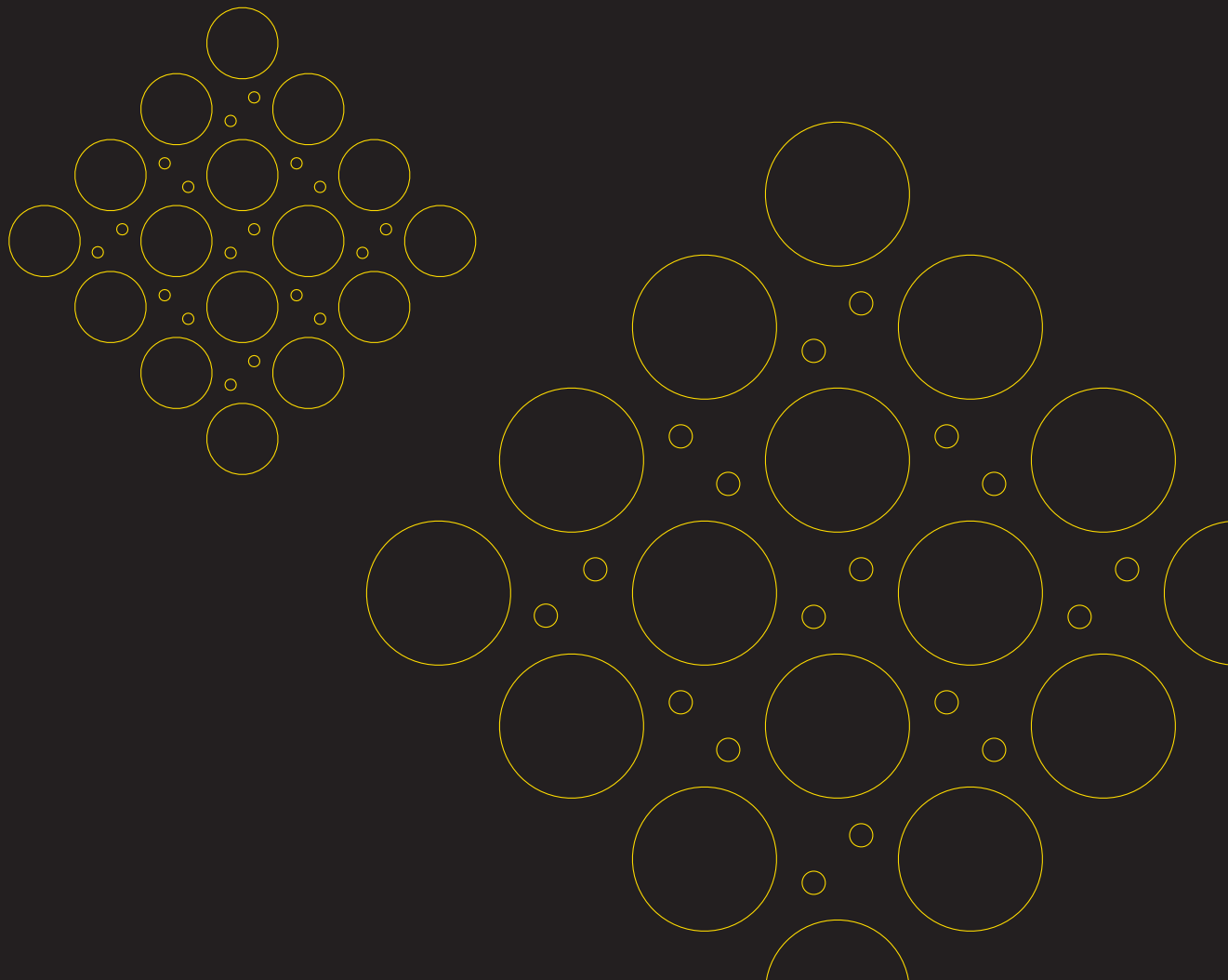




Ministry of
JUSTICE

Claims Management Regulation

Annual Report 2010/2011



Contents

Introduction from Head of Claims Management Regulation	3
Chapter 1 Overview	6
Chapter 2 Claims Management Regulation Regime	12
Chapter 3 Analysis of Business Activity	14
Chapter 4 Information on Specific Sectors	20
Chapter 5 Complaints and Enquiries	26
Chapter 6 Enforcement	33
Chapter 7 Fees and Finance	46
Chapter 8 Communications and Partnerships	48
Chapter 9 Claims Management Rules review	52
Chapter 10 Priorities for 2011/12	53
ANNEX A Business Satisfaction Survey	55
ANNEX B Consumer Satisfaction Survey	60
ANNEX C Claims Management Regulation – Interested Parties	63
ANNEX D Contact Information	65

Introduction from Head of Claims Management Regulation



At the time of writing, the claims management industry is getting a bad press. This is nothing new – but the tone is now far less forgiving. One of the questions frequently posed is what is the role or purpose of a claims management company (CMC)? The answers to this vary from the mildly positive to the unprintably negative. Against this backdrop the work of the Claims Management Regulation Unit has continued apace. The primary objective being to provide consumer protection by driving malpractice out of the claims management industry and dispensing with those CMCs engaged in malpractice.

In 2010/11 the financial claims sector was in a transitional state with the decline of Consumer Credit Act unenforceability claims and, regardless of the banks judicial review, the significant rise of the represented claims for mis-sold payment protection insurance. The personal injury sector has continued to operate strongly with increasing turnovers despite the signs of future reforms which may radically change the nature of the industry.

Across all the regulated sectors our top priorities during 2010/11 included strengthening the joined up response from the multiple regulators, complaints handling organisations and some representative bodies we work with to maximise the impact of the range of powers and resources at our disposal. To support this we've refreshed and consolidated essential partnerships with the Solicitors Regulation Authority, the Insurance Fraud Bureau, the Financial Ombudsman Service and the Financial Services Authority. We've also formed new strong relationships with, amongst others, the Financial Services Compensation Scheme and the Direct Marketing Association and established Information Sharing Agreements with seven more police forces.

We improved the systems which support the day to day operation of the regulatory regime. For example, we've revised the application forms and improved the supporting online processes to increase general efficiencies and capture a fuller range of information from applicants. We upgraded the IT platforms from the original systems to be able to provide the functionality to meet the vastly expanded business needs including more robust database and intelligence systems.

In addition to regular compliance work we conducted a thematic programme of audits of CMCs specialising in Payment Protection Insurance (PPI) claims. A number of compliance issues, mostly around marketing, were identified and addressed. More proactive work is planned in respect of businesses assessed as high risk. We were concerned to see the emergence of some upfront fee business

models in the PPI claims sector - generally the fee model for PPI claims has been a contingency fee due at the end. The use of upfront fees here seems to have developed with the move of a few CMCs from unenforceable credit claims market to PPI. While advance fees are not client money and not subject to client accounts rules, we have imposed conditions on some individual CMCs to give special protection to consumers. Where necessary we will go further if those businesses which charge upfront fees fail to treat their customers fairly and fail to operate in compliance with the conduct requirements placed on them.

We continue to deal with a high number of consumer complaints. While we are a regulator and not a formal complaints handling body, we try to assist consumers in resolving their individual disputes. Consumers need to complain to the CMC first, but where this doesn't produce satisfactory progress, claims management officers work hard to get businesses to deal with these complaints quickly and responsibly, and where appropriate to get refunds to consumers. Many individual disputes can be dealt with informally while some require formal action.

We also give general consumer advice where feasible. For example, in the financial claims sector we will signpost unrepresented consumers to independent non commercial advice available from the FOS helpline about the financial complaint they have. It is important for consumers to be aware that in many cases, like PPI claims, there is an alternative to using a paid representative. And those consumers who choose to use a representative are advised to shop around for the best deal. Good CMCs can provide a helpful service for some consumers by alerting them to circumstances where there may be a justified complaint and supporting them to obtain fair compensation. This may be particularly useful for those consumers who don't have the time or ability to complain for themselves.

