a number of businesses at varying stages. The business initiating the contact is rarely the CMC who will ultimately provide the claims services being marketed for a client. These networks are complex but we have investigated and taken enforcement action against CMCs found to be in breach of the rules.
14. Alongside our work on unsolicited calls and text messages, we also monitor other forms of marketing by CMCs. This includes adverts in the press and marketing emails, as well as radio and television advertising. We have investigated relevant breaches of the rules and provided warnings and advice that has remedied malpractice and stopped non-compliant marketing.

15. The Advertising Standards Authority (ASA) regulates advertising across all media and receives complaints about CMCs. Where the ASA has judged an advert by a CMC to be in breach of the UK Advertising Codes, we have warned the CMC about their future advertising. Further breaches of the codes or our rules relating to marketing will result in an investigation and formal enforcement action.
16. We conducted a number of detailed reviews of CMCs' websites in 2012/13 to determine whether they were compliant and not misleading. This resulted in the removal and amendment of hundreds of misleading statements and non-compliant content on CMCs' websites. We intend to continue targeting websites as a priority area, focusing resources on monitoring and reviewing content and taking prompt enforcement action where appropriate.

Case study: Unsolicited Marketing Calls

We traced and identified a CMC in the North-West that had generated many complaints about the persistent and harassing nature of their unsolicited calls. Consumers complained that they were encouraged to make a personal injury claim even where they had not suffered injury. They were also concerned about how their details had been obtained. In some cases the CMC told the consumer that their information was provided by their insurance company, which was not the case.

We liaised and shared this information with the ICO who then began investigating whether people's data had been obtained illegally. In late 2012, the ICO executed a warrant at the premises of the CMC under the Data Protection Act 1998, during which they seized documents and computer hard drives. We also conducted our own investigation and took separate action against the CMC for breaches of the rules. Shortly after our action and the ICO's, the CMC went into liquidation.

⁵ Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011

Personal injury

17. A major part of our enforcement work continues to involve assisting and supporting other agencies to tackle CMCs involved in insurance fraud or other organised crime. We have for example, worked very closely with and provided important information to the Insurance Fraud Bureau and numerous police forces throughout England and Wales.



Case study: Crash for Cash

We were contacted by a police force investigating a 'crash for cash' insurance fraud scam. In this case, the staged accident had gone wrong and an innocent motorist was killed. The accident took place on a motorway and was believed to be the first known fatality as a result of a staged accident.

Working with the police, we established a link to a CMC and began investigating them. The CMC were co-operative during the investigation and provided us with information requested. It emerged that they were not part of the fraud but that some of the suspects in the case had used the services of the CMC to gain access to a solicitor.

We were able to produce statements for the police based upon the evidence we had obtained. This evidence was used during the trial of those charged with causing death by dangerous driving and fraud offences. The individuals involved in staging the accident were found guilty and each received a custodial sentence.

18. This collaborative work with other regulators also extends to dealing with other forms of malpractice in the personal injury claims market. We continue to work with the Solicitors Regulation Authority (SRA) and the ICO where the malpractice involves solicitors' conduct or data protection breaches. Our work is not however limited to supporting other agencies and we have taken specific independent action where rule breaches have been identified.

19. On 1 April 2013, a ban on referral fees in personal injury cases was introduced under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. We set up a specific project to prepare for implementation of the ban. We communicated the terms and likely impact of the ban to CMCs and looked at specific business models to ensure compliance. We also increased the capacity of the CMR Unit's personal injury compliance team to ensure we can enforce the ban.

20. Since April we have rolled out a full programme of compliance activities to identify non-compliance with the ban and take appropriate action. We have visited over 450 CMC's in the major conurbations right across England and Wales. As a result, we issued 141 CMCs with notices to provide full details of their business models and issued seven CMCs with enforcement notices in respect of rule breaches and irregularities with websites. Following our intervention, a further 13 CMCs have ceased operating in the personal injury sector and we identified and stopped four unauthorised businesses from trading.



