

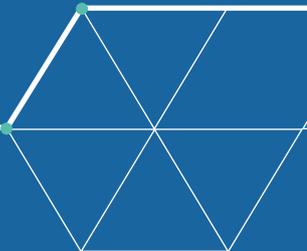


Ministry
of Justice



CLAIMS MANAGEMENT REGULATION

Annual Report
2017/18



Contents

Introduction from Head of Claims Management Regulation	4
The year in numbers	6
About us	8
What we do	9
Our remit	9
Costs and income.....	9
Governance	10
Chair of the CMR Board	10
CMR Board members.....	11
Summary of performance and reforms.....	12
Other key issues	15
Activity summary	15
Claims management landscape	16
Total number of CMCs and annual turnover	17
Overview of claim sectors.....	17
Total industry turnover since 2015/16.....	17
Personal injury	18
Financial products and services.....	18
Other regulated claims sectors.....	19
Applications for authorisation	19
Geographical distribution of CMCs	20
Enforcement	22
Our approach	23
Effective Enforcement.....	23
Promoting compliance and helping businesses	24
Compliance priorities	24
Tribunal appeals.....	30

Communications and partnerships	32
Communications	33
Working with other organisations	33
Media stories and coverage	34
Regulatory reform and impact	36
Financial Guidance and Claims Act 2018	37
Conduct rule changes	37
Better Regulation Programme	37
Priorities for 2018/19	38
Nuisance calls and texts	39
Personal injury claims	39
Financial claims	39
Unauthorised activity	39
Glossary	40
Claims Management Regulatory Consultative Group	41
Annex A	41
Annex B	42
The Regulator’s Code	42
Contact Information	43



**Introduction
from Head
of Claims
Management
Regulation**



This was a year of positive regulatory action across all regulated claims management sectors, action aimed at safeguarding the interests of consumers, protecting the public and increasing the professionalism of CMCs. The proportionate statutory enforcement action we have taken, in particular financial penalties and cancellations, has been effective in tackling misconduct and has also stood the test of independent scrutiny with the First Tier Tribunal ruling in our favour in all eight statutory appeals made against our decisions.

A regulatory highlight for me this year was being able to complete the job started in 2016/17 to strike down misconduct in the holiday sickness claims market. An excellent collaborative effort with the Solicitors Regulation Authority, the Ministry of Justice and ABTA secured effective action to tackle the range of enablers, practices and costs incentives contributing to the surge in reported unmeritorious and fraudulent claims. We have also responded quickly to an unexpected increase in housing disrepair claims activity, to help protect consumers and landlords from any CMC bad practices and prevent an increase in unmeritorious claims in this area. The lessons learnt from the holiday sickness claims experience have been relevant.

We have continued to bear down on the nuisance non-compliant direct marketing involving CMCs, and joint work carried out with the Information Commissioner has been very productive. We also have

monitored actively the work carried out by CMCs on PPI claims and intervened where needed, particularly where issues have arisen in relation to the increased volume of CMC marketing activity conducted alongside the Financial Conduct Authority's (FCA) own PPI time bar advertising campaign. In the personal injury sector, we have sharpened further our focus on rooting out bad practices identified in the acquisition and handling of claims and have policed carefully the still much debated ban on the payment or receipt of referral fees.

Across the board we have reinforced and strengthened our intelligence functions, capabilities and market research and improved our information sharing relationships with other key agencies. For example, we have established a closer relationship with the Insolvency Service to assist with the vital follow up action concerning directors of CMCs which have gone into liquidation after we have fined or cancelled their authorisations.

One of the top priorities in 2018/19 is to ensure that CMCs comply with the fee reforms introduced in April 2018, including the total ban on the charging of upfront fees in PPI claims. We will be policing with equal vigour and precision the interim cap on CMC fees in PPI claims, which was introduced by the Financial Guidance and Claims Act 2018 and comes into effect from 10 July 2018.

This Act also introduced the statutory framework needed to enable the transfer of responsibility for regulating CMCs to the

FCA in April 2019¹ and so this will be the final annual report produced by the Claims Management Regulation (CMR) Unit in the Ministry of Justice. We are working closely with the FCA on the preparations to deliver a smooth and orderly transition of CMC regulation. This work is already well progressed and has included sharing information, knowledge and experience of the CMC sector with the FCA, feeding into initial work on the practicalities of transition and contributing to the development of the FCA's policy proposals to regulate the CMC industry, as set out in CP 18/15 Claims Management.²

Every member of staff of the current CMR Unit will be contributing in some way in the preparatory work for transfer, whilst delivering existing regime regulation up to April 2019. I am extremely grateful to all staff, past and present for their enthusiasm, commitment and resilience during the last 11 years. This has been a very tough gig but also an immensely rewarding one, which has made a real difference to the general quality of CMC services delivered and better outcomes for consumers choosing to use CMCs. The legacy will be a strong one for the FCA to pick up and build on.

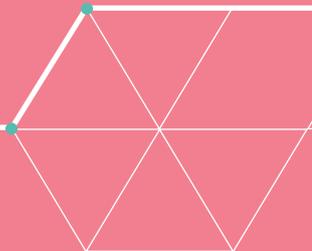
Kevin Rousell

¹ Subject to Parliamentary approval of secondary legislation effecting the transfer.

² <https://www.fca.org.uk/publications/consultation-papers/cp18-15-claims-management>

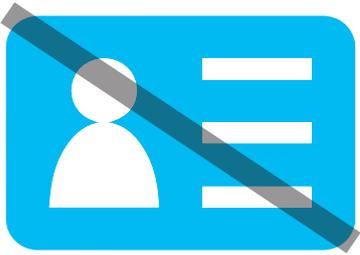
01

The year in numbers





£279,050
total fines issued

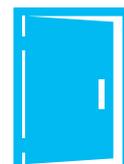
45 
licences cancelled

 **252** warnings issued

£763 million total reported industry turnover

 **6,400**
new contacts

7 warrants executed to enter premises and seize evidence



 **367**
audits conducted

334,256

 number of visits to the CMR homepage

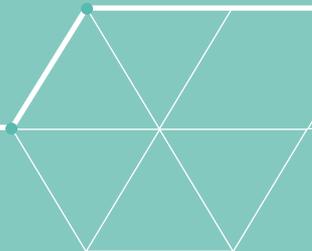
 **1,238**
number of CMCs

100+ media enquiries



02

About us



What we do

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 Act”). The 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 required to be authorised irrespective of their registered address or location of the business, unless otherwise exempt. Exemptions under the Act include those already regulated – for example solicitors, insurers, not for profit organisations and independent trade unions. Businesses authorised under the Act are subject to a range of statutory conditions, including compliance with the Conduct of Authorised Persons Rules (“the 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 policy and delivery of the regulatory system, which includes handling applications, 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, financial penalties and cancellations, and managing policy, funding, communications, and stakeholder relations. MoJ has contracted Staffordshire County Council to provide our monitoring and compliance services. The CMR Unit is located in London and Burton-on-Trent.
4. The claims sectors subject to regulation under the Compensation Act 2006 are:
 - Personal injury
 - Financial products and services
 - Employment
 - Industrial Injuries Disablement Benefit
 - Criminal injuries compensation
 - Housing disrepair
5. The types of claims management activities regulated are:
 - 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

Costs and income

6. The CMR Unit is self-financed through application and annual authorisation fees paid by regulated CMCs. The annual fees are set in advance of the financial year they apply to and are based on estimates of the number of CMCs trading, the level of turnover forecast, and the number expected to apply for authorisation offset by the number of estimated market exits. Fee levels for the 2017/18 regulation year were left unchanged from the previous two years. A consultation paper published on 2 February 2018 confirmed those fee levels – see details at: <https://www.gov.uk/government/consultations/regulation-fees-paid-by-claims-management-companies-2018-to-2019>

GROSS COSTS AND FEE RECEIPTS SUMMARY 2017/18		£MILLION
Gross costs		
CMR Unit		6.5
Fees income		
Application fees		0.2
Annual regulation fees		6.3
Total		6.5

7. We also collect complaints fees in respect of the Legal Ombudsman which handles service complaints about CMCs. The fees payable by CMCs for complaint handling are set out in the schedule of the Legal Services Act 2007 (Claims Management Complaints) (Fees) Regulations 2014 and have been amended by the Legal Services Act 2007 (Claims Management Complaints) (Fees) (Amendment) Regulations 2017.

Governance

8. The CMR Unit reports to the Secretary of State for Justice. Oversight is also provided by the CMR Board. The Board is advisory and made up of MoJ and Staffordshire County Council officials and two non-executive members. The non-executive appointments reflect internal governance arrangements that allow independent challenge and receipt of expert advice to enhance the delivery of regulation. The Board meets formally on a quarterly basis, with Board members also involved in other informal ad-hoc meetings during the year to discuss CMR related matters as needed. Senior representatives from the Solicitors Regulation Authority and Information Commissioners Office have been invited to attend a CMR Board meeting.

Chair of the CMR Board



“As with previous years, 2017 has been equally busy for the CMRU and as always, the team, under Kevin’s strong leadership, has tackled each challenge with the rigor and gusto we’ve come to expect from them.

In the background the team have worked hard to support the development and passage of the Financial Guidance and Claims Act 2018

through Parliament following my review into the regulation of claims management companies in 2016.

Clearly the regulatory landscape will change considerably as regulation moves to the FCA and in my last year on the Board I would like to take the opportunity to thank a number of colleagues:

Firstly, my thanks to Kevin and all of his team for their continued hard work and dedication, not only throughout the past year, but during a time which brings a lot of uncertainties and which will impact on them all personally. The fact that the level of service has never wavered throughout is real testament to the team’s professionalism under Kevin’s leadership.