We have tried to make maximum effective use of the resources available, which are provided from the regulation fees paid by regulated CMCs, to meet the escalating enforcement, complaints and consumer advice challenges across all the sectors. In 2010/11 we had to face up to the prospect of trying to do this with diminishing resources. Regulation is entirely self-financing and usually we are able to recover in year all of our operating costs from the regulated sector. However, by the summer of 2010 it was clear that the higher than normal level of businesses surrendering their authorisation during the 2009/10 renewal exercise and the fall in applications would, if left unchecked, result in an end of year shortfall of fees against costs. Difficult decisions had to be made to ensure a break even outcome would be achieved. We introduced some efficiency measures and temporarily scaled back some operating capacity but given the importance of maintaining an effective regulatory presence we had to cover the bulk of the estimated gap by increasing the fees charged to CMCs in year. For 2011/12 we set from the outset a generally much higher range of fees to safeguard funding for the year to support the full range of enforcement activities.

We are committed to an appropriately robust approach to tackling those businesses which appear to be involved in malpractice. Throughout 2010/11 we have suspended the licences of some businesses, imposed conditions on the licences of others and threatened many more with such action or have taken other enforcement action. In 2010/11 the claims management Tribunal supported our enforcement decisions on all appeals. There will be no let up in 2011/12. CMCs should remain in no doubt that those which breach the consumer protection requirements placed on them will be subject to investigation and firm enforcement action.

A handwritten signature in black ink, appearing to read 'Kevin Rousell', written in a cursive style.

Kevin Rousell

Chapter 1 - Overview

- **Background**
- **Key achievements**
- **Key figures**
- **Performance against 2010/11 objectives**
- **Other key developments**

Background

1. The period covered by this Report has seen significant changes in the claims market that have influenced the operation of the regulatory regime. Escalating enforcement action, court decisions and changes in economic conditions have led to a general slowing down of the rapid development which has typified the claims management industry over recent years. The number of authorised businesses increased by 91 (3%) during the past year compared to 576 (18%) during the same period in 2009/10.
2. Regulation compliance, enforcement and complaints handling activities have kept pace with development of the sector. These activities remained at high levels – we cancelled the authorisation of 349 businesses (compared to 35 last year) and assisted around 17,500 consumers with complaints or enquiries.

Key achievements

3. We have maintained our focus on achieving the main objectives of reducing malpractice by businesses, and protecting and promoting the interests of consumers and the public.
4. Key achievements include the following:
 - We assisted around 17,500 consumers with enquiries and complaints about businesses and developed self-help solutions for consumers, which include automated e-mail responses and factsheets for simpler enquiries. This allowed officers to concentrate on more complex issues and carry out the necessary follow-up work.

- Many complaints received were from consumers who have paid advance fees to a business but are not satisfied with the level of service they have received. We prioritised such complaints and where businesses unfairly refused or delayed refunding, we suspended or cancelled their authorisation.
- We targeted particular areas of malpractice such as misleading marketing, unauthorised trading, and failure to refund fees. Where businesses have ignored advice and persistently failed to comply we suspended and cancelled their authorisations.
- We have targeted unsolicited e-marketing, in particular SMS text messages which some claims companies use to market their services. This has included working in partnership with the Direct Marketing Association, Ofcom, the Information Commissioner, the Telephone Preference Service and representatives from the mobile marketing industry to tackle 'text pests'.
- We set up a specialist team to deal with the increased number of enquiries from authorised businesses. We handled 4,871 calls from businesses seeking advice or guidance about complying with the rules and other related issues.
- We improved the application process for authorisation with enhanced online application provision and online help for businesses. We also introduced measures that make it easier for applicants, or those requiring advice on applying, to contact the relevant team.
- We have continued to work in partnership with police and other enforcement agencies to tackle claims management businesses suspected of being involved in staged and contrived accidents. This included entering into a number of information sharing agreements with individual police forces to facilitate the sharing of intelligence and have actively assisted in specific operations.
- The claims management regulation website was updated to provide a more business and consumer-friendly site, containing more information and signposting. The website content has also been fully converged onto the redesigned "Justice" website, which offers enhanced access to a range of online services to both businesses and consumers.

Key figures

5. Summary of claims management regulation activity from April 2010 to March 2011:

Number of authorised businesses (at end March 2011)	3,213
Number of authorised businesses increased by	91
Businesses authorised during this period	884
Businesses authorised with conditions	10
Applications for authorisation 'withdrawn/terminated'	186
Applications for authorisation refused	9
Authorisations surrendered	539
Authorisations suspended	10
Authorisations cancelled	349

Average number of various contacts dealt with each month:

Requests for business advice	1,063
Contacts from consumers each month	955
New applications for authorisation	85
Enforcement actions including advice and warnings as well as action to remove authorisation	119

Performance against 2010/11 priorities

6. The priorities for 2010/11 set out in last year's Report were:

- Continuing to ensure marketing is not misleading – by checking websites, marketing literature and assessing intelligence regarding sales calls and considering imposing mandatory call recording requirements on selected risk assessed businesses.**

We updated marketing guidance, in part following the Advertising Standards Authority's rulings on claims management businesses' advertising, and where authorised businesses have failed to comply following our intervention, we have worked with partners in Trading Standards on co-ordinated enforcement action. This has prevented misleading marketing and contributed to enforcement action to cancel authorisations.

- **Failure to provide pre-contract information – tackling breaches of this rule is designed to ensure consumers have all of the information required to make an informed decision prior to entering into a contract with the business.**

We revised the guidance for businesses on the nature of these requirements. Consumer contacts indicate there is now wider compliance following our intervention with some individual businesses. Those businesses that continue to breach this rule are targeted. New businesses joining the financial services sector are asked to provide relevant information as part of the authorisation process.

- **Combating unauthorised trading.**

We have worked with Internet Service Providers and debit and credit card merchant providers to obtain the removal of websites and payment facilities for unauthorised businesses. This is especially important for ensuring that the terms and conditions for the provision of website hosting or payment facilities are met.

- **Fraud/staged accidents and working with other enforcement agencies.**

We have continued to develop a multi-agency approach to tackling CMCs involved in insurance fraud. As well as providing information to the fraud enforcement community, we have assisted in specific operations where individuals were arrested and prosecutions are in progress. We are actively involved in operations with police forces from Northumbria, Durham, South Yorkshire, West Yorkshire, Staffordshire, Metropolitan Police Service, City of London, Derbyshire, South Wales and Sussex.

- **Advance fees – identifying ‘at risk’ business models and applying additional controls on the handling of any up front fees paid by clients to those ‘at risk’ businesses.**

We identified a number of businesses with an advance fee business model and took action to ensure complaints were handled properly and fees refunded where appropriate. Where businesses unfairly refused or delayed refunding, suspension or cancellation often followed. A number of businesses left the market entirely and some are still under investigation.

- **Improving the application process for businesses.**

We enhanced the on-line application procedure with on-line help and guidance. We also introduced a dedicated non-geographic telephone number for applicants. Applications are handled by individual officers in the authorisations team who can be contacted directly by the applicant throughout the process.

- **Upgrade of the claims management regulation website.**

We made a number of improvements throughout the year to produce a more user-friendly site for both consumers and businesses. The claims management regulation website was also successfully converged into the redesigned “Justice” website.

- **Working with other enforcement agencies - in particular Companies Investigation Branch (CIB), the Office of Fair Trading (OFT) and Trading Standards to ensure transgressing businesses and the directors of those businesses are dealt with comprehensively across the entire consumer protection regime.**

We provided information about several businesses throughout the course of the year to the CIB, who under the Companies Act, have the power to take action against companies and their directors. We also continue to work closely with the OFT where there is often a regulatory overlap due to the services provided by a section of authorised businesses.

Additionally, we have good working relationships with a number of trading standards services, and regularly seek advice, share information and have made joint compliance visits to businesses where appropriate.

- **Introduce a publication scheme – raise public awareness about formal enforcement action taken against claims businesses including those that have had their authorisation cancelled or suspended.**

In November 2010 we published details of the “Publication of Regulatory Action Policy” which sets out the circumstances where the Claims Management Regulator may publish and/or disclose action that is being taken against a business, including investigations, warnings, undertakings, as well as formal enforcement steps. It also sets out the criteria that will be taken into account in making the decision as to whether to publish or disclose.