Handling client money

21. If CMCs handle client money they are required to comply with the Client Account Rules 2006 and submit an Accountant's Report each year. This Report identifies any breaches of the Client Account Rules 2006 and makes clear how serious those breaches are.
22. Over 2012/13 we ran a project to ensure that CMCs produced such Reports and took enforcement action, as appropriate, where CMCs failed to comply. This action resulted in us imposing conditions (restrictions) on a CMC's authorisation, prohibiting the CMC from handling client money where no Report was submitted or where a CMC had misappropriated client money. We also suspended the authorisation of CMC (which was found to be withholding client compensation payments) until they could provide evidence that all client monies had been paid to the relevant clients. We subsequently cancelled this CMC's authorisation when they failed to comply.

Case study: Taking payment without authorisation

We received complaints concerning a CMC making outbound sales calls for PPI claims. Consumers reported feeling pressured to give their credit card details over the telephone. Some consumers reported that an upfront fee was taken without their authorisation, and others paid an increased fee for a "priority service" which bore little, if any, difference to the standard service.

The volume and recurrent nature of the complaints satisfied us that the CMC were in breach of the rules, and had made little or no effort to comply. The CMC obstructed clients wishing to cancel their agreements, failed to issue refunds to those entitled to them, and failed to deal with complaints adequately. When challenged, the CMC disputed the complaints and resisted requests to provide refunds, claiming that they had already carried out the work. On this basis we imposed conditions on the CMC that prevented them from taking advance fees from consumers, and compelled them to provide us with a monthly complaint log. The level of complaints about this issue subsequently declined significantly, as the CMC began to take the necessary remedial action.

Variations, suspensions and cancellations

23. If, following an investigation, statutory enforcement action is considered necessary, we will first consider whether any specific conditions could be applied to the CMC's authorisation. In applying conditions, we will require a CMC to take specific steps, or prohibit them from carry out an activity in order to modify the behaviour which has lead to the malpractice. If there are no specific conditions that are likely to be able to address the compliance issue, then suspension of the CMC's authorisation may be necessary. This has the effect of preventing the CMC from carrying out any claims activity until they can satisfy us that they are able to and will comply with the rules.
24. During 2012/13 we cancelled the authorisation of 211 CMCs; suspended seven; and varied the conditions of authorisation of a further six. We cancel a CMC's authorisation if the rule breaches are sufficiently serious or where a suspended CMC is unable to demonstrate to us that they have taken remedial action or are able to comply with the rules. We will also cancel a CMC's authorisation if they fail to pay their annual regulation fee.

Tribunal Appeals

25. Any decision taken by the Claims Management Regulator to refuse an application or to take enforcement action, such as to impose conditions on a CMC or to suspend or cancel their authorisation can be appealed. Appeals must be made to the General Regulatory Chamber of the First-tier Tribunal (Claims Management Services). The appeal procedure is set out in the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.
26. During 2012/13 seven appeals were made to the First-tier Tribunal. Each of these was lodged against our decisions to cancel a CMC's authorisation for non payment of its annual fee in accordance with Regulation 20 of the Compensation (Claims Management Services) Regulations 2006. Of these seven appeals:
 - Two were withdrawn;
 - One was allowed following delayed payment of the annual fee; and
 - Four were dismissed.

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During 2012/13 we cancelled the authorisation of 211 CMCs, suspended seven and varied the conditions of authorisation of a further six.

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Unauthorised trading

27. On average, we receive around 25 reports each month that businesses are providing claims management services without authorisation. Each allegation is assessed carefully – on some occasions we find that the allegation relates to a CMC which is in fact authorised or about a business not actually providing claims management services.
28. Where however we find that a business is providing claims management services without authorisation, we always take action to ensure the business immediately ceases any regulated claims management activity and inform them about the requirement to be authorised. If they are able to satisfy us that they were not aware of the requirement and have ceased all activity, we will consider an application for authorisation, which would allow them to continue to trade lawfully.
29. Some unauthorised activity is much more blatant and deliberate. We have successfully dealt with individuals who are fully aware of the requirement to be authorised but continued to operate in the claims market unauthorised. Some were also found to have previously sought advice from us about authorisation, or had been previously authorised but had surrendered their authorisation or it had cancelled.
30. We have also seen examples of forged and doctored certificates of authorisation, which were used to convince solicitors that the business was authorised and should therefore pay for and accept referrals from them. In such circumstances we have taken a firm stance and refused any subsequent application for authorisation. We can ultimately seek to secure an injunction or prosecute businesses carrying out any type of unauthorised activity – although that sanction is often unnecessary as the activity usually ceases once we make contact with a warning.