Secondly, I’d like to thank my fellow Board members for their time and commitment in over-seeing the work of the unit and for their wise counsel when steering the direction of travel and strategic approach.

Thirdly, I’d like to thank all our stakeholders whether other regulators, agencies or claims management companies for so openly engaging with us and in assisting to further drive improvements within the sector.

Finally, I’d like to wish the FCA every success in the transition of the arrangements and, as they will no doubt have already learnt, believe they have a hard act to follow”.

Carol Brady MBE

CMR Board members



Carol Brady
Non-Executive Chair
of Board



Kevin Rousell
Head of CMR Unit



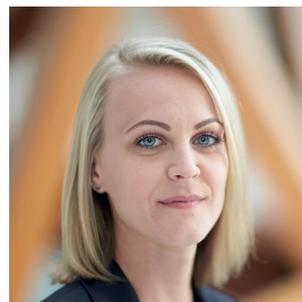
Caroline Wayman
Non-executive
Board member



Trish Caldwell
Regulatory Services
Commissioner
(Staffordshire County Council)



Alison Wedge
Deputy Director
(Ministry of Justice)



Vicki McAusland
Deputy Head of CMR Unit
(Delivery and Policy)

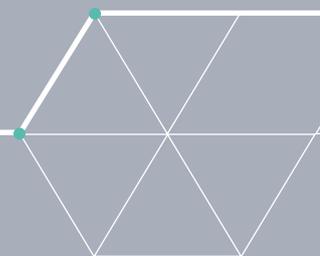


Sarah Mutton
Deputy Head of CMR Unit
(Strategy and People)

03

Summary of performance and reforms

“We responded swiftly and decisively to the increase in non-compliant... holiday sickness claims ... misconduct in this sector has significantly reduced.”





New CMR conduct rules

We revised the conduct rules¹ to ban up-front fees in PPI cases, prohibit charges on unsuccessful PPI cases and introduced a requirement to provide an itemised bill where an agreement has been cancelled and the CMC issues an invoice. These rules came into effect on 1 April 2018. We also published supporting guidance.

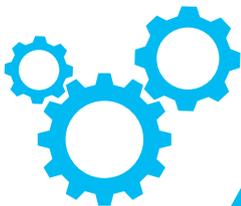
¹ Conduct of Authorised Persons Rules 2018



Interim fee cap on PPI cases

The Government legislated for an interim cap on the fees payable on PPI cases in the Financial Guidance and Claims Act 2018, which gained Royal Assent on 10 May. Those powers prohibit fees of more than 20%, exclusive of VAT, being charged for PPI claims and restricts CMCs and legal services providers from charging the client where no award has been recovered. The fee cap will come into force on 10 July 2018 and we have published guidance for CMCs.

Transfer of CMR to FCA



We have been working very closely with the FCA to help them develop a detailed understanding of the claims management market, its challenges, our experience of regulating the industry, and to provide further information as they plan and prepare to assume responsibility for regulation.

We responded swiftly and decisively to the increase in non-compliant conduct in relation to holiday sickness claims. This activity began to emerge in 2016/17 when we scoped the issues and engaged with stakeholders. We continued with an intensive audit programme of CMCs and close working with other regulators and stakeholders to tackle misconduct.

The multi-agency approach adopted has included CMR taking action against non-compliant CMCs; the Solicitors' Regulation Authority dealing with solicitors; the Association of British Travel Agents (ABTA) and tour operators educating holiday-makers and more vigorously defending false claims; and the Government announcing proposed reforms. The misconduct in this sector has significantly reduced as has the general level of holiday sickness claims activity.



Holiday Sickness Claims



Housing Disrepair claims

There has been an increase in activity in housing disrepair claims during the year, which has formed part of a wider upward trend of property related complaints - including cavity wall insulation claims and claims about conditions of private rental properties (which generally does not fall within the current scope of CMR). This growth occurred mainly during the second half of the year, coinciding with receipt of a rise in reports from local authorities and social housing providers about activities in this sector. Activities include reports of door-to-door canvassing which is a breach of the conduct rules if seeking out potential housing disrepair clients.

Although smaller in scale to holiday sickness claims, we are adopting a similar response by establishing contacts, sourcing intelligence and conducting a series of audits of CMCs operating in this claim area. Our regulatory work is aimed to ensure consumers, particularly vulnerable ones who become part of this claims activity, are protected and non-compliant CMCs are challenged.

We have worked closely with the Insolvency Service on cases related to individuals who have been involved with CMCs where the business had its authorisation cancelled or had been subject to a financial penalty, and either during the investigation or following enforcement action, went into liquidation. As a result of the Insolvency Service conducting its own investigation into these businesses, 13 former directors of CMCs have been disqualified for a total of 102 years since March 2017.



Disqualification of directors

During 2017/18, eight new appeals were made to the First Tier Tribunal about CMR decisions related to refusal of authorisation, financial penalties and cancellations. The Tribunal found in our favour in every case. We have continued to learn from each appeal and have improved further our internal processes and policies based upon comments and findings of the Tribunal to ensure our decisions continue to be robust.



Tribunal Appeals

Other key issues

9. CMC numbers have continued to reduce with more market exits than entrants. The majority of CMCs operate compliantly in what is now a more mature and established market, although we continue to deal with individual instances of serious rule breaches which require investigation. We commenced 35 new investigations during the year and at 31 March 2018 there were 41 ongoing investigations. We imposed financial penalties on six CMCs totalling £279,050 and cancelled the authorisation of 45 CMCs for failing to comply with their conditions of authorisation, including non-payment of annual fees.
10. We continued to focus on tackling nuisance calls where this involves CMCs and to support the work of the lead regulator in this area, the Information Commissioners' Office (ICO). The ICO have reported an overall decrease in the number of complaints year-on-year since 2016, with a sharper reduction in recent months. The ICO cite a number of

possible reasons for the decrease including action they have taken, but also list regulatory action that CMR (and Ofcom) has taken as a factor.

11. PPI complaints remain the key feature of the financial claims market, and we have continued to challenge any misleading marketing, poor quality claims and mishandling of cases. We monitor the market by conducting audits of CMCs and engaging closely with some of the largest CMCs through our relationship management programme. We have good working relationships with stakeholders across the industry, in particular the Financial Ombudsman Service, Legal Ombudsman, Financial Conduct Authority, Financial Services Compensation Scheme, individual financial services providers and representative bodies in the financial claims sector which helps to inform our monitoring in this area.
12. We have published guidance and bulletins for CMCs and updates on enforcement activities throughout the year. All guidance and information published since 2014 remains

accessible on the CMR part of the GOV.uk website. The authorised business register is the most accessed area of our website and has received over 5.8 million views this year, up 22% on the previous year. We have also handled over 3,200 consumer contacts, of which 2,550 related to consumers who were unhappy with the service provided by a CMC. In most cases, we have signposted those consumers to the Legal Ombudsman, who are able to consider complaints about CMCs.

Activity summary

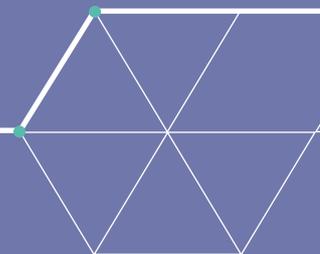
13. The following data provides a summary of CMR activity over a period covering financial years 2015/16 to 2017/18. These statistics show the trends, volume and range of the tasks we have undertaken and completed. Quarterly updates on CMR performance can be found on our enforcement web page at: www.gov.uk/government/publications/claims-management-regulator-enforcement-actions.

ACTIVITIES	2015/16	2016/17	2017/18
Total authorised CMCs (at end March)	1,610	1388	1238
New applications for authorisation	186	107	133
Applications refused	7	7	3
Applications withdrawn	67	25	40
Authorisations surrendered	266	242	199
Authorisations suspended	4	1	0
Authorisations cancelled	66	69	45
Authorisations varied (with conditions)	2	2	1
Financial penalties	4	7	6
Warnings	247	196	252
Audits	306	369	367
Visits	1,172	942	437

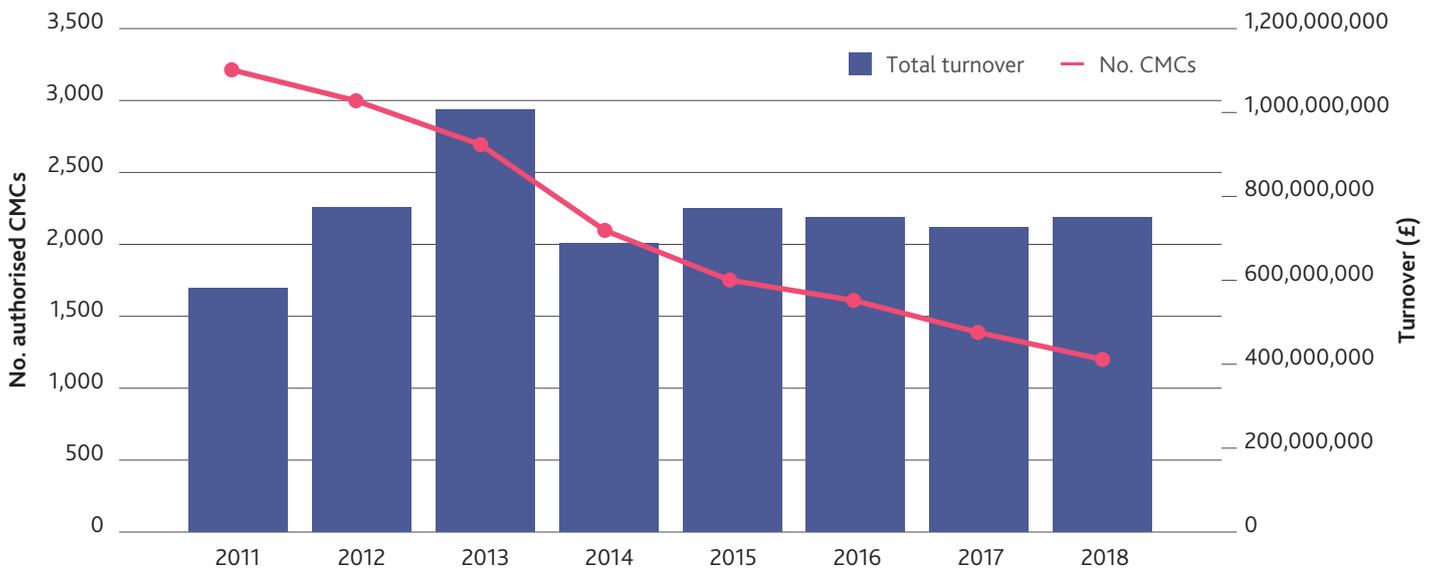
04

Claims management landscape

“Turnover for the PI sector decreased by 14% to £157m..... Turnover in the financial claims sector increased by £60m (11%) to £600m”.