- **Protecting client money – identifying client money at risk, be this payments made on account, or settlement monies, and seeking to ensure this is safeguarded.**

We collected information that allows us to remind businesses that operate client money accounts to submit accountants’ reports to us, and to take effective follow up action with businesses who fail to provide such reports.

Other key developments

7. We have introduced a messaging centre that allows any applicant or authorised businesses to contact us securely via our website using their personal username and password.
8. We enabled more effective communication with businesses through dedicated contact lines to our authorisation and business support teams. Businesses, whether authorised or applying, are able to contact the appropriate officers directly. Businesses therefore no longer need to use the general telephone number, which is now used primarily by consumers.
9. We raised awareness of fraudulent business practices by working closely with the Insurance Fraud Bureau (IFB) to promote a “Cheatline” for reporting such activity. A flyer (see page 39) was developed and published on the Claims Regulation and IFB websites and distributed to every authorised claims management business via our quarterly business bulletin.

Chapter 2 – Claims Management Regulation Regime

- **About us**
- **Regulatory objectives**
- **Who and what we regulate**

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 conduct rules are subject to appropriate enforcement action.
3. Claims management regulation is organised across two sites. A London (HQ) based team is responsible for managing the operation of the regulatory system and approving statutory decisions made on behalf of the Secretary of State including authorisations, suspensions and cancellations. It also leads on appeals against these decisions to the first tier tribunal, funding, communications, stakeholder relations and on policy matters – keeping in contact with policy developments across government which may impact on the claims sectors.
4. The Monitoring and Compliance Unit (MCU), based in Burton-on-Trent handles applications and complaints, monitors compliance, investigates malpractice and takes enforcement action. The MCU is provided by Staffordshire County Council under contract to MoJ and is staffed by people with a range of trading standards, police, consumer advice, intelligence and fraud investigation experience and skills.

Regulatory objectives

- 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

The claims sectors subject to Compensation Act 2006 regulation are:

- Personal injury
- Industrial Injuries Disablement Benefit
- Financial products/services
- Employment
- Criminal injuries compensation
- Housing disrepair

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

Chapter 3 – Analysis of Business Activity

- **Authorised businesses analysis**
- **Applying for authorisation**
- **Fees renewal exercise**
- **Business surveys**
- **Ethnicity and Diversity Survey**

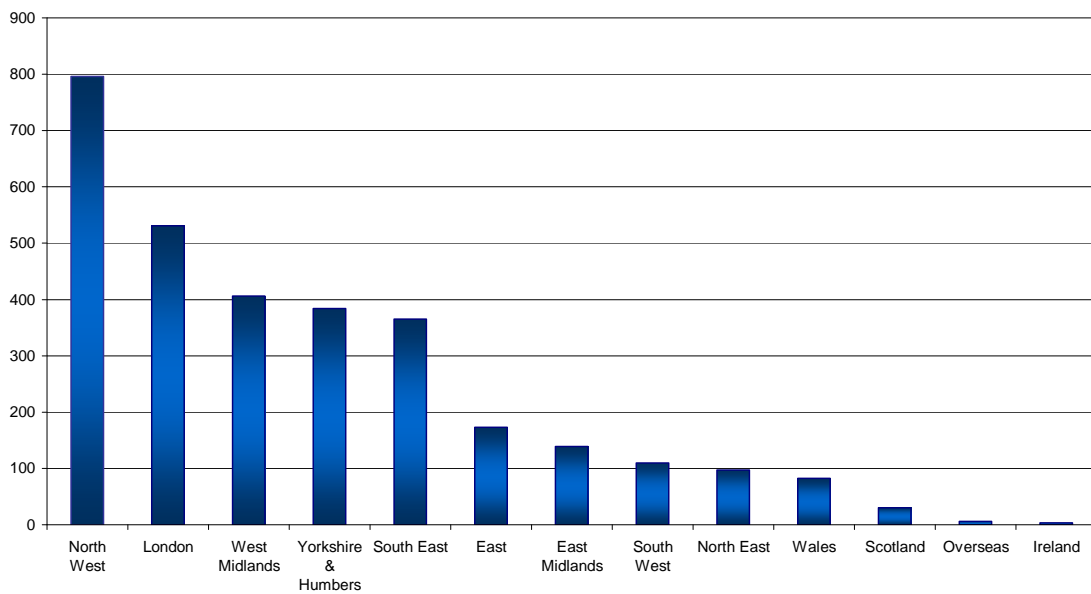
Authorised businesses analysis

1. Factors such as High Court decisions in late 2009 and early 2010 that affected the viability of claims in the financial services sector, had a significant impact on the claims market and the numbers of authorised businesses. That trend continued into the period covered by this Report and was evident in the increased number of businesses that had failed to respond to the initial renewal of authorisation information by the summer 2010. The number of businesses exiting the claims sector therefore continued to rise throughout the year.
2. From the start of regulation in April 2007 to the end of March 2010 a total of 650 businesses surrendered their authorisation. Total surrenders increased to 1,189 by the end of March 2011. This trend was balanced by the number of new businesses becoming authorised, particularly during the first part of the period covered by this Report. At the end of October 2010 there were 3,400 authorised businesses – the highest total number reached since regulation began.
3. These trends stabilised by the end of this period and by the end of March 2011 the number of authorised businesses stood at 3,213, slightly higher than the same period in the previous year. Despite the fluctuation in numbers, the profile of new businesses entering the market and those leaving did not significantly change the existing make up of the individual market sectors. For example, in a trend similar to that of the last financial year, almost four out of every five new applicants indicated that they will be operating in the personal injury sector; less than a third of new applicants are seeking to enter the financial products and services sector; and around three quarters of new applicants are private limited companies.

Geographical distribution of claims management businesses

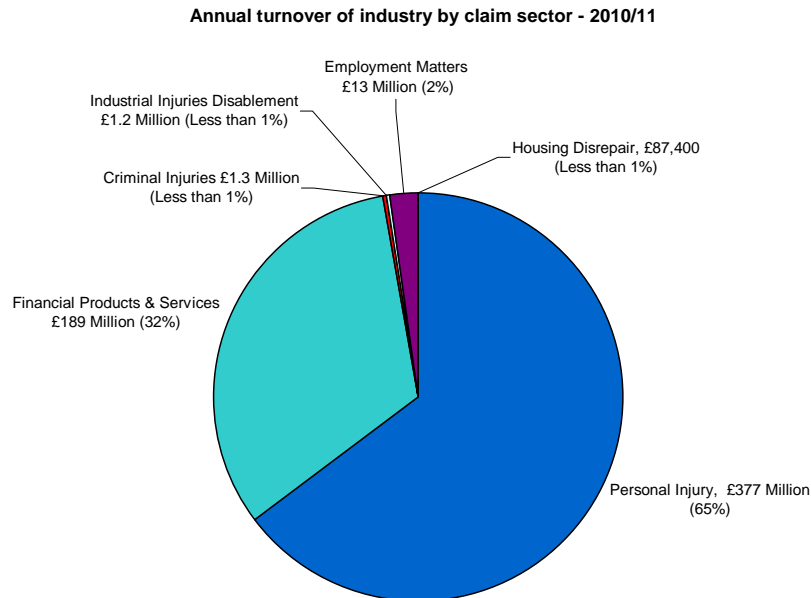
4. Almost a quarter of all authorised businesses are based in the North West region. The next four largest areas are London, West Midlands, Yorkshire and Humberside and the South East, which account for more than half of all authorised businesses.