Chapter 6 – Costs

- Costs and income
- Regulation fees - consultation and renewals

Costs and income

1. The operating costs of the CMR Unit are financed by regulation fees charged to CMCs (application fees and annual fees). The number of CMCs trading and level of business can be difficult to predict as the claims management market is typically volatile – being subject to changes in the economy, legal judgments that influence viability of claims (for example the court decisions in relation to PPI mis-selling), and policy changes such as reforms to the personal injury claims process and to legal costs and funding. Costs and income have both increased during 2012/13, reflecting changes to regulation fee levels and growth of CMC activity in the financial claims sector and a corresponding increase in the regulatory resources of the CMR Unit.
2. Fee income has been enhanced by the continued high level of mis-sold PPI claims, evidenced by the increase in the turnover declared for the financial services and products claims market. Full costs recovery was achieved in 2012/13. The additional fee income received is being used to fund temporary focused expansion of compliance and enforcement activities, particularly in respect of dealing with businesses operating in the PPI and personal injury sectors.
3. In 2013/14, a number of reforms are likely to significantly affect the claims industry, including the bans on referral fees and the offer of inducements to pursue a claim. These policy changes will particularly impact on the personal injury sector (reducing applications, the number of CMCs continuing to operate and their future turnovers), dependant on their reliance on referral fees and whether they are in a position to alter their business models. Turnover for the personal injury sector accounted for 35% of the total claims industry's turnover in 2012/13, a decrease

from 59% in the previous year. This contraction is likely to have an impact on fee income.

4. We carried out an analysis of the industry and the effect on costs and income that led us to propose a number of adjustments including a reapportionment of approximately 10% of the cost of regulation to the financial services sector via a fee uplift payable by all CMCs carrying out regulated activities within that sector. The financial sector uplift is a percentage of the turnover declared for businesses activities in that sector and is capped at £25,000.
5. As a significant amount of our resource is focused on this sector, the regulatory costs need to be more fairly apportioned. There has been a great deal of concern around the possible malpractices of CMCs in the PPI claims sector and this, together with the high volume of complaints from consumers and businesses led us to undertake a programme of specialist work. Our costs/income analysis also suggested that in order to ensure full costs recovery in 2013/14, in addition to the above change, we should also increase the application fee, and remove the caps on the maximum amount payable in relation to regulation. These proposals were consulted on in the normal way, as set out below.

Costs and fee receipts summary 2012/13		£m
Costs		
CMR Unit		3.46m
Fee income		
Application fees		0.86m
Annual regulation fees		2.60m
Total		3.46m

Regulation fees consultation and renewals

Consultation exercise

6. The fee levels paid by CMCs are reviewed and consulted on each year to ensure that they are proportionate and regulation is self financing. A consultation paper⁶ published in November 2012 set out proposals for fee levels for 2013/14 that would:
 - Increase application fees to £1,400
 - Increase the current caps on annual regulation fees to a single cap of £50,000
 - Implement a fee uplift for those CMCs operating in the financial products and claims sector, capped at £25,000
7. The consultation paper was sent to all regulated CMCs (at that time a total of around 3,000 CMCs) and other interested parties across the various claims sectors. 33 responses were received, 22 of which were from regulated CMCs. Having considered the responses, the proposed increases were implemented with effect from April 2013.