Total number of CMCs and annual turnover



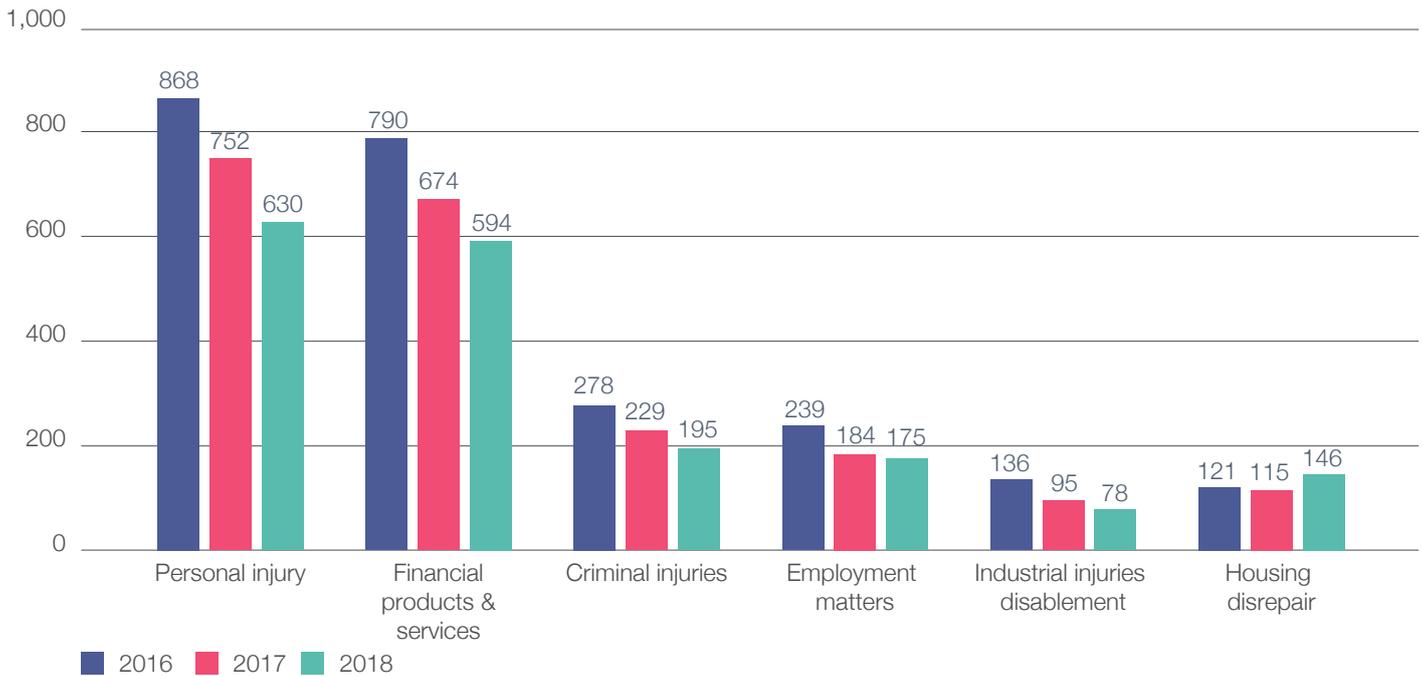
Overview of claim sectors

1. We have continued to see more exits than new entrants into the regulated CMC market – a continuation of the trend which has seen the number of authorised CMCs fall from 3,213 in 2011 to 1,238 in 2018. However, there remains a core of more established CMCs, with approximately two thirds of CMCs having been regulated for more than 5 years.
2. The total declared industry turnover for the 12 months to 30 November 2017 was £763m, an increase of 5%, with a small number of businesses holding a dominant market share in the two main sectors (financial claims and personal injury). The largest 25 CMCs account for 57% of all turnover – with the next 75 accounting for a further 27%.

Total industry turnover since 2015/16

SECTOR	2015/16	2016/17	2017/18
 Personal injury	£214.6m	£182.0m	£157.1m
 Financial products and services	£532.1m	£540.6m	£600.3m
 Employment	£2.1m	£1.8m	£2.5m
 Criminal injuries	£0.8m	£0.4m	£0.8m
 Housing disrepair	£0.6m	£0.7m	£1.5m
 Industrial injuries disablement benefit	£1.2m	£0.4m	£0.4m
Total	£751.4m	£726.0m	£762.6m

Total authorised CMCs by sector



Personal injury

- The number of regulated personal injury (PI) CMCs fell again this year by 16% from 752 to 630. This general contraction is an ongoing feature of the PI sector since the implementation of the referral fee ban in April 2013, with an overall reduction of 68% from 2,316 authorised PI CMCs just prior to the referral fee ban.
- Turnover for the PI sector decreased by 14% to £157m, a reduction of 65% from a peak of over £450m in 2012. PI now accounts for 25% of the total industry turnover, compared to the 2011 figure when it accounted for nearly two thirds of the industry revenue. The PI market consists of

a relatively small number of large CMCs operating nationally and a majority of small, locally operated CMCs working with a single solicitor at the other end of the market. For many of these smaller CMCs, PI work is now subsidiary to other ancillary business activities, such as accident management, vehicle recovery, storage, repair and vehicle hire.

- In January 2018 we asked CMCs to report if they handled holiday sickness claims. 140 CMCs declared they did, a reduction from 225 from our previous survey in August 2017. We have closely monitored developments in this area and in practice the actual level of activity is very low and CMCs have largely ceased taking on holiday sickness claims.

Financial products and services

- The number of CMCs operating in the financial claims sector is down 15% from last year with PPI remaining the largest and most active area. Business in this sector is concentrated on a small number of firms with six CMCs handling more than half of all PPI complaints and the 13 largest CMCs accounting for over 50% of the total turnover. Turnover in the financial claims sector increased by £60m (11%) to £600m. The increased public awareness through the FCA led advertising campaign regarding the PPI deadline and Plevin cases are likely to be factors behind this increase.

7. On 29 August 2017 new FCA rules came into effect which included how firms should handle complaints in light of the Supreme Court's decision in *Plevin v Paragon Personal Finance Limited* (Plevin). The Plevin decision meant that consumers had new grounds to complain about PPI. The Court found that where a significant proportion of the sum paid for the policy was commission, and this had not been disclosed to the consumer at the point of sale, this made the customer/lender relationship unfair. The FCA changed the rules to reflect this principle meaning that many previously rejected PPI complaints could be re-considered. Since 29 August 2017, many thousands of rejected cases have been reconsidered and new complaints have been assessed against Plevin where other mis-sale grounds were not proven.
8. CMC activity in the mis-sold packaged bank account (PBA) market has stabilised over the last two years. There are now just five CMCs that account for a significant proportion of PBA complaints, with some large PPI CMCs handling a small number of PBA cases and fewer than 15 smaller CMCs specialising in PBA cases (and not pursuing PPI complaints). Despite numbers of initial PBA complaints remaining flat, complaints brought to the Financial Ombudsman Service have continued to decline. PBA complaints to the Financial Ombudsman had more than doubled in 2015-16 to 44,244 before declining by 54% in 2016-17. Complaints decreased a further 42% in 2017/18 to 11,674³.
9. The number of CMCs operating in the mis-sold short-term (payday) loans market has increased by 45% to 125 between 2017 and 2018, and complaints about these products also continued to increase with complaints to the Financial Ombudsman Service increasing by 64% to 17,257 complaints⁴ in 2017/18, meaning that for the first time, the Ombudsman received more of these complaints than complaints about PBA. However, the overall number of complaints in each of these areas is still small compared to the number of PPI complaints (with 186,417 submitted to the Financial Ombudsman in 2017/18).
10. There are four other regulated claims sectors – employment, criminal injuries compensation, industrial disablement benefit and housing disrepair. Fewer CMCs actively operate in these sectors, although we have seen some recent developments in housing disrepair and employment claims.
11. There has been a 27% increase in the number of businesses operating in the housing disrepair sector to 146 CMCs which equates to approximately 12% of the total number of authorised CMCs. New applications for authorisation, which include housing disrepair as an operating sector, have also increased by 69% from 13 in 2016/17 to 22 in 2017/18. Housing disrepair turnover has increased over the last two years with an increase of 112% in 2017/18 from £0.7m to £1.5m – this followed a 22% increase in declared turnover between 2016/17.
12. We anticipated that the Supreme Court decision in July 2017 on tribunal fees in employment cases would lead to an increase in CMC activity due to the likely increase in potential claimants seeking representation. Turnover in the employment sector has increased by a third to £2.5m and the proportion of employment CMCs leaving the market is lower than the average market exit rate.
13. Applications for authorisation increased slightly this year to an average of 11 applications per month (compared to 9 per month in 2016/17). Applications from businesses intending to operate in the PI sector were up by 32% and up 11% in the financial products and services sector. Applications for housing disrepair CMCs were also up by 69% to 22 in 2017/18.