Authorised Businesses by Region - 2010/11



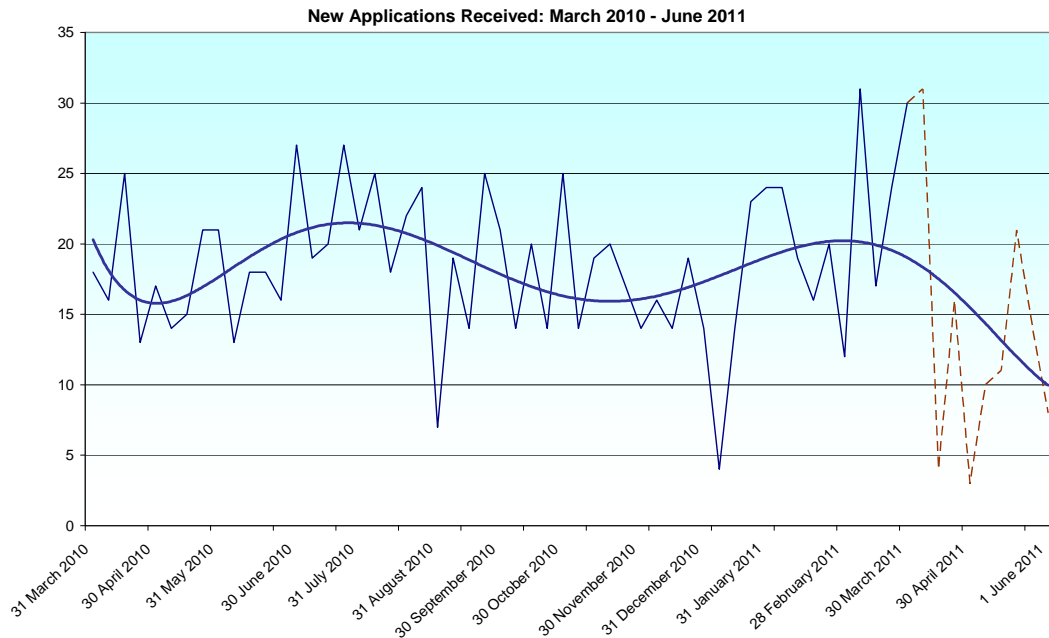
Turnover

5. Details of businesses' turnover are requested for the 12 months to 30 November for each year. There has been a significant increase in declared turnover compared to the previous two years. Whilst the total turnover during the last two years was very similar (£361 million in 2009 and £370 million in 2010), the total turnover for authorised claims management businesses now stands at £581 million. This figure is largely made up by the increased reported turnover in the personal injury sector of £377 million (compared to £247.5m in previous year), and in the financial products and services sector of £189 million (compared to £104m). Turnover in the employment sector has remained virtually static, while turnovers in the three smallest sectors (criminal injuries, industrial injuries and housing disrepair) account for less than 0.05% of claims management turnover.



Applying for authorisation

6. During 2010/11 we received an average of 19 applications for authorisation per week, down from an average of 25 per week in the previous year. New application levels have been generally consistent since November 2009, with only slight variations. For example the introduction of a new higher flat application fee on 1 April 2011 resulted in a slight increase in new applications during March 2011, despite one in every five new applications failing to complete the process on average. Where applications fail, this can be attributed to circumstances where the applicant decides to withdraw the application, we have terminated the application if the business fails to provide information required, or we have refused applications. The numbers of new applications therefore do not equate to the number of authorised businesses.



The overall period is extended to include March 2011 to June 2011 to illustrate the ongoing trend.

Fees renewal exercise

7. The process for 2011/12 fee renewals commenced in February 2011. A review of the previous renewals exercises resulted in the following changes being made:

- On-line renewal has been streamlined and is designed to speed the process up for businesses that choose to use it.
- We encouraged businesses to complete the information online before releasing hard or soft copy forms. This meant that fewer staff resources needed to be dedicated towards this process and businesses were less likely to omit information from the forms, thereby making the system more efficient.
- In order to ensure that every business received the necessary renewal information we sent information by post and email. More detailed information was provided in an initial letter sent to businesses and this included an FAQ sheet based on the most common questions in 2010.
- Renewals are handled by a dedicated business team. This year we provided additional support from the wider unit to deal with enquiries made by businesses.

- Invoices were sent out earlier than last year, and any queries about the validity of information included or missing were raised and settled before certificates were sent.
8. These changes have had a positive impact, with the initial stages of the fee renewal exercise progressing well, with higher response rates from businesses and fee receipts being in line with predicted income. Levels of response from businesses were much better than last year and most were happy to complete the forms online with very few asking for hard copy forms to be emailed or posted. This resulted in us reaching 2000 renewal requests in the sixth week, whereas in 2010 this only occurred in the ninth week after forms were issued. As a result of the improved process and early receipt of information, this year we have done additional work on obtaining missing information and also requesting further information in cases where low turnover, new individuals or new locations were declared.

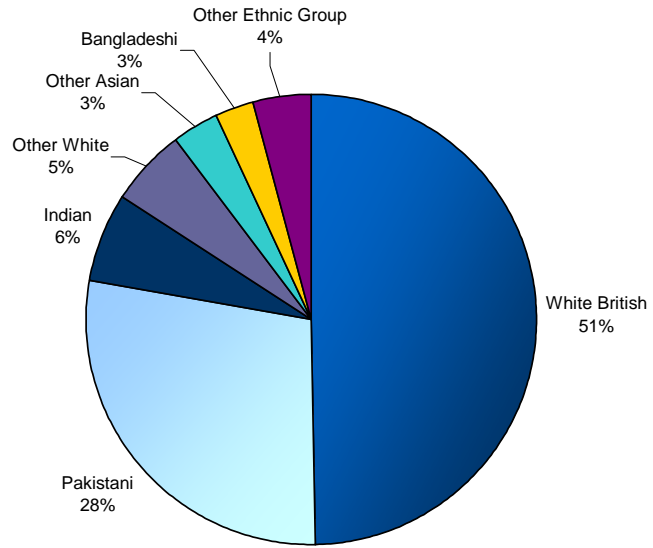
Business surveys

9. Research was carried out during April to October 2010 to explore business satisfaction with (a) the application process and (b) the business enquiry service. The outcomes and our responses are set out in the Business Survey which is attached at Annex A.

Ethnicity and diversity information

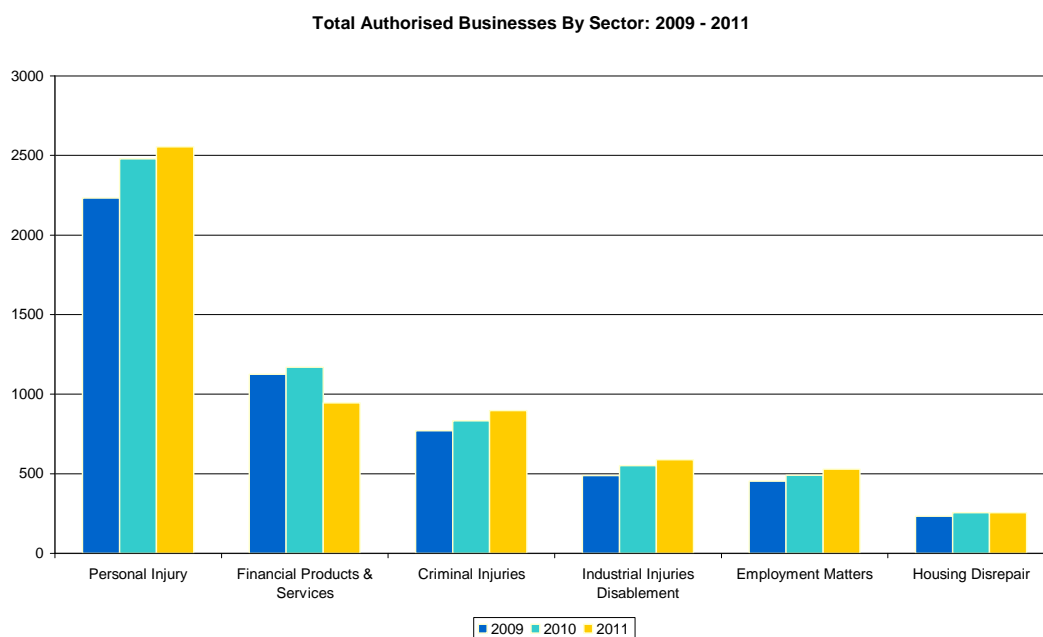
10. We collect information from all businesses on ethnicity and diversity at application and renewal. This information is kept for monitoring purposes and can provide useful reference material if there are any specific related issues that may arise and need to be addressed. The information collected shows that there has been very little change in respect to the ethnic backgrounds of authorised businesses, despite the numbers leaving and entering the marketplace. Just over half are White British, and more than one quarter is of Pakistani origin. The remaining fifth are made up from a variety of ethnic backgrounds.