Annual Fee collection exercise

8. The process for collecting 2013/14 regulation fees from CMCs commenced in February 2013. Further updates and changes to the process have seen a continuation of the previous year's improvements in the efficiency of fee collection. Significant factors included the following:
 - On-line renewal has been further streamlined and is designed to speed up the process for CMCs.
 - The need to increase fee levels was well publicised and acted as an incentive for CMCs to pay the new fees at an early stage. CMCs that did not complete the process by the deadline were promptly reminded and pursued to ensure a response and settlement of any outstanding fees.

“ We carried out an analysis of the industry and the effect on costs and income that led us to propose a number of adjustments including a reapportion of approximately 10% of the cost of regulation to the financial services sector. ”

⁶ Consultation Paper CP 22/2012 - CMR fees paid by claims management businesses

Chapter 7 – Communications and Partnerships

- Communications
- Interested parties/stakeholders
- Media stories/coverage
- Guidance and advice
- Working with other organisations
- A summary – our year at a glance

Communications

1. Effective and regular communication with businesses, consumers, stakeholders and the media remain an important element of articulating the aims, role and achievements of the regulatory regime. Over the last year we have made full use of a range of communication channels to inform, assist and exchange views with the wide variety of those with an interest in our work.

Business bulletins

2. We publish regular business bulletins which are distributed to all authorised businesses to provide them with advice, guidance and notice of relevant issues. Bulletins have included advice on making speculative PPI claims and dealing with vulnerable consumers (June 2012); a special bulletin focussed on changes to the Conduct Rules (September 2012); advice on the referral fee ban for personal injury cases and illegal text messages (December 2012); a reminder about the ban on offering inducements and advice about identifying potential new claims areas (March 2013).

“ The MoJ Press Office received over 400 separate media enquiries relating to claims management. ”

Conferences and seminars

3. Kevin Rousell, the Head of Regulation, has attended and given presentations at a number of conferences/seminars over the past year, including addressing an Eversheds CMR Seminar (Oct 2012); the All Party Parliamentary Group on Insurance and Financial Services (Oct 2012); the Building Societies Association Chief Executives Annual Meeting (Nov 2012); and the Solicitors Regulation Authority Referral Fees Forum (Nov 2012).

Claims Management Regulation web presence

4. In the past year we took forward a number of measures to improve the way we communicate online with consumers, businesses and stakeholders. This included a complete revamp of our consumer web pages to ensure consumers have access to the information that will help them to make informed decisions, and the launch of a new section for businesses on how the referral fee ban will be enforced in personal injury cases.
5. During the last quarter of 2012/13, we commenced work to create a new enforcement section on our website, aimed at members of the public, businesses and stakeholders. This was completed in June 2013. The new enforcement web pages will be regularly updated to reflect the work we are undertaking to tackle malpractice in the industry, with particular emphasis on current areas of concern, such as the PPI and personal injury claims sectors and unsolicited direct marketing. This also includes a list of the most recent investigations and enforcement actions, and where appropriate, brief summaries of the reasons behind our decisions.

Interested parties/stakeholders

6. A Regulatory Consultative Group (RCG) which was established from the beginning of regulation to ensure effective involvement of interested parties in the development and operation of the regime, continues to meet quarterly to review progress. The RCG includes representatives of CMCs, other relevant regulators, complaint handlers, industry bodies, consumer groups and other interested organisations. A full list of RCG members is set out in Annex B.
7. We also have separate regular liaison meetings with a number of organisations, including the Insurance Fraud Bureau, British Bankers Association, Building Societies Association, Financial and Leasing Association, UK Cards Association, and consumer groups, Which? and Citizens Advice.