Applications for authorisation

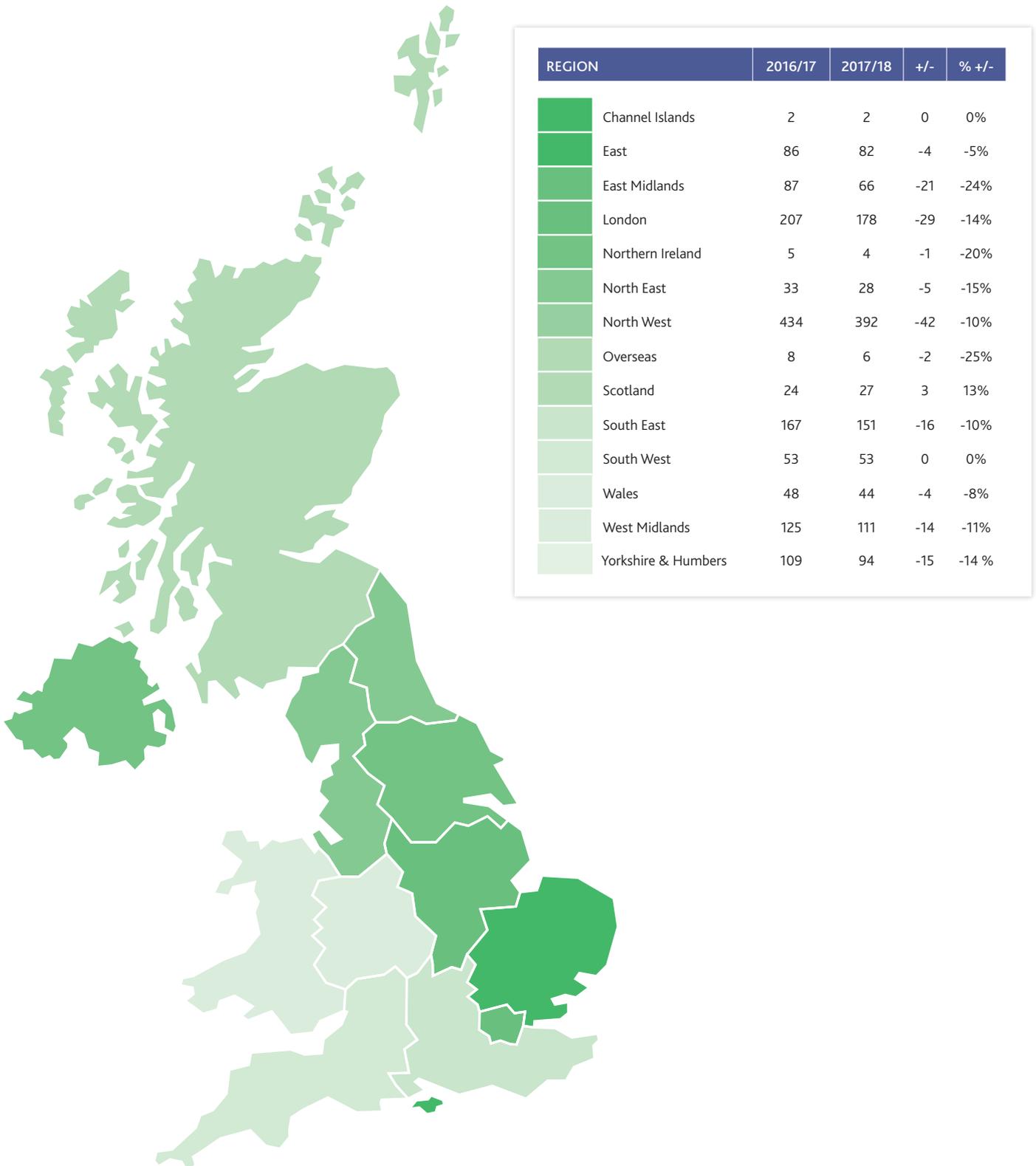
Other regulated claims sectors

3 <http://www.financial-ombudsman.org.uk/publications/annual-review-2018/PDF/data-in-more-depth.pdf>

4 <http://www.financial-ombudsman.org.uk/publications/annual-review-2018/PDF/data-in-more-depth.pdf>

Geographical distribution of CMCs

14. The North West and London remain the locations with the highest concentration of regulated CMCs, with little change from the previous years.

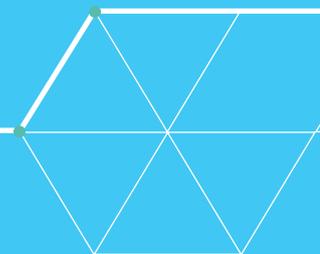




05

Enforcement

“We issued 252 warnings to CMCs and, where appropriate, issued compliance advice following 367 audits conducted and the 437 visits made”



Our approach

1. CMCs are required to comply with the Conduct of Authorised Persons Rules, last amended on 1 April 2018. CMCs breaching the conduct rules risk enforcement action being taken against them. Where the breaches are less serious, we will deal with these with advice and warnings, requiring the CMC to take remedial action. Where concerns are more serious and/or persistent, we investigate the conduct of the CMC. If we find evidence of breaches during the investigation, we have a range of statutory enforcement powers available to address the misconduct. We can apply directions requiring a CMC to take specific actions or additional conditions of authorisation to facilitate compliance. We are also able to impose financial penalties on CMCs, suspend or cancel the authorisation of a CMC. Where appropriate, statutory action taken against CMCs is published on the CMR website at www.gov.uk/government/publications/claims-management-regulator-enforcement-actions.
2. It is a criminal offence to provide regulated claims management services without authorisation or exemption. We review all reports of unauthorised claims management activity and can prosecute those found to have committed offences. The priority is always to stop the activity at the earliest opportunity - so few cases result in a prosecution. Steps taken can include warning a business, issuing a caution or seeking an injunction. We can also execute warrants, issue notices requiring the production of documentation or, interview those suspected of unauthorised activity under caution to gather evidence.
3. During this year, we launched 35 new investigations – which involved 27 authorised CMCs and eight businesses suspected of providing claims management services without authorisation. We issued 252 warnings to CMCs and, where appropriate, issued compliance advice following 367 audits conducted and the 437 visits made. We also imposed financial penalties on six CMCs; varied the authorisation of one CMC; issued directions to another; and cancelled the authorisation of 45 CMCs for failing to comply with their conditions of authorisation, including for non-payment of annual fees.
4. We have continued to build and use relationships with stakeholders to identify and tackle CMC misconduct in the market. Information provided by stakeholders has proved important in assisting us to identify market developments and trends as well as instances of malpractice. Where another agency is better placed to take action against a CMC, we will provide them with the relevant evidence via information sharing gateways and support their investigations. We have also continued to work with police forces in respect to investigations into organised fraud and other criminal activity.
5. Over this year we have developed further our relationship with the Insolvency Service, through which we have referred details of cases where they are investigating, or looking to investigate, a CMC that has gone into liquidation. This has resulted in 13 individuals that were directors of CMCs being disqualified for a total of 102 years.
6. Eight of those disqualifications related to directors involved with CMCs that adopted high-pressure sales techniques and misled clients during sales calls in order to take a fee in advance of providing any services. Each of these CMCs were either under close regulatory scrutiny or had been subject to enforcement action by the time the business went into liquidation owing money to clients that should have had their fees refunded. The case studies below demonstrate the sort of action taken in this area.

Effective Enforcement

4. We have continued to build and use relationships with stakeholders to identify and tackle CMC misconduct in the market. Information provided by stakeholders has proved important in assisting us to identify market developments and trends as well as instances of malpractice. Where another agency is better placed to take action against a CMC, we will provide them with the relevant evidence via information sharing gateways and support their investigations. We have also continued to work with police forces in respect to investigations into organised fraud and other criminal activity.
5. Over this year we have developed further our relationship with the Insolvency Service, through which we have referred details of cases where they are investigating, or looking to investigate, a CMC that has gone into liquidation. This has resulted in 13 individuals that were directors of CMCs being disqualified for a total of 102 years.

CASE STUDIES – DISQUALIFIED DIRECTORS

i) Rock Law Ltd was a CMC that operated a call-centre and charged up-front fees for claims services. Following an investigation, we imposed a financial penalty of more than £550k in October 2015. The company subsequently went into liquidation and the Insolvency Service (IS) began an investigation into the running of the company.

We provided information to support the IS investigation and they found that the director had failed to exercise reasonable skill, care and diligence over the company's operations. The sole director, Christopher Ross White was disqualified for 9 years.

<https://www.gov.uk/government/news/ban-for-ppi-claims-management-director-who-breached-compensation-regulations>

ii) Cerys Angharad Ltd and Ifonic plc were both PPI claims companies that had misled clients during telesales calls, taken up-front fees (often without proper authorisation) and failed to refund clients fees when they were due. Both CMCs were under investigation when they surrendered their authorisations in March 2014 and June 2015 respectively.

The Insolvency Service found that the companies had engaged in unfair trading practices and breached regulatory requirements. The two directors were Clifford Martin Stanford, who was disqualified for 11 years, and Timothy Mark Schubert, who was disqualified for 6 years.