Ethnic Background - 2010/11



Chapter 4 – Information on Specific Sectors

- **Personal injury**
- **Financial products/services**
- **Employment**
- **Housing disrepair**
- **Industrial Injuries Disablement Benefit**
- **Criminal injuries compensation**



Personal Injury

1. Whilst the total number of businesses in the personal injury sector has remained largely static, this continues to represent the largest regulated sector with 2553 authorised businesses. Most businesses operate as introducers or referral agencies, providing personal injury cases to other claims management businesses or solicitors.

2. The personal injury sector is one of contrasts. The majority are small, locally operated businesses, who often provide claims management services in conjunction with related business activities, typically vehicle recovery, repair, storage and vehicle hire. There are however some very large businesses that market their services regionally or nationally, and refer a high volume of cases to solicitors.
3. The smaller businesses sometimes operate within networks of associated businesses, including medical examiners, solicitors, independent vehicle examiners, and independent referrers (usually exempt introducers). The majority deal in road traffic accident cases, although some businesses specialise in, or diversify into other personal injury claims sectors such as hearing loss or “slips, trips and falls” claims.
4. We receive relatively few consumer complaints about businesses operating in this sector (the majority of such complaints being in regard to financial products and services sector) but enforcement work has been active over the last year. Our compliance activities in the personal injury sector are focused on organised ‘cash for crash’ fraud and combating unsolicited e-marketing. We have forged strong partnerships with other intelligence and enforcement agencies to help maximise the effectiveness of personal injury enforcement. This includes working with the Insurance Fraud Bureau and police forces in fraud hotspot areas and with other regulators, trade organisations and representative bodies in the mobile marketing industry in respect of e marketing abuses.
5. We are involved in nine ongoing police operations that are targeting businesses actively involved in personal injury fraud and money laundering. Intelligence is exchanged between partner agencies using the available gateways to assist law enforcement to ensure best evidence. A high success rate has been maintained in ongoing court proceedings. Details on enforcement work are set out in Chapter 6.

Financial products/services

Overview

6. At the end of March 2011 there were 946 authorised claims management businesses who declared that they were operating in the financial products and services sector. This is 224 fewer than at the same time last year.
7. Originally emerging out of the mis-sold endowment claim market, businesses operating in this sector now act in respect of a wide range of mis-sold financial products or services claims. These include Payment Protection Insurance (PPI), mis-sold mortgages, other mis-sold investments and unenforceable consumer credit agreement (UCCA) claims.

8. Although the second largest sector, businesses operating in the financial products and services sector account for the overwhelming majority of consumer enquiries and complaints received in relation to services provided by claims management businesses.
9. Businesses operating in this sector have continued to diversify into other areas of claims, as the market and legal landscape changes. Over the last year activity by claims management businesses around the making of claims for the mis-selling of PPI has continued to increase and is now the main focus of this sector.

Payment Protection Insurance (PPI) claims

10. Consumers with complaints about a financial business, such as the mis-selling of PPI, can deal with the matter themselves and in many cases the financial businesses can resolve the problem. Some consumers with such complaints are represented by a friend or family member or a consumer body. Others use the services of a solicitor or claims management company. If a consumer and their representative do not agree with the financial institution's response to their complaint they can ask the Financial Ombudsman Service (FOS) to consider the case.
11. It has been established that PPI mis-selling was widespread, but to what extent remains uncertain. The latest estimates place the number of individuals potentially mis-sold this product at around 3 million and the potential liability of the banks at around £9 billion. ¹ As such, activity in the PPI claim area has increased and the FOS has seen a 113% increase in the number of PPI related complaints. Between 1 April 2010 and 31 March 2011, FOS received a record 104,597 PPI cases (all figures from FOS Annual Review 2010 ²).
12. The growth of this claim area stalled when it became subject to a judicial review brought by the British Bankers Association (BBA) in respect of the Financial Services Authority's (FSA) guidance. When this action was launched in August 2010, many banks placed a number of PPI cases on hold pending the outcome of the judicial review, which was heard in January 2011. Although this period of uncertainty caused a deceleration of settlements, complaints continued to be presented to the banks and to the FOS. By March 2011, the FOS was receiving up to 5,000 new cases each week.

¹ <http://www.which.co.uk/news/2011/05/consumers-could-lose-2bn-on-ppi-claims-253544/>

² <http://www.financial-ombudsman.org.uk/publications/ar11/index.html>

13. The proportion of cases dealt with by the FOS where a claims management business was involved increased to 45%, from just 28% the previous year. More than 80% of cases the FOS received via claims management businesses were PPI complaints. More than half of those cases (53%) came from seven large claims management businesses. The remaining 47% came from more than 200 businesses. Our own research across a small section of PPI focused claims management businesses revealed that almost 40% of the PPI complaints they had presented had been settled by the banks. Less than 10% of their caseload had been referred to the FOS. This meant that more than half of the potential claims already with claims management businesses were yet to be settled or referred to the FOS.
14. On 20 April 2011 the High Court dismissed the BBA's application for a judicial review and supported the FSA guidelines. The BBA subsequently announced that they would not appeal the decision and this, together with the media interest which followed, has resulted in wider awareness among the wider public and increased activity by claims management businesses regarding the PPI claims market.
15. We remain in touch with developments in this often quickly changing market and we work closely with the FOS and FSA, as well as monitoring information we receive from consumers. We also have contact with organisations representing the interests of the financial institutions, claims management businesses and consumers to understand the contrasting views on the issues surrounding PPI claims.
16. We have continued to work with the FOS to address concerns around the practices used by some claims management businesses when presenting PPI claims. Guidance prepared jointly by the FOS, FSA and MoJ on handling financial products or services complaints such as mis-sold PPI is due to be issued around the time this report is published.

Unenforceable Consumer Credit Agreement (UCCA) cases

17. Last year's report noted that a number of UCCA related court cases had clarified the overall position and decided that in broad terms a court is unlikely to find that credit agreements are unenforceable unless they are missing important information. As a result, there has been further reduction in the activity of businesses in this area, with a number of businesses that had focused solely, or mainly, in this market ceasing to provide these services.

18. Some businesses continue to handle cases which use the Consumer Credit Act 1974 to challenge the enforceability of credit agreements, but this is a much smaller, niche market following those court decisions. Last year has seen other markets emerge in the area of credit claims, including challenges based on unfair relationship grounds, under the provisions of the Consumer Credit Act 2006.

Other mis-selling claims

19. Businesses in the financial products and services sector continue to seek new areas to provide their services, and new claim areas therefore continue to emerge. We are currently seeing some increased activity by claims management businesses in the areas of mis-sold mortgage and mis-sold investment claims and will continue to monitor such developing areas.

Employment

20. Although more than 500 authorised businesses have declared that they operate in the employment sector, far fewer are actively involved in handling of employment cases. Fewer than 200 of these businesses stated that they represent claimants in employment disputes, so the majority are likely to be engaged in only seeking out potential claimants, and referring them to an employment specialist. Around 100 of these businesses operate *only* in the employment sector. Advising and representing claimants in employment matters therefore remains a specialist and niche area within the claims management regulation scope.

Housing disrepair

21. The number of businesses stating that they operate in this sector has reduced by a single business to 255. Only a very small number of businesses operate solely in this sector, with most working primarily in other claim sectors. Activity in this area therefore appears to remain at a very low level. We receive very few enquiries and complaints about conduct in this specialist claim sector.