Media stories/coverage

8. There continues to be significant media interest in the claims management industry, with coverage ranging from national press and television, consumer outlets such as Rip-Off Britain, and specialist media interest in trade magazines and online.
9. The majority of media coverage has been related to mis-sold PPI claims, unsolicited marketing calls/texts and fraudulent accident/injury insurance claims. There has also been an increased interest in how the Claims Management Regulator is engaging and working with other regulators such as the ICO and Ofcom to tackle unsolicited calls and texts.
10. By effective engagement with key media we have been able to communicate our role, the main issues affecting the industry and the latest changes to the CMR Conduct Rules. The key messages for 2012/13 were:
 - Raise consumer awareness about the claims management industry
 - Raise awareness of the enforcement action taken against CMCs that breach the rules
 - Highlight the joint approach to working with the ICO and Ofcom
11. The MoJ Press Office received over 400 separate media enquiries relating to claims management. The majority of these related to complaints about poor practice by some CMCs, cold-calling/texts and questions about our role and policy remit. When handling media enquiries the Press Office often provides background briefings to guide media outlets about any enforcement action without compromising ongoing investigations. This can help ensure accurate coverage – which highlights the work we are undertaking, while maintaining absolute discretion around any investigations that may be ongoing.
12. Kevin Rousell (Head of Regulation) has also taken part in a number of interviews during 2012/13 to reinforce our regulatory stance and message. Those interviews included Radio 5 Live, ITV, Sky, regional BBC Radio, Mail on Sunday, and consumer programmes such as Don't Get Done, Get Dom, Radio 4's Moneybox and BBC Rip-Off Britain.
13. Examples of claims management regulation coverage include:
 - Financial Times (April 2012) – MoJ statement about enforcement action and consumer guidance
 - BBC Panorama (April 2012) – guidance and facts given on PPI claims numbers
 - BBC Rip off Britain (May 2012) – MoJ statement and guidance to highlight the work done to shut-down a particular CMC
 - Sky Business Jeff Randall (May 2012) – Kevin Rousell interview on industry standards and enforcement action
 - BBC Radio 4 Moneybox (August 2012) – Kevin Rousell interview on the 2011/12 annual report and the launch of the Rules Review consultation

- The Times (January 2013) – Responding to claims from Citizen’s Advice of no improvement in industry standards
- Sunday Telegraph (February 2013) – Responding to a letter from the CEO of the Lloyds Group criticising the high number of spurious claims submitted by PPI claims management companies.

Guidance and advice

14. We have published several items of guidance and advice for businesses and consumers. These include:
- New guidance for CMCs on meeting the requirements of the ban on referral fees in personal injury cases
 - Publication of new pre-shopping guidance for consumers considering using the services of a CMC to make a claim or wishing to make a claim themselves
 - Publication of new online guidance for consumers on what to do when they receive unsolicited calls and text messages marketing claims services
 - Publication of new step-by-step guidance for consumers on how to make a complaint to a CMC
 - Notifying consumers, as appropriate, of a particular business entering administration. We provided consumers with a dedicated factsheet that set out the options and advice on next steps.
 - Updated advice to consumers about new variations of scams which have tricked a number of consumers into sending money overseas using money transfer methods such as Ukash® vouchers, Western Union, or the Post Office’s Moneygram® service.
 - Updated guidance on CMCs’ obligations when marketing their services

Working with other organisations

15. During the past year we have established a memorandum of understanding (MoU) with the ICO and refreshed our existing MoU with the FCA. We have also agreed MoUs and information sharing agreements with other regulators and organisations, including the FOS, SRA, and the FSCS. These agreements allow relevant information and intelligence to be exchanged between the parties to help them exercise their respective functions. Information is shared in a way that complies with legal requirements and the principles set out in the agreements.
16. We continue to have regular meetings with other key regulators such as the SRA, FCA, FOS, ICO, Ofcom, and the OFT to ensure we are aware of relevant regulatory or industry developments, emerging markets and any new areas of concern, so that issues are identified at an early stage and any action is agreed.

A Summary - Our Year at a Glance

April 2012

Claims Management Regulation had its fifth birthday.

New regulation fees for 2012/13 came into effect. Both annual and application fees increased.

We issued updated guidance advising consumers of their options when a CMC has its licence removed.

Kevin Rousell advised consumers about their rights in relation to PPI claims on BBC consumer programme, Don't Get Done, Get Dom.

May 2012

The Government responded to House of Lords debate on the regulation of CMCs.

Kevin Rousell reinforced our regulatory stance on PPI CMCs on Sky News and BBC Radio York.