<https://www.gov.uk/government/news/17-year-bans-for-claims-management-bosses-after-breaching-regulations>

Promoting compliance and helping businesses

- Before taking enforcement action against CMCs, we provide advice where appropriate, to help them understand what they need to do to comply. Specific advice is given at various points – for example where the advice has been requested by the CMC, where we have been notified of a potential conduct issue or where rule breaches are identified following an audit. General advice is provided through our regular regulation bulletins and published guidance, and we also operate a business advice line for CMCs to obtain advice. Through this service we helped over 800 CMCs with regulatory advice by responding to more than 2,000 queries over the last year.
- We continue to engage with some of the larger CMCs via relationship management arrangements. These arrangements are designed to identify risks and address any compliance issues at an early stage where small changes and breaches could affect a large number of clients or organisations. Scheduled face-to-face and telephone meetings take place to discuss complaints and reports we are receiving, planned changes to the CMCs practices and any challenges it may be experiencing. It also helps us understand and respond to wider developments within the claims market.

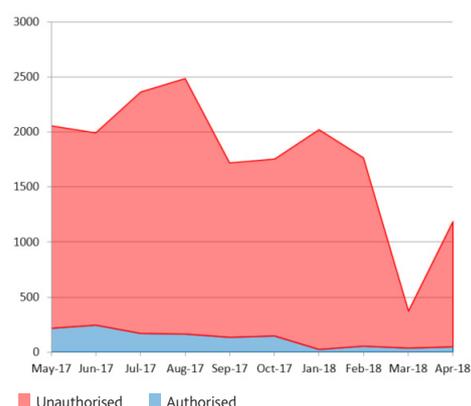
Compliance priorities

Nuisance marketing`

- Marketing of claims services by live or automated calls, SMS text messages, email or mail that is not carried out in accordance with the conduct rules and the law remains a key priority. The primary compliance issues are

related to client consent (including whether the consent obtained is sufficient) and the age of the data that CMCs are using. Some CMCs continue to rely on assurances from third parties that consumers have given informed consent to be contacted. CMCs need to be able to evidence where data has been obtained from and what due diligence checks they have conducted before using the data.

- The ICO are the primary regulator for the data and direct marketing sector and we work closely with them where CMCs handle and use personal data for marketing. This cross-agency approach remains the most effective way of trying to tackle nuisance claims marketing, particularly calls.
- The biggest challenges in this area are identifying instigators of marketing who conceal their identity by displaying the telephone number and name of other businesses, and call centres operating overseas. We continue to receive complaints data from the ICO relating to consumers who have received a telemarketing call despite being registered with the Telephone Preference Service. Only a small proportion of complaints appear to relate to authorised CMCs, with the vast majority related to unidentifiable and presumably in a number of cases, unauthorised businesses. An analysis of this data is shown in the following graph.



NUISANCE CALLS & TEXTS	2015/16	2016/17	2017/18
Audits conducted	111	111	104
Investigations commenced	10	15	13
Financial penalties	3	5	5
Cancelled authorisations	1	3	5
Warnings issued	48	40	44



- We remain a member of the ICO-led "Operation Linden" group that includes Ofcom, and other market regulators, consumer groups and communication service providers. The combined efforts of the regulators forming part of the group, sometimes through joint audits of CMCs or execution of warrants of call centre premises, have contributed to a notable decrease in complaints about nuisance calls in both the PI and PPI sectors.
- We have continued to use requests for information and audits to build a picture of data processing and identify which lead generators provide data to which CMCs. We investigate where breaches are identified (often in the due diligence by CMCs to ensure the data has been sourced compliantly). We have used a range of statutory sanctions to address the issues we have identified during investigation, including directions, conditions, financial penalties and in the most serious cases, cancellation.
- Future developments in the market will change how CMCs operate and we will continue to respond as needed if any of these changes result in malpractice. Developments include the need for CMCs to comply with GDPR, the interim fee cap, PPI deadline, transition of regulation to the FCA and proposed whiplash reforms. Each of these factors may mean that some CMCs engage in increased direct marketing activity ahead of the implementation of these

reforms – whilst also complying with the introduction of any proposed cold-calling ban.

Financial claims

- Complaints about mis-sold PPI continue to represent the clear majority of activity in the financial claims sector. Almost £30bn has now been paid in PPI redress since January 2011. Over £3bn5 has been paid in redress since April last year, with monthly redress substantially increasing since July 2017 and exceeding £300million in each month since October 2017 (monthly redress last exceeded £300million in April 2016).
- CMCs currently remain very active in this area. We expect to see changes to CMC conduct and behaviour ahead of the PPI claims reforms being implemented and will continue to prioritise and tackle malpractice in the market and advise CMCs how to operate compliantly. A very small number of CMCs charged up-front fees over 2017/18 and the ban introduced by the April 2018 rule changes will bring a complete end to such charging arrangements in this sector.

- We maintain good relationships with the Financial Ombudsman Service, Legal Ombudsman, financial services providers and representative bodies who help us identify market trends and misconduct. Information provided by these organisations supports risk assessment of the CMC market and compliance programmes.
- Specific issues that have arisen in this sector include advertising and the quality of complaints being submitted. Advertising for PPI claims services has increased; however, some information is not as clear and transparent as required and in some cases information being provided is misleading. The increased marketing has also contributed to complaints being submitted on behalf of clients that have already had their complaint dealt with, often via another CMC. Such activity could be the result of clients mistakenly responding to marketing – but CMCs should have in place robust processes to reduce the risk of submitting a duplicate complaint.

FINANCIAL CLAIMS SECTOR	2015/16	2016/17	2017/18
Audits conducted	133	108	108
Investigations commenced	9	14	4
Financial penalties	1	2	1
Cancellations	0	5	3
Warnings issued	49	27	27

5 <https://www.fca.org.uk/news/ppi-monthly-refunds-compensation>

19. We have also identified a small number of other serious issues during the year which have resulted in new investigations. These include falsifying client signatures or failing to have processes in place to verify client signatures, misleading marketing including during sales calls, data protection issues and issuing generic, non-specific letters of complaint.
20. While we have the power to impose financial penalties, this is not always the most suitable action to take where a CMC is in breach of the conduct rules. Each investigation is assessed individually so that the most proportionate enforcement tool is applied. We have, for example, used directions to require CMCs to implement processes or change procedures and in the most serious cases we will seek to remove the CMC from the market altogether by cancelling their authorisation (as demonstrated in the case studies below).
21. In March 2017, the FCA announced that it will introduce a deadline for making new PPI complaints, set as 29 August 2019. The PPI deadline aims to encourage consumers to decide whether to act about PPI before the deadline. To increase awareness of the time bar, the FCA are running a two-year consumer communications campaign, which launched in August 2017.



CASE STUDIES – CANCELLATION OF AUTHORISATION

i) Non-compliant telemarketing

Following complaints from clients and other consumers that had received cold-calls, we audited and subsequently investigated three separate CMCs, Barrington Claims Limited, Your Money Rights Limited and MJE Associates (Wales) Ltd. Our investigations found issues across the CMCs with misleading clients during sales calls, the manner in which they were contracting with clients and deficiencies around data they were using. Due to the seriousness of the issues in each of these investigations, each CMC was cancelled due to breaches in relation to telemarketing.

ii) Suspected false signatures

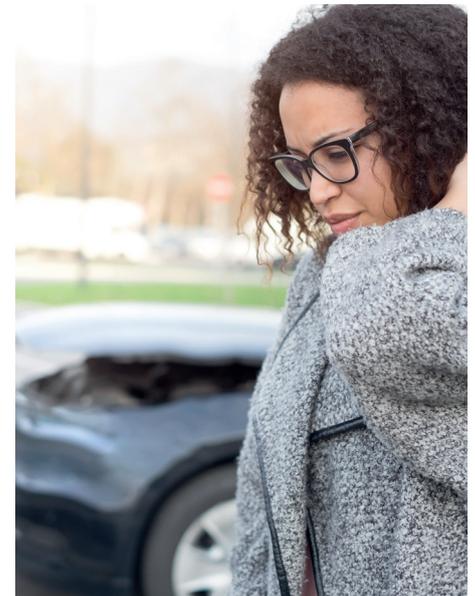
We started an investigation into a CMC after receiving reports that it had submitted complaints on behalf of deceased clients, with paperwork signed after the client's death. Other serious issues were identified including failure to progress claims, poor administration and record keeping. There were also issues around data it had acquired. We cancelled the authorisation of the CMC. The CMC appealed the decision but withdrew the appeal part-way through the appeal hearing.

- 22. Although it is hoped that the PPI deadline will help bring finality and conclusion in a way that protects both consumers and market integrity, this deadline has resulted in many CMCs increasing their marketing activity. It is anticipated that this level of advertising will continue and possibly increase at least until the introduction of the interim fee cap. CMR will closely monitor business activity, particularly in relation to marketing strategies and behaviours such as nuisance calls.
- 23. Although PPI claims activity dominates the financial claims sector, we have continued to monitor developments in other areas. The next most active claims area remains mis-sold packaged bank accounts, with around 300 CMCs declaring that they operate in this area. Other claims areas include mis-sold investment products, pay day/short-term loans or high value products such as pensions and mortgages. We are keeping these under review as the PPI market becomes increasingly competitive and CMCs look to diversify the services they provide ahead of changes to the PPI sector.
- 24. The financial claims sector can be largely characterised by good practice, good quality of services and co-operation. This is the result not only of regulatory interventions, but effective working relationships developed between many CMCs and lenders. It has generally become more difficult for any CMCs unable or unwilling to operate professionally to run an effective and efficient business in a relatively mature sector.