Industrial Injuries Disablement Benefit

22. This sector is a subset of the personal injury sector and is mainly concerned with work related injuries covered by the Industrial Injuries Scheme operated by the Department for Work and Pensions. Claims management businesses continue to play a minor role in this sector.

Criminal Injuries Compensation

23. An increase by 64 means almost 900 businesses handle matters involving criminal injuries compensation. This sector is almost exclusively a sub-sector for businesses who seek out potential personal injury claimants to refer to solicitors.
24. Due to the nature of the marketing by these businesses, and their experience within the industry, personal injury focused businesses invariably receive enquiries relating to possible criminal injury compensation matters. Although not usually as valuable as personal injury referrals, businesses will often declare that they operate in this sector or may refer some of these types of cases for a relatively small fee.

Chapter 5 – Complaints and Enquiries

- **Complaints handling by authorised businesses**
- **Consumer contacts about authorised businesses**
- **Consumer survey**
- **Complaints from financial institutions, solicitors and others**

Complaints handling by authorised businesses

1. Authorised businesses are required to operate a complaints handling scheme in accordance with the Complaints Handling Rules. Under these rules, if a consumer complains about the service received, the business is given the opportunity to remedy matters. If a consumer is unhappy with how their complaint has been handled we can work with the consumer and business in an attempt to bring about a successful resolution.
2. If these steps prove unsuccessful, the consumer can request a formal review of their complaint. Reviews involve a full re-examination of the facts and in some circumstances require further investigation and discussions with the business concerned. If a complaint is upheld the Regulator has powers to direct a business to apologise, re-do work and in some limited circumstances provide a partial or full refund of fees paid. The number of complaints escalated in this way continues to account for only a very small proportion of the total number of complaints received.

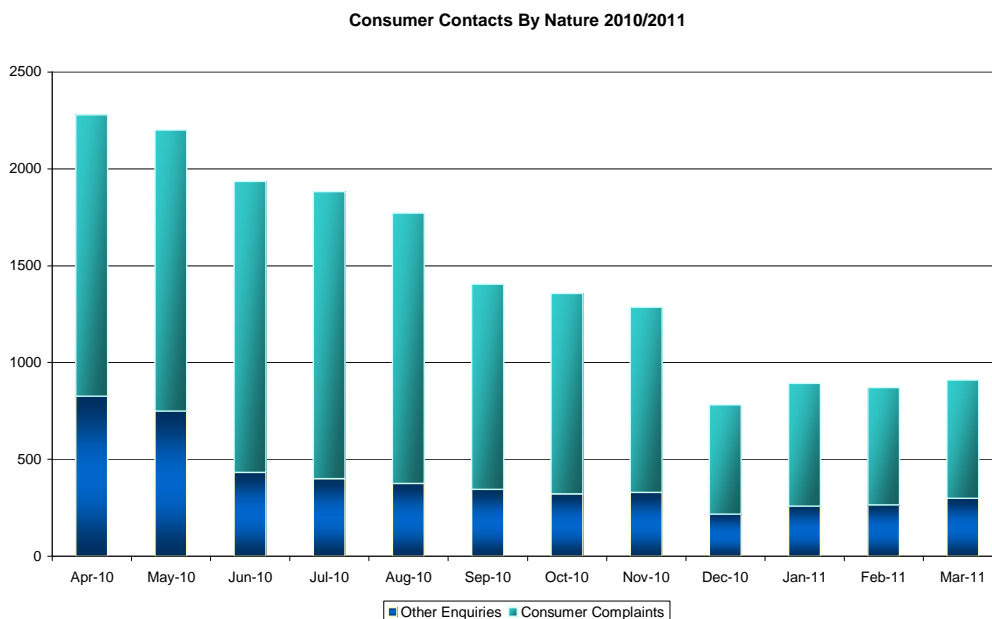
Consumer contacts about authorised businesses

3. Consumers often contact us for information and advice in circumstances where they are dissatisfied with the service they have been receiving from a claims management business, or are considering making a claim but have not yet employed a business. This year more than 17,000 people contacted us via telephone, email or in writing.
4. Many consumers contact us for initial advice. Some of the most common issues raised by consumers involve cases where they:
 - received a telephone cold-call from a claims management business and want to know whether they are permitted to market in this way;

- have been contacted by a business maintaining that it is authorised, and want to check whether it is legitimate and is able to provide the services being offered;
- have been unable to contact the claims management business they are using;
- have paid a fee to a business but have not been updated about the progress of their claim;
- have paid a fee to a business, but no longer wish to use them and want to know if they are entitled to a refund of the fee; and
- are unhappy with the service provided by a business and wish to complain about them.

Demand for our services

5. Between April and August 2010 we received an unprecedented level of consumer complaints and enquiries. Although the number of consumer contacts gradually decreased towards the end of the financial year, the chart below indicates that the proportion of those that were complaints remained fairly consistent during this period.
6. Where we are able to identify that a business committed a breach of the rules, then the contact received will be classed as a complaint. If the contact is merely an enquiry, then this will be recorded as such. The following chart shows consumer contacts during the last financial year, and the split between 'complaints' and 'enquiries'. It is evident that there were three distinct periods during the year where monthly complaints remained very similar.



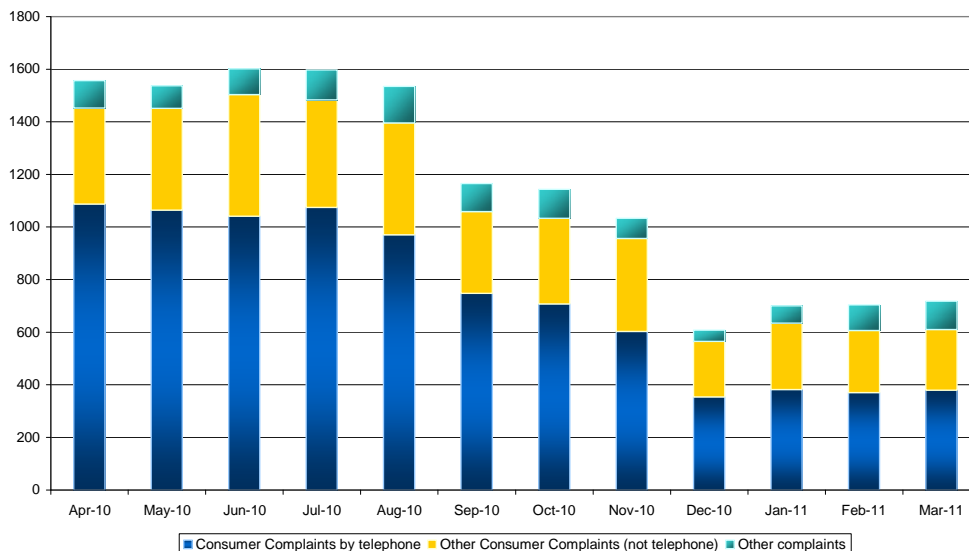
Consumer complaints by type and source

7. More than 90% of the complaints we received over the past year were about businesses operating in the financial products and services sector. Less than a third of all authorised businesses are active in this sector. Most of these complaints are about businesses cold calling and/or taking up-front fees over the telephone. Whilst personal injury is the second most complained about sector, it accounts for less than 3% of all complaints.

Consumer Complaints by Sector	No. Complaints	% Complaints
Financial Products & Services	12,504	96.74%
Personal Injury	313	2.42%
Employment Matters	79	0.61%
Industrial Injuries Disablement	13	0.10%
Housing Disrepair	12	0.09%
Criminal Injuries	5	0.04%

8. The majority of complaints from consumers are received and dealt with by telephone. Demand remained reasonably high until December 2010. Proportionately, consumer complaints received through means other than telephone increased from 25% during the first quarter to nearer 40% after November. The level of complaints received by sources other than telephone remained much more consistent during the same period and this is likely to be due in part to the introduction of a comprehensive interactive self-help guide in September 2010, which is automatically issued to consumers contacting us by email.