June 2012

We reminded CMCs about their obligation to act responsibly in handling PPI claims, and in dealing with customer complaints and vulnerable consumers.

We explained our enforcement role to Which? and Money Saving Expert's PPI summit.

We hosted a Regulatory Consultative Group. The group included key stakeholders and interested parties.

We attended a meeting jointly hosted by Which? and Money Saving Expert to discuss with CMC trade bodies concerns about CMC practices.

July 2012

We participated in the Unsolicited SMS and Voice Broadcasting Working Group and Telecom Regulators Working Group established to tackle poor e-marketing practices.

Justice Minister, Jonathan Djanogly met with Which?, Money Saving Expert and the British Bankers Association to discuss how tougher regulation of CMCs can be achieved.

Kevin Rousell outlined our enforcement approach to tackling malpractice on BBC consumer programme, Rip Off Britain.

August 2012

We launched our Annual Report 2011/12, showing we investigated and took action against 409 poor practicing CMCs.

We launched a consultation on proposals to tighten the Conduct Rules for CMCs.

Kevin Rousell explained on BBC Radio 4's Today programme, proposed changes to the CMC Conduct Rules.

September 2012

Helen Grant MP was appointed Justice Parliamentary Under Secretary of State with responsibility for the regulation of claims management services.

We reminded CMCs of their obligation to comply with the ban on inducement advertising. The ban came into force on 1 April 2013.

Kevin Rousell explained industry standards and our approach to enforcement action on BBC Money Box.

October 2012

We launched the first of newly revamped web pages, making them more user friendly for businesses and consumers.

Kevin Rousell addressed the All Party Parliamentary Group on Insurance and Financial Services on current regulation issues and future reforms.

We took part in Modern Law Magazine's Round Table on the future of the personal injury sector.

November 2012

Kevin Rousell spoke at the Building Society Association's Chief Executive Annual meeting.

We spoke at the Solicitors Regulation Authority's Referral Fee Ban Forum. We explained how we will implement the ban.

We launched new online guidance for CMCs on meeting the requirements of the ban on referral fees in personal injury cases.

Justice Minister, Lord McNally responded to an Oral Parliamentary Question on what action we are taking to tackle unwanted text messages marketing claims services.

December 2012

We published our consultation response to proposed Conduct Rule changes. The new Rules came into force on 8 July 2013.

We attended a Referral Fee Ban working group.

We issued a PPI questionnaire for businesses to report concerns about poor CMC practices.

January 2013

We published our consultation response to proposed regulation fees for 2013/14. Application fees rose and an uplift for the financial claims sector was introduced.

February 2013

We launched new consumer web pages to help educate consumers about making informed choices.

We published new step-by-step complaints guidance for consumers.

We published the report, 'The PPI Claims Market: Dealing with Malpractice', summarising the targeted and proactive work we have undertaken in the PPI claims sector.

March 2013

Justice Minister, Helen Grant, spoke at an Adjournment Debate on the regulation of PPI CMCs.

We joined the Financial Conduct Authority's Coordination Committee.

We published new guidance for CMCs on meeting the requirements of the ban on referral fees in personal injury cases.

Chapter 8 – Regulatory Reform

- Changes to Conduct Rules
- Ban on referral fees
- Legal Ombudsman and claims management complaints
- Further reforms

Changes to Conduct Rules

1. Following a public consultation in August 2012⁶ a number of key changes to the Conduct of Authorised Persons Rules⁷ were implemented on 8 July 2013. These changes will ensure that the rules remain adequate and relevant whilst strengthening existing action to drive out poor practices and better protect consumers. Key amendments were made in the following areas:

- **CMCs referencing of their regulatory status:** The 'Ministry of Justice' brand has been removed from the regulatory statement. CMCs wishing to reference their claims management regulatory status can now only refer to being regulated by the 'Claims Management Regulator'.
- **Pre-contractual information and contractual agreements:** Any contract between a consumer and a CMC must now be agreed in writing, and the CMC may not take any payment from the client until the contract is signed. In addition, CMCs that operate websites are obliged to publish their standard and current contractual terms and conditions prominently on their websites. These terms must be clear for the benefit of consumers.
- **Client updates:** CMCs are now required to inform their clients of any enforcement action resulting in the variation or suspension of their authorisation to provide regulated claims management services. This must be done within 14 days of the imposition of such action.