Personal injury claims

- 25. Audit activity is fundamental to monitoring this sector, with 210 audits completed during the year. Our focus is around the marketing of claims services, particularly where the CMC operates a call centre. We have also concentrated on the case acquisition arrangements between CMCs and solicitors, including whether this is in accordance with the referral fee ban, and on record keeping and due diligence relating to the source and validity of clients. Where an audit identifies concerns about referral arrangements, potential fraud or other criminality, we work with partners such as the SRA and police forces, to ensure matters are addressed.
- 26. 94 PI CMCs surrendered their authorisation during the year, almost half of them (46) surrendered either within 3 months of an audit taking place (27) or upon notification that we intended to audit the CMC (19). With our audits being conducted on a risk-assessed basis, we consider this a positive outcome with many of those CMCs otherwise likely to remain operational whilst we investigated. Additionally, we conduct follow up work to check that these CMCs are not continuing to operate without authorisation.

- 27. We have continued to focus on a small number of CMCs that have adopted different or less common operating models, such as entering into damages based agreements with clients. These arrangements are regulated by specific regulations and result in the CMC receiving a proportion of the clients' damages, rather than receiving payment from a solicitor. Few CMCs were able to demonstrate they could operate compliantly with the DBA regulations and the majority of CMCs discontinued this model, with some surrendering their authorisation and exiting the market entirely.



PERSONAL INJURY SECTOR	2015/16	2016/17	2017/18
Audits conducted	165	202	210
Investigations commenced	1	6	8
Visits	1042	509	414
Warnings issued	53	40	68

Holiday sickness claims

28. We have worked closely with the travel industry, fellow regulators and other authorities to tackle the poor practices in this market. ABTA and their members provided us with intelligence and information about the practices and claims being submitted. Claimants are represented by solicitors so we worked with the SRA to understand who was active in the market, how claims were sourced and who was responsible of misconduct.
29. We carried out a focussed audit programme of CMCs. We identified those CMCs that had been handling holiday sickness cases for several years, CMCs that had recently become authorised to exclusively seek out holiday sickness claims and established PI CMCs that had moved into the holiday sickness claims sector during its growth. We warned seven CMCs, four CMCs surrendered their authorisation upon notice of a proposed audit and another four surrendered their authorisation following an audit.

CASE STUDIES – HOLIDAY SICKNESS COLD CALLING

During an investigation of a CMC seeking holiday sickness claims, we listened to recordings of marketing calls made to clients. The calls were misleading and sales agents were encouraging clients to lie about being unwell on holiday and to say that this was due to the poor hygiene at the resort. The agents told clients that they will be entitled to £2,500 if they say they had been ill and that they didn't need any evidence of their illness. In addition to the poor sales practices, the CMC did not have sufficient consent to contact consumers. We cancelled the authorisation of the CMC in August 2017.

30. The combination of our work and that of stakeholders delivered a reduction in the level of misconduct and generally reduced activity in this claims market. The government has also now brought holiday sickness claims within a fixed costs regime for solicitors and the claims market had returned to a volume similar to that in 2015, prior to the peak of interest and activity.

Criminal/fraudulent activity related to personal injury claims

31. An important part of our PI work is the role we play in supporting other agencies in tackling criminal activity where there are links with CMCs. Where we identify suspected criminality, we identify the most appropriate agency and provide intelligence and share information where appropriate. We also respond to separate requests for intelligence and support operational activities of these agencies by accompanying them on warrants, providing witness statements, giving general advice and market knowledge as necessary. This has led to active engagement and work with the following national organisations:
- City of London Police's Insurance Fraud Enforcement Department
 - National Crime Agency (Civil Recovery Team)
 - Government Agency Intelligence Network
 - Solicitors Regulation Authority
 - Insurance Fraud Bureau
 - HM Revenue and Customs
 - Information Commissioner's Office

CASE STUDIES – STAGED BUS ACCIDENT

We received information about a staged bus accident in Cardiff where nine individuals, using a CMC, had complained that they had suffered injury. We visited the bus company, the car rental firm that had hired the car involved to one of the suspects and spoke with South Wales Police who had attended the incident.

The evidence package we prepared for the City of London's Insurance Fraud Enforcement Department (IFED) showed that the nine injured bus passengers were all associated with each other. IFED commenced a criminal investigation and we cancelled the authorisation of Cardiff Bay Claims UK, the CMC involved in the matter.

In October 2017, eight people were sentenced at Cardiff Crown Court. One defendant was sentenced to 12 months in prison for conspiracy to commit fraud. Seven other defendants all aged between 24 and 33 and from the Cardiff area, admitted fraud. They each received a suspended prison sentence, community service and a fine.

Unauthorised activity

32. We have reviewed over 620 reports of suspected unauthorised activity this year. Although many notifications contain insufficient information for us to progress, where there is evidence of potential unauthorised activity, further action is taken. In over 400 cases, we issued advice, a warning or had a website disabled.
33. We have also visited the premises of previously authorised businesses to satisfy ourselves that they are no longer active in claims management. We commenced eight such investigations into previously authorised businesses suspected of carrying out unauthorised claims management activity last year. During audits of authorised CMCs, if we have identified unauthorised introducers referring leads to the authorised CMC, we have taken enforcement action against both businesses.
34. Most unauthorised activity takes place in the PI sector, with small scale introducers passing cases directly to larger authorised CMCs or solicitors. Some of these businesses only have a virtual presence, operating a website, and we will work with the internet service provider in disabling the website if the owner of the website is non-responsive. Additionally, we have identified some lead generators that are engaged in regulated claims management services without authorisation and received details of individuals acting in employment cases who needed to be assessed as to whether they require authorisation.

CASE STUDIES – UNAUTHORISED PPI ACTIVITY

We received reports from a number of banks that they were receiving PPI complaints from an unauthorised business, My Life Adviser Ltd. The company had previously been working on behalf of its partner business, One Star Financial Limited, which had been authorised to provide regulated claims management services until it was wound up. My Life Adviser Ltd applied for authorisation shortly after the winding up of One Star Financial Limited but did not suspend claims activity while awaiting the outcome of its application to become authorised.

As a result, an investigation was commenced into My Life Advisor Ltd, and the application for authorisation to conduct claims management services was refused. As the directors of My Life Advisor Ltd had also ran One Star Financial Limited they were aware of its legal requirements and that it was an offence to engage in claims management activity without authorisation. We prosecuted My Life Advisor Ltd who pleaded guilty to the charges of providing regulated claims management services without authorisation. In October 2017 the company was fined £40,000 for eight offences under the Compensation Act 2006 and ordered to pay more than £4,000 in costs and pay a victim surcharge of £170.

35. One of the most challenging elements of dealing with unauthorised activity is the involvement of overseas call centres – usually calling UK residents about making accident claims or PPI complaints. Such activity can pose a challenge due to advanced technology which can make it difficult to identify or challenge the source or its location. We are aware for example that the single most prolific instigator of calls in the UK about accident claims is based overseas. Despite the difficulties posed, we continue to work with the ICO and Ofcom to continue to try and reduce the number of unwanted calls being made by unauthorised entities.

Tribunal appeals

36. During 2017/18 eight new appeals were made to the First Tier Tribunal about decisions made by the Claims Management Regulator. The appeals related to refusal of authorisation, financial penalties and cancellations. The status of the appeals that have been dealt with during 2017/18 are as follows:

- Two are ongoing
- Three appeals were dismissed by the Tribunal
- Two appeals were struck out by the Tribunal
- Four appeals were withdrawn

One business sought to apply for permission to appeal to the Upper-Tier Tribunal but this application was unsuccessful.

CASE STUDIES – FIRST TIER TRIBUNAL APPEAL

CMRU imposed a financial penalty following concerns arising regarding a business making misleading statements; adopting high-pressure selling techniques; impersonating customers; failing to advise customers to read and retain documents; and incorrectly dispositioning calls.

The business appealed the decision of the CMRU to the First Tier Tribunal, arguing in part that it had not breached the terms of its authorisation; the financial penalty was not warranted; and the CMRU had incorrectly applied the guidance when calculating the amount of penalty to be imposed.

The Tribunal dismissed the appeal stating that the business was operating in breach of the Conduct of Authorised Persons Rules and that it had failed to take heed of the CMR's previous advice and warnings. The Tribunal stated that the circumstances and scoring considered when imposing a financial penalty were consistent with the CMRU's Financial Penalty Scheme Guidance.

The Tribunal concluded that the nature and seriousness scores allocated by the CMRU were appropriate and that the CMRU's reduction of the initial penalty in response to representations was well-considered. The Tribunal found that the amount of penalty finally imposed was correct and dismissed the appeal.

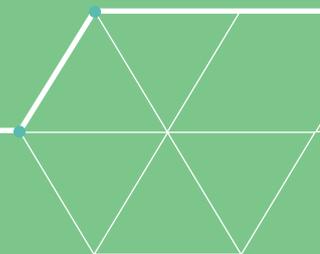




06

Communications and partnerships

“In September 2017, we launched our ‘Latest updates’ page this development forms part of an ongoing project to review the information available on our web pages.”