All Complaints by Source - 2010/11



Consumer guidance

9. If a consumer has not yet entered into an agreement with a business that they are considering employing, we signpost them to 'pre-shopping' consumer guidance. This includes advice on a consumer's entitlement to a 14 day cooling-off period, and the requirement that authorised businesses provide written information to consumers before taking payment or contracting with them in order to enable consumers to make an informed decision. We also provide post-shopping guidance, covering a range of circumstances, such as a consumer's decision to cancel and/or recover any advance fee they may have paid inside or outside the 14 day cooling-off period.

Case Study: A Right to Cancel

Business Q cold-called Mr D by telephone offering to reclaim mis-sold payment protection insurance provided with a loan. Mr D agreed to use the services of Business Q and paid a fee to the business during the call. Mr D soon changed his mind and contacted Business Q within the 14 day cooling-off period thereby entitling him to a full refund.

Despite Business Q's agreement that a refund was due and assurances that it would be made, Business Q failed to reimburse Mr D within a reasonable timescale and he contacted us. We had received other complaints of a similar nature about Business Q and immediately began an investigation. Business Q advised us that they were experiencing problems with their electronic payment system, and with our intervention agreed instead to refund Mr D and others by cheque.

10. The introduction of an interactive self-help guide, referred to above, has given consumers the opportunity to identify the nature of their query or complaint, subsequently directing them to the relevant online advice, dependant upon their circumstances. The guide also sign-posts consumers to any relevant factsheets already available on our website and other sources of information if the issue falls outside of our remit.
11. Where consumers are unable to resolve their complaint with the business at the first attempt, we encourage consumers to return to us for further advice/assistance. This provides an important opportunity to obtain information which may enable us to identify potential rule breaches by the business concerned and take any necessary enforcement action required after investigation.

Contacts received by London HQ team

12. An enquiry line staffed by members of the London HQ team provides additional support to the Burton-on-Trent Monitoring and Compliance Team in dealing with telephone enquiries and correspondence from consumers. This support is limited to providing first step advice to consumers and/or signposting them as appropriate.
13. This year more than 3,000 consumers called the London team and more than 700 made contact by email or letter. Consumers usually deal with the London team first if they have tried to contact Claims Management Regulation via MoJ HQ rather than directly. Between April 2010 and March 2011 complaints about authorised businesses made up nearly half of the contacts received. The most complained about CMC sector was financial products and services. Enquiries about money transfer and related scam calls have also featured throughout the year.

MPs' Complaints

14. The London team also handles letters from MPs about claims management related issues. These cover a range of subjects from constituents raising concerns about the conduct/practices of authorised and unauthorised businesses, to the effect of the claims management industry on insurance premiums and compensation culture. The team have achieved a 100% performance in responding to ministerial correspondence within the departmental guidance and targets.

Consumer Survey

15. Between December 2009 and September 2010, research was carried out to explore consumer satisfaction with the service provided by the MCU. The research aimed to identify where improvements to the service could be made. The outcome and our responses are set out in the Consumer Survey attached at Annex B.

Complaints from financial institutions, solicitors and others

16. Although the overwhelming majority of complaints we received this year were from consumers about claims management businesses, we also received more than 1,100 complaints from businesses and institutions. These usually concern complaints from defendants to a claim (e.g. financial institutions or insurers), the recipients of referrals (usually solicitors) and complaints from authorised claims management businesses.

Financial Institutions

17. Throughout the year, we received a large number of complaints from financial institutions concerning the practices of authorised businesses dealing with claims for mis-sold PPI. Although limited resources do not make it possible for us to investigate every individual complaint, we use the information we receive to identify trends, crucially where a business is persistently and systematically breaching the rules.
18. Complaints from financial institutions about authorised businesses often relate to misleading advertising and the submission of invalid PPI claims where claimant customers did not purchase a PPI policy with their product/service. Financial institutions also regularly object to the use of standard template letters in the commencement of a PPI claim. Although the use of standard letters is not a rule breach in itself, where a business relies on their use and fails to provide sufficient information to enable further investigation of the claim, then the business may be in breach of the rules.
19. Following these complaints we conducted an audit programme of 16 PPI claims businesses during the second half of the year. This led to specific compliance instructions for individual CMCs and general new guidance to all claims businesses on handling PPI claims appropriately. We continue to work with the FSA and the FOS to identify and deal with poor practices used by some claims management businesses providing mis-sold PPI claims services.

Solicitors

20. We also receive complaints and intelligence from solicitors about claims management businesses from whom they buy referrals. The complaints relate to concerns about the standard and validity of the claims received and occasionally about the attempted defrauding of a solicitor with completely bogus referrals. We assess all complaints and decided whether to begin an investigation into the business concerned. Where appropriate we will contact the police or advise the solicitors to do so. If the business is unauthorised and the individuals cannot be traced we retain the details should they try to seek authorisation at a later date. The information supplied by solicitors informs our operations on individual businesses and overall provides good intelligence for monitoring future compliance and disrupting fraud.

Claims Management Businesses

21. We receive a significant number of complaints from claims management businesses about other claims management businesses. These are usually about the marketing practices of competitors in the financial products and services sector, allegations of insurance fraud in the personal injury sector and of businesses offering inducements to obtain referrals.

22. It is inevitable that some complaints we receive either fall outside of our jurisdiction or are ultimately unjustified. However, we treat all complaints received as important intelligence which helps us to build comprehensive profiles of the respective sectors and individual businesses. Analysis of complaints data enables us to efficiently focus our enforcement resources on the businesses posing the highest risks.

Chapter 6 – Enforcement

- **Overview**
- **Working methods**
- **Dealing with malpractice**
- **Dealing with fraud**
- **Dealing with scams**
- **Refusal of authorisation**
- **Suspensions and cancellations**
- **Tribunal appeals**
- **Audits**
- **Unauthorised trading**

Overview

1. Enforcement takes many forms, from taking formal action against businesses that have breached conditions of their authorisation, to helping businesses to comply by issuing general guidance and giving specific advice about their obligations.
2. Enforcement is necessary to ensure that the interests of the public are protected. Businesses must comply with the Conduct of Authorised Persons Rules 2007 as a condition of their authorisation. Enforcement steps are therefore divided into two categories. One category is 'informal' action, which officers can use to address less serious breaches of the Rules. Examples of 'informal' enforcement action include giving specific advice to businesses, warning letters and written undertakings. We carry out 'informal' actions on a daily basis and use them to contact a business directly and promptly if we have received complaints about a relatively minor issue. Taking informal action is the most sensible and efficient way of handling such matters if the business is not already under investigation or subject to enforcement action, or it is co-operative and receptive to advice and the breach can be quickly remedied.
3. The Head of Regulation takes decisions in relation to formal enforcement action, following recommendation from enforcement officers. Such action includes giving directions, imposing additional conditions to a business's

authorisation, and the suspension or cancellation of authorisation. Formal actions are taken where a business has committed a serious rule breach or has persistently breached the rules or if a business has been convicted of criminal offences. Formal enforcement actions almost always follow 'informal' enforcement steps. If a business is unable or unwilling to comply with the rules following specific advice or warnings, then it is likely to find its authorisation is at risk and could be suspended or cancelled.

4. An overview of enforcement actions and formal enforcement activities recorded shows that there have been:

Formal enforcement actions 509

Informal enforcement actions 769

5. If we suspend or cancel a business's authorisation – or impose additional conditions on it – we will write to the business and ask for representations against that proposal. This gives the business an opportunity to demonstrate an ability and willingness to comply. We will consider any representations the business makes before deciding whether to continue with the proposed action.

Working methods

6. We have adopted the National Intelligence Model (NIM) as our enforcement work model. Originally used by the Association of Chief Police Officers and then on a statutory basis under the Police Reform Act (2002), the NIM model provides a framework of minimum standards and basic principles.
7. 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 uses the management of information and intelligence. The NIM process includes principles to facilitate the recording of information and intelligence, followed by analysis for the development of Intelligence Products which are readily understood by partner agencies.
8. Our enforcement tactics and decisions are based on the analysis of intelligence from consumer contacts and/or 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.