2. During the past year we also completed the work involved in imposing a ban on CMCs offering financial rewards or similar benefits to potential claimants as an inducement to make a claim. The ban came into effect on 1 April 2013.
3. The CMC rules as amended will provide flexibility to adjust the scope and operation of regulation as needed to respond to the changes and volatility in the claims market. As the CMR industry continues to evolve, their practices are being monitored and we will respond with rules reform as necessary.

Ban on referral fees

4. On 1 April 2013, a ban on the payment and receipt of referral fees in personal injury cases came into effect, as part of reforms to the costs and funding of civil litigation⁸. The ban captures all relevant regulated businesses engaged in this practice – solicitors, CMCs and insurers. Breaches of the ban will be subject to regulatory action by the relevant regulators.
5. The ban will not prevent affected personal injury CMCs from undertaking other regulated claims management activities, such as advertising for claims, investigating and advising in relation to claims or representing both in the personal injury sector or an alternative regulated claims sector. CMCs will also be able to continue to carry out other work and services for solicitors.

⁶ <https://consult.justice.gov.uk/digital-communications/cmr-rules-consultation-cp15-2012>

⁷ <http://www.justice.gov.uk/downloads/claims-regulation/conduct-authorised-persons-2013.pdf>

⁸ Provisions in Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 make it a regulatory offence to pay or receive referral fees in personal injury cases.

Legal Ombudsman and claims management complaints

6. The Legal Ombudsman's jurisdiction will be extended to provide an independent complaints and redress scheme for clients dissatisfied with the service provided to them by CMCs. This will give consumers greater scope for redress including compensation awards which have not been previously available. Work is currently underway to put in place the necessary legislative, operational and financial arrangements to deliver this change.

Further reforms

7. We began work in the first quarter of 2013 on further measures to improve enforcement action and tighten the Conduct Rules. These include:
 - **Strengthening the CMR Conduct Rules:** We are developing proposals to tighten the Conduct Rules for CMCs to help tackle more effectively poor CMC business practices when presenting financial claims. The proposals will take into account the problematic behaviours identified by defendant businesses, the FCA and FOS. We have started informal consultations with representative bodies from the financial sector, selected banks, the FOS and the FCA. A public consultation is planned for later this year.

- **Reinforcing the CMR Unit's resources:** We took steps during the first quarter of 2013 to double the auditing and related compliance capacity of the PPI compliance team with additional staff and support services. Audits and monitoring will be focused on the higher profile and larger CMCs, including 50 - 60 priority CMCs. The extra resources will ensure that our PPI compliance team can move more quickly to investigate and take enforcement action where CMCs have broken the rules.
- **Expanding engagement with financial stakeholders:** As part of an ongoing engagement programme we are extending our liaison with the FOS, FCA, major financial services providers, and representative organisations to share intelligence on CMC activities and help identify those CMCs that are non-compliant. This includes where appropriate, discussions on rule changes and CMC relationship management.
- **Improved publication scheme:** We have started to publish more information online on the enforcement work we undertake to tackle malpractice. This is part of ongoing work to raise industry standards and ensure consumers have all the up-to-date information they need to make a decision.

“ Any contract between a consumer and a CMC must now be agreed in writing, and the CMC may not take any payment from the client until the contract is signed. ”

Chapter 9 – Priorities for 2013/14

- **Outcomes**
- **Priorities for 2013/14**

Outcomes

1. The following outcomes will continue to drive the operational priorities:
 - Consumers protected from CMC malpractice
 - CMCs responsive to regulatory safeguards
 - Reduced false expectations of compensation and fraudulent claims and disruption of CMCs engaging in other forms of criminality
 - Improvements in quality and professionalism of CMCs, of confidence in compliant providers and in the system
 - Increased transparency of the market, particularly in relation to charges, commission payments and the provision of information
 - Improvement in industry practices and processes providing consumers with genuine claims with more efficient and effective routes to redress

Priorities for 2013/14

Tackling malpractice in handling of PPI claims

2. Address issues arising from the handling of PPI claims by some CMCs, including submission of claims where CMCs are unable to substantiate mis-selling allegations and premature involvement of the Financial Ombudsman Service.