Communications

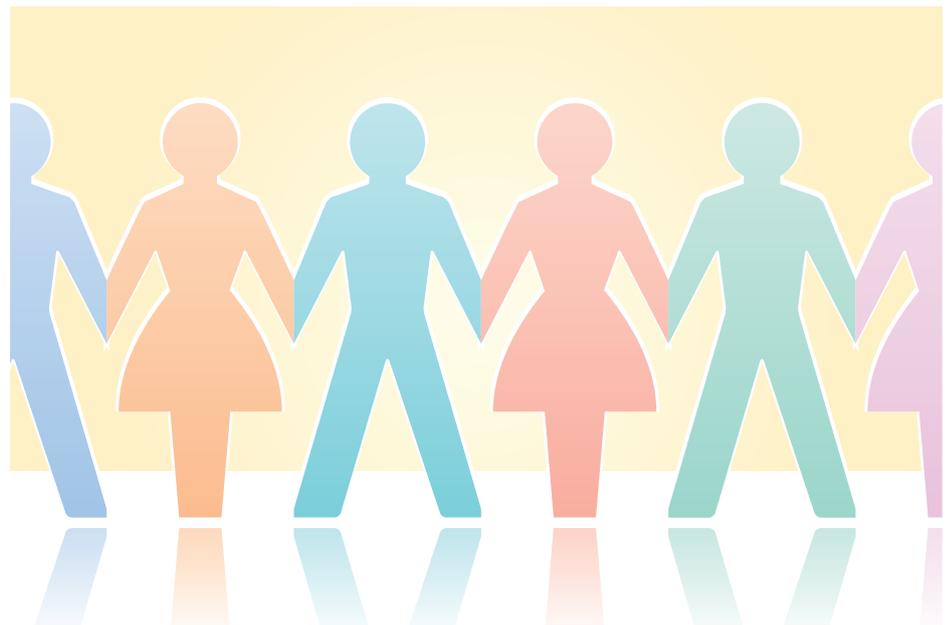
1. Effective and regular communication remains an important element of articulating CMR Unit's aims, role and achievements. We use a variety of communication channels to inform, assist and exchange intelligence with stakeholders, businesses, consumers, and the media.
2. During 2017/18, we continued to publicise our commitment to tackle non-compliant CMCs through our quarterly enforcement action reports, and with press notices reporting on various CMR enforcement activities. We also published regular online business bulletins for CMCs, providing specialist advice and guidance on a range of issues covering topics such as advertising and marketing, the new Plevin rules and guidance, and updates on the progress of the Financial Guidance and Claims Bill during its passage through Parliament. In September 2017, we launched our 'Latest updates' page on our website which lists our latest news and publications – this development forms part of an ongoing project to review the information available on our web pages.
3. We handled seven letters from Parliamentarians over the past year, covering a range of topics including poor practices of some CMCs operating in the financial claims sector, unsolicited direct marketing, and the proposal to cap fees that CMCs processing financial claims can charge consumers. We also handled a Parliamentary Question from an MP in relation to the transfer of regulation from MoJ to the FCA. Between April 2017 and March 2018, our web pages received 334,256 visits via Gov.uk from consumers, stakeholders and businesses in search of information, advice, guidance and details about recent enforcement actions. Our contact centre received 6,400 new telephone and written contacts.

Working with other organisations

Stakeholder engagement

4. We continue to work closely with stakeholders and adopt an open and proactive approach to engagement to promote understanding and to share ideas and intelligence. Our stakeholders provide us with key insights into the activities of specific CMCs and other market developments.

reported to us, and Trading Standard Services continue to be key partners, having assisted us with several investigations. Such partnership working seeks to establish or maintain communications with other regulators and law enforcement agencies to help address mutual areas of concern and enhance our consumer protection functions.



5. Partnership working plays a particularly key role in tackling unauthorised activity. During 2017/18 intelligence was provided, or support has been given to the HMRC, SRA, IFB and various police forces where regulatory or suspected criminal offences have been committed. This has resulted in individuals being charged and/or convicted of Compensation Act offences by the prosecuting authority. The close working relationship with the ICO has also been a feature during this year where cold calling or stolen data is

What some of our stakeholders say about us

THE INFORMATION COMMISSIONER'S OFFICE

Tackling the harm that nuisance calls and messages do is a key priority for the Information Commissioner's Office. We partner with other regulators – such as the Claims Management Regulator – to advise businesses around compliance, to share intelligence and information and to identify and take effective action against those organisations or companies which flout the law. The Claims Management Regulator is a valued strategic partner – one with whom we work with on a daily basis. I'm pleased that this year we have continued our work together to deliver robust, proportionate enforcement action aimed at protecting legitimate businesses and members of the public.

FINANCIAL CONDUCT AUTHORITY

The FCA has worked closely with the Claims Management Regulator over the last year as we build our knowledge of the CMC sector and prepare for the transfer of regulatory responsibility in 2019.

ABTA

ABTA's collaboration with the CMR Unit has been a vital part of our work to tackle fraudulent claims for holiday sickness, and has helped the industry to collate the necessary evidence to achieve regulatory change for a longer-term solution. In particular, we have welcomed the CMRU's commitment to ongoing monitoring of CMCs operating in this area.

SOLICITORS REGULATION AUTHORITY

The public needs to be able to trust that solicitors meet the high standards we would all expect. Most solicitors and law firms do, but a small number fall short and we need to step in. We have been working closely with the CMR Unit to share intelligence, particularly around the involvement of claims management firms and solicitors in bogus holiday sickness claims. That has helped both of us take action where it's needed.

FINANCIAL OMBUDSMAN

We continue to enjoy a constructive working relationship with the CMR Unit. Over the last year we've held regular meetings with colleagues from the CMR Unit to provide insight in terms of the types of complaints CMC's are referring to the ombudsman service, and to support its work helping CMC's understand what is expected in relation to complaint handling.

Stakeholder events

6. Over the past year, we have presented at a number of industry seminars and conferences. These include:
 - Insurance Times Personal Injury Roundtable (April 2017)
 - Eversheds Complaints Seminar (May 2017)
 - ABTA Annual Policy Conference: Travel Matters (June 2017)
 - Legal Futures Conference - PI Futures 2017: Danger ahead for claimant lawyers (September 2017)
 - Infoline's Complaints Management Forum (February 2018)
 - DWF Disrupt to Progress Roundtable (March 2018)

Consultative groups

7. Many of our stakeholders are members of our Regulatory Consultative Group (RCG), a group established in 2006 to help ensure effective involvement of interested parties in the development and operation of regulation. The RCG continues to meet regularly, and in 2017/18 there were 25 organisations signed up to the group including the Legal Ombudsman, FCA, Citizens Advice, Professional Financial Claims Association, and Advertising Standards Authority. A full list of RCG members is set out in Annex A.
8. We have regular liaison meetings with organisations which help to facilitate the exchange of intelligence on CMC activities and support the action we are taking. These include meetings with the ICO, Financial Ombudsman, FCA, Legal Ombudsman, SRA, IFB, and other interested organisations. We continue to build on these relationships to help tackle problematic CMC practices, and where appropriate, assist some stakeholders, particularly in the financial services industry, with managing their relationships with CMCs.

Media stories and coverage

9. In 2017/18 there has been continuing significant media interest in the claims management industry. Holiday sickness has been particularly prominent in the national media, with journalists interested both in the government's wider efforts to tackle false claims, and with individual cases being highlighted. Holiday sickness fraud stories have attracted considerable interest across broadcast, radio, online and print media (e.g. Good Morning Britain, Radio 4's You and Yours, the Telegraph, and BBC Online) as well as more specialist interest in trade magazines and online.

10. The Ministry of Justice's External Communications Team took the opportunity to promote the work of the CMR Unit through announcements – for example referencing its work in press releases relating to holiday sickness and the launch of the Financial Guidance and Claims Bill. The team also produced stand-alone announcements showcasing the regulator's success. For example, last August it announced that the CMR had acted to remove a licence from a firm responsible for pressuring people into making holiday sickness claims, leading to coverage in national outlets such as the Daily Mail, Sun and Mirror. The team responded to well over 100 media enquiries, issuing reactive statements in a timely fashion to ensure coverage was accurate and carried the regulator's key messages on protecting consumers and clamping down on CMC misconduct.

11. Notable claims industry stories in the press this year include:

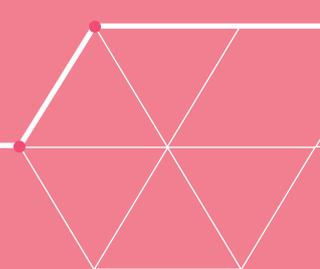
- 'Fake food poisoning claims could see British holiday makers banned from all-inclusive resorts' (The Telegraph, June 2017)

- 'Government launches crackdown on fake holiday sickness claims' (The Independent, July 2017)
 - 'RINGING OUT: PPI claim firm fined £350,000 for making 146 MILLION illegal cold calls' (The Sun, September 2017)
 - 'PPI firm fined £350,000 for making 75 million spam calls in four months' (The Independent, January 2018)
 - 'Cold calling claims firm which 'bombarded Britons with 200 million nuisance calls' is raided by police after 12,000 complaints from the public' (Daily Mail, February 2018)
 - 'Insurers hail end of 'crash for cash' whiplash claims amid Government clampdown' (The Telegraph, March 2018)
 - 'Couple who faked holiday sickness 'rumbled' on Facebook' (The Guardian, March 2018)
12. The External Communications Team also worked closely with their counterparts in LeO and the ICO on stories that include data farm raids, financial penalties and the latest regulatory reforms.

07

Regulatory reform and impact

“The Financial Guidance and Claims Act 2018 makes provision for an interim cap on fees that CMCs and legal services providers can charge consumers for PPI claims”



Financial Guidance and Claims Act 2018

Transfer of regulation to the FCA

1. The Government's commitment to establish a tougher regulatory regime for CMCs was delivered by Part 2 of the Financial Guidance and Claims Act which was introduced into the House of Lords June 2017 and received Royal Assent on 10 May 2018. This will transfer regulatory responsibility for CMCs to the FCA and is intended to tackle a range of conduct issues within the market, ensuring a stronger regulatory framework and increased accountability of senior managers. The Act also provides for the new regime of regulation to extend to Scotland.

Interim fee cap

2. The Financial Guidance and Claims Act 2018 makes provision for an interim cap on fees that CMCs and legal services providers can charge consumers for PPI claims during the period from two months after Royal Assent to the introduction of the FCA's fee cap. These powers will therefore commence on 10 July 2018 and prohibit fees of more than 20%, exclusive of VAT, being charged for PPI claims and restricts CMCs and legal services providers from charging the client where no award has been recovered.

Ban on cold calling

3. The Financial Guidance and Claims Act 2018 will amend, when the provision is commenced, the Privacy and Electronic Communications Regulations to ban nuisance calls in relation to claims management services, unless prior consent has been given. When CMC regulation is transferred to the FCA, CMCs will have to comply with an even tougher regime in relation to how they obtain consumers or pass their details on to others.

Conduct rule changes

4. Revised rules were introduced in April 2018 which:
 - Ban upfront fees in relation to PPI and other financial claims
 - Ban any charges to a consumer where it is identified that the consumer does not have a relationship or relevant policy with the lender
 - Require CMCs to ensure that all cancellation charges are reasonable and to provide consumers with an itemised bill setting out details of what the cancellation charges relate to.

Better Regulation Programme

The Business Impact Target

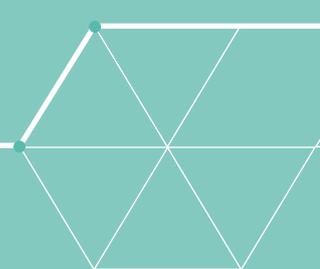
5. The Small Business, Enterprise and Employment (SBEE) Act 2015 required the government of the day to publish a Business Impact Target (BIT) in respect of Qualifying Regulatory Provisions (QRPs) that came into force or ceased to be in force during the relevant Parliamentary period. The CMR Unit is in scope of the BIT and has complied fully with its requirements, liaising on a regular basis with the Better Regulation Executive (BRE). Contributions from the CMR Unit were published for the 2015-17 Parliament at: <https://www.gov.uk/government/publications/business-impact-target-bit-report-2015-to-2017>.
6. The BIT, scope and methodology have been set for the 2017-22 Parliament: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>. Details of CMR input into this exercise can be found in the relevant BRE report for this period when it is published at: <https://www.gov.uk/government/collections/business-impact-target-annual-reports>.

The Better Enforcement Programme

7. The BIT sits alongside the Better Enforcement Programme – a range of statutory measures aimed at supporting regulatory bodies to make regulation more proportionate, transparent, and accountable. The CMR is also within the scope of these measures, which includes the Regulators Code. Examples of how we comply and meet the principles of the Code are set out in Annex B.

08

**Priorities for
2018/19**



We conduct an intelligence led strategic assessment of the claims management market each year. This informs our compliance priorities but in addition to the claims management market itself, there are other priorities to ensure that there is a smooth transition of regulation to the FCA. Our priorities for 2018/19 are as follows:

Nuisance calls and texts

- Identify and tackle CMCs engaged in non-compliant direct marketing, in particular the cold-call ban that will be introduced by the Financial Guidance and Claims Act 2018. Address non-compliant activity driven by reforms such as the interim PPI fee cap, PPI deadline and proposed whiplash reforms.
- Ensure CMCs in the data supply chain conduct sufficient due diligence to satisfy themselves that data they receive and/or use has been obtained legally and compliantly, including in accordance with the General Data Protection Regulation.
- Work closely with key stakeholders and regulators to contribute to the cross-government response to the nuisance calls issue and identify sources of unsolicited marketing and/or CMCs receiving leads from these sources.

Financial claims

- Ensure CMCs are complying with new rules implemented on 1 April including the ban on up-front fees and itemised invoicing where the contract has been cancelled. Also ensure that CMCs comply with the PPI claims interim fee cap when introduced and challenge any CMCs failing to amend its procedures to reflect these important changes.
- Closely monitor activity ahead of the interim fee cap and PPI deadline and ensure any malpractice, particularly around misleading marketing or high pressure selling, is tackled quickly and robustly.
- Work with CMCs to ensure that the quality of complaints they are presenting are of good quality, that they are obtaining clear instructions from clients, gathering the necessary information to construct the complaint and that this is presented fully to enable to financial services provider to investigate.
- Maintain an overview of the financial claims sector to address any issues in growth claims areas such as short-term lending, pension products, mortgage related claims and other complex areas.

Personal injury claims

- Monitor the wider PI sector to ensure that any arrangements fully comply with the referral fee ban and take enforcement action where appropriate. Also review the declining holiday sickness claims market to make sure that any misconduct tackled does not recur.
- Identify CMCs marketing by telephone and ensure that sales staff are not misleading, and do not place pressure upon consumers to make a claim where they do not want to or encourage them to exaggerate injuries.
- Continue to work closely with fellow regulators and law enforcement agencies to combat fraud being committed in the personal injury sector.
- Closely monitor developments in the housing disrepair claims sector, to tackle non-compliant marketing, CMCs encouraging clients to submit false claims, unauthorised activity and other serious misconduct. Gather intelligence on activities in associated claims i.e. cavity insulation claims, not within the current scope as we come across it and share with relevant agencies.

Unauthorised activity

- Conduct follow-up work and reviews of previously authorised CMCs to ensure that those that have surrendered their authorisation or we have cancelled do not continue to provide regulated claims services post-authorisation.
- Use intelligence to identify and robustly deal with CMCs and call centres calling consumers and conducting claims management services without authorisation and CMCs accepting cases via these businesses.
- Work with other agencies to identify and tackle unauthorised activity, including providing support and intelligence where a partner agency is best placed to take more appropriate action where there is evidence of offences in addition to unauthorised activity.



Glossary

ABI – Association of British Insurers

ABTA – Association of British Travel Agents

CMC – Claims management company

CMR – Claims Management Regulation

GDPR – General Data Protection Regulation

HMRC – Her Majesty's Revenue and Customs

FCA – Financial Conduct Authority

ICO – Information Commissioner's Office

IFB – Insurance Fraud Bureau

IFT – Insurance Fraud Taskforce

LeO – Legal Ombudsman

Moj – Ministry of Justice

PPI – Payment Protection Insurance

RCG – Regulatory Consultative Group

SRA – Solicitors Regulation Authority

Annex A

Claims Management Regulatory Consultative Group

Claims Management Regulatory Consultative Group	Financial Conduct Authority (FCA)
Advisory, Conciliation and Arbitration Service (ACAS)	Financial Ombudsman Service (FOS)
Advertising Standards Authority (ASA)	Financial Services Compensation Scheme (FSCS)
Association of British Insurers (ABI)	Information Commissioner's Office (ICO)
Association of Mortgage Intermediaries (AMI)	Legal Ombudsman (LeO)
Association of Personal Injury Lawyers (APIL)	Motor Accident Solicitors Society (MASS)
Association of Professional Financial Advisors (APFA)	Ofcom
Association of Regulated Claims Management Companies	Professional Financial Claims Association (PFCA)
British Insurance Brokers Association (BIBA)	Solicitors Regulation Authority (SRA)
Building Societies Association (BSA)	Trade Union Congress (TUC)
Citizens Advice Bureau (CAB)	UK Finance
Consumer Finance Association (CFA)	Which?
Direct Marketing Association Ltd (DMA)	
Employment Tribunal	

Annex B

The Regulator's Code

The Regulator's Code covers six areas of regulation, which are set out below with examples of how CMR meets these principles.

Regulators should carry out their activities in a way that supports those they regulate to comply and grow

CMR supports this principle by:

- providing clear, brief and accessible guidance to businesses on CMR website on all key areas of regulation
- free compliance reviews of paperwork/contracts of regulated businesses allowing compliant businesses to operate and grow
- pre-populate renewal forms, so that businesses only have to inform us of changes - minimising information requested from business
- give advice via an advice line provided at a 'local rate' charge
- carrying out joint audits (e.g. with the ICO – meaning one visit, not two) where possible
- collecting annual fees on behalf of LeO – business only deals in one organisation
- reduced application processing times

Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

CMR supports this principle by:

- holding regular meetings with regulated businesses representatives as part of the Regulatory Consultative Group
- carrying out formal consultation exercises on changes to procedures, regulation fees, and content of the regulatory rules

- maintaining an effective website, with clear relevant updated information for business
- offering relationship management for nominated businesses
- providing direct telephone contact numbers of officers to deal with issues
- providing nominated officers for each application (one on one)
- providing regular quarterly and special electronic business bulletins
- conduct new applicant interviews by telephone as well as in person

Regulators should base their regulatory activities on risk

CMR supports this principle by:

- adopting a risk based assessment for applications to determine whether an inspection is required
- providing clear details of enforcement policy as a framework for determination of compliance
- adapting the UK National Intelligence Model, to determine the cases of highest risk, and appropriate response
- bringing non-compliant businesses back to compliance, taking action against those who present greatest risk

Regulators should share information about compliance and risk

CMR supports this principle by:

- exchanging information with other regulators, government departments, and law enforcement bodies where agreed/allowed
- the renewal process where businesses can review their data, and update anything that has changed
- providing regular quarterly electronic business bulletins

Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

CMR supports this principle by:

- publicising enforcement policy/process and undertaking consultations on substantive changes
- maintaining stakeholder consultative groups
- give advice via a dedicated advice line provided at a 'local rate' charge
- providing regular quarterly electronic business bulletins
- attending regulated business conferences
- hosting workshops for new businesses to provide information and advice about common compliance issues

Regulators should ensure that their approach to their regulatory activities is transparent

CMR supports this principle by:

- providing guidance on the application process, and the required standards and decisions
- advice on how decisions on compliance and enforcement are reached
- publishing details of action taken and investigations together with the outcome of appeals
- providing regular quarterly electronic business bulletins.

Contact Information

For queries concerning information in this publication contact us at:

Ministry of Justice
Claims Management Regulation Unit
Headquarters
102 Petty France
London
SW1H 9AJ

Telephone: 020 3334 3555

E-mail: claimsmanagementregulation@justice.gov.uk

Website: www.gov.uk/moj/cmr