Enforcing ban on referral fees for personal injury claims

3. Conduct review of personal injury market to ensure that their business relationships and practices comply with the ban and take enforcement action where appropriate.

Enforcing conduct rule changes

4. Ensuring CMCs comply with the rules as amended in respect of the ban on inducements, referring to being regulated by the Claims Management Regulator (rather than the Ministry of Justice), making contracts with clients in writing and informing clients of changes to their status i.e. suspension or variation.

Unauthorised activity

5. Tackle unauthorised trading and identify priority targets on a risk assessed basis, with particular regard to personal injury CMCs which surrender their authorisation but may be continuing to offer claims services in that sector.

Unsolicited marketing including SMS text and telephone cold-calling

6. Identify the sources of unsolicited marketing, work with other regulators with powers in this area (ICO and Ofcom) and tackle any rule breaches.

Complaints handling

7. Ensure CMCs recognise what constitutes a complaint and are handling complaints in accordance with the rules.

Fair treatment of consumers/clients

8. Tackling CMCs whose marketing is misleading and contracts are unfair and ensuring that information provided to potential clients is clear and transparent, particularly in relation to charges and cancellation.

Annex A

Abbreviations

ASA	Advertising Standards Authority
CMC	Claims management company
CMR	Claims Management Regulation
FOS	Financial Ombudsman Service
FCA	Financial Conduct Authority
FSCS	Financial Services Compensation Scheme
ICO	Information Commissioner's Office
IFB	Insurance Fraud Bureau
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
Moj	Ministry of Justice
OFT	Office of Fair Trading
Ofcom	Office of Communications
PPI	Payment Protection Insurance
RCG	Regulatory Consultative Group
SRA	Solicitors Regulation Authority

Annex B

Claims Management Regulatory Consultative Group

Advisory, Conciliation and Arbitration Service (ACAS)

www.acas.org.uk

Advertising Standards Authority (ASA)

www.asa.org.uk

Association of British Insurers (ABI)

www.abi.org.uk

Association of Mortgage Intermediaries (AMI)

www.a-m-i.org.uk

Association of Personal Injury Lawyers (APIL)

www.apil.org.uk

Association of Professional Financial Advisors (APFA)

www.apfa.net

Association of Regulated Claims Management Companies

www.arcmc.org.uk

British Bankers Association (BBA)

www.bba.org.uk

British Insurers Brokers Association (BIBA)

www.biba.org.uk

Building Societies Association (BSA)

www.bsa.org.uk

Citizens Advice Bureau (CAB)

www.citizensadvice.org.uk

Claims Standards Council (CSC)

www.claimscouncil.org

Council of Mortgage Lenders (CML)

www.cml.org.uk

Employment Appeal Tribunal Service

www.employmentappeals.gov.uk

Financial and Leasing Association (FLA)

www.fla.org.uk

Financial Conduct Authority (FCA)

www.fca.org.uk

Financial Ombudsman Service (FOS)

www.financial-ombudsman.org.uk

Financial Services Compensation Scheme (FSCS)

www.fscs.org.uk

Law Society

www.lawsociety.org.uk

Legal Ombudsman

www.legalombudsman.org.uk

Motoring Accident Solicitors (MASS)

www.mass.org.uk

National Debtline

www.nationaldebtline.co.uk

Office of Fair Trading (OFT)

www.oft.gov.uk

Solicitors Regulation Authority (SRA)

www.sra.org.uk

The Direct Marketing Association (DMA) Ltd

www.dma.org.uk

UK Cards Association

www.theukcardsassociation.org.uk

Unison/TUC

www.unison.org.uk

Which?

www.which.co.uk

Annex C

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