Dealing with malpractice

Pre-contract information

9. Businesses entering into a contract with their clients are required to provide certain information to the consumer before a contract is agreed in accordance with Client Specific Rule 11.³ Rule 11 was designed to ensure that prospective clients have information made available to them to allow them to make an informed decision about whether to proceed with the service being offered. This includes:

- Information to help the client decide about the risks of claiming, in particular the possible risk of losing money and in the case of potential legal action, appearing in court
- Information about the service they provide
- Information about the procedures they will follow
- Contract documents, information on how to cancel the contract and consequences of cancellation
- Any charges they make and any other costs the client may have to pay
- 14 day cooling off period
- Any referral fee received by the business
- Documentation needed to pursue the claim
- Any relationship they might have with a particular solicitor or panel of solicitors
- Procedures to follow in the event of a complaint
- The statement that the business is “regulated by the Ministry of Justice in respect of regulated claims management activities” and the authorisation number of the business
- Explicit information about the client’s right to seek further advice and to shop around

10. Over the year we have received complaints that some businesses, primarily those which tele-market their services, fail to comply with this rule. Some businesses have taken card payments from consumers over the telephone before providing the information, or failed to provide the information at all.

³ Claims management businesses are subject to a range of statutory conditions, including compliance with the Conduct of Authorised Persons Rules 2007 (the “Rules”) which is focused on consumer information and safeguards. These Rules represent conditions of authorisation and consist of General Rules and Client Specific Rules.

Businesses have also made misleading claims during sales calls and adopted aggressive sales techniques.

11. We identified malpractice in this area as a priority to be tackled this year and during investigations requested copies of the documentation businesses intend to use at the application stage. We check that new businesses have the relevant documentation drafted and we review the pre-contractual information to be provided to consumers to ensure it is compliant. We also regularly request this documentation from businesses that we are planning to audit, and those we receive complaints about.
12. The requirement to prove pre-contract information applies to all businesses entering into a contract with their clients, and although it is of particular relevance when a business takes a fee in advance of the service (i.e. in tele-sales), it is also applicable to businesses that charge their fee at the conclusion of the claim. The rule seeks to ensure that the consumer is made aware of what percentage of the settlement will be charged, and includes a requirement to provide a typical example in the pre-contractual information.

Case Study: Provision of Pre-Contract Information

We were receiving a considerable number of complaints from consumers who had been contacted by Business T, which sold its claims management services to potential clients over the phone and took card payment during the call. Paperwork would be sent at a later date, but some consumers complained that they did not understand what they had signed up to, that they had changed their mind shortly after the call but were having difficulty cancelling the service and receiving a refund and that payment was being taken without their permission.

The root of many of these complaints was that Business T was consistently failing to provide pre-contract (Rule 11) information. We therefore approached Business T about this practice, which initially argued that the client has the right to waive the provision of the information. We instructed the business to provide the information, whether or not a consumer waived their right to it, and warned that it risked losing its authorisation if it did not comply. The business soon changed internal processes to come into compliance.

Marketing - Advertising Standards Authority (ASA) adjudications

13. The ASA is the UK's independent regulator of advertising across all media, including marketing by claims management businesses. This includes newspaper and magazine advertising and advertisements on television and radio. Since 1 March 2011, the remit of the ASA was extended to include marketing communications on businesses' own websites and social network websites. Anyone can complain to the ASA.

14. If the ASA adjudicates against an authorised claims management business, we contact the business to ensure that remedial action is taken. Further, we have provided updated guidance and advice to businesses taking into account the effect of new adjudications.

Case study: Misleading Marketing

We became aware that the ASA had upheld a complaint about a marketing email sent by Business S. The email was aimed at consumers who may have been mis-sold a payment protection insurance policy and made various mis-leading and unsubstantiated claims as to the average sum of awards and the percentage of policies that had been mis-sold. The complaint also objected to the use of the Citizen's Advice and FSA logos.

We contacted Business S the day that the adjudication was published informing them that we were aware of the outcome of the adjudication, and warned them that they must ensure all future advertising was compliant. Checks confirmed that their revised marketing was compliant.

Marketing – misrepresentation of Ministry of Justice (MoJ) authorisation

15. We have received enquiries and complaints from consumers who have been contacted by claims management businesses who mislead them over their relationship with the MoJ. Such businesses use their authorisation as a marketing tool although the rules state that authorised businesses must not imply that they are approved by the Government or connected with any government agency or other regulator.
16. Over the past year we took enforcement action against a number of businesses where intelligence suggested that they were exploiting the fact that they are authorised by the MoJ during sales calls. We issued warnings to non-compliant businesses about this breach and in some cases suspended their authorisation.
17. We have also identified a number of businesses that have reproduced the MoJ logo on their websites, business stationery, marketing literature and on their premises. Where we discover that the logo is being used, or if it is brought to our attention, we instruct the business to remove the logo. Similarly, the Royal Coat of Arms may only be used by businesses holding the Royal Warrant.

Case Study: Mis-use of the MoJ Logo

A member of the public informed us that a claims management business was displaying the Ministry of Justice logo in the window of their High Street office. We were sent a photograph of the front of the premise showing that the large logo was taking up the majority of one of the windows in the office front. Business J was instructed to remove the logo from their shop front immediately. Despite assurances that it was to be removed, we visited the premises a few days later, only to discover that the logo had not been removed from the shop front and was being used elsewhere in the premises. Business J were warned and required to remove the logo while we were still at the premise, and were also instructed to dispose of the other marketing material bearing the logo.



Unsolicited e-marketing

18. We continue to receive complaints related to the use of unsolicited SMS text messages for marketing regulated claims management services, in particular for personal injury claims. Such texts are often misleading and are sent by third party companies or other entities, perhaps based overseas, solely set up to generate leads for other businesses including claims companies.
19. The main challenges are identifying who is responsible for the text messages, sharing that information and building up the evidence needed to take effective enforcement action to stop them. Businesses that buy data or leads from data and lead generating businesses are required to ensure that the seller is appropriately authorised, and thereby compliant with the Data Protection Act 1998. We have investigated breaches of these rules and appropriate action has been taken.
20. To help address these issues we have worked with the Direct Marketing Association (DMA) to form a cross-industry regulator working group. The working group, which includes Ofcom, the Information Commissioner, Telephone Preference Service and representatives from the mobile marketing industry, is devising new approaches to try to tackle this problem once and for all.

Complaints handling and failure to refund

21. Over the past year poor customer service (post-sale) has been one of the main subjects of consumer complaints. We found that a number of businesses did not operate an effective complaints handling procedure as required by the rules, which set out timescales for responding and making a decision about a complaint.

22. We issue warnings initially and where the level of complaints against a business fail to subside, enforcement action is escalated. Over the past year we suspended, cancelled and varied the authorisation of businesses with serious failings in this area.
23. Suspensions, cancellations and variations also followed where businesses failed to provide refunds to consumers when appropriate. In a number of cases we found that businesses were not complying with the 14 day ‘cooling off’ period which entitles consumers to cancel an agreement and obtain a full refund.

Case Study: Failure to Refund

Business V operated a call-centre through which they had signed up large numbers of consumers for a fee of £600 per agreement, most of which involved UCCA claims. We received a considerable numbers of complaints from clients who were entitled to a refund of their fee, as well as complaints about other aspects of the business.

We commenced an investigation into Business V’s refund process and obtained an undertaking from them to resolve the matter. When Business V failed to do so within a reasonable time we suspended their authorisation to prevent further consumers from entering into contracts with them, while existing clients’ refunds remained outstanding.

Business V ultimately failed to demonstrate that it was able or willing to comply and we cancelled their authorisation. Those consumers who were still awaiting refunds were advised by us of the enforcement action we had taken, and were provided with information about the various options available for obtaining a refund.

Dealing with fraud

24. In the personal injury sector we work with partner agencies that are specialist and engaged in tackling fraudulent activity. This ‘multi-agency’ approach maximises our effectiveness in dealing with claims management businesses engaged in making fraudulent claims. Where authorised businesses are involved in criminality, most notably insurance fraud, we work with those appropriate agencies (the Insurance Fraud Bureau (IFB) and local police forces). We produced a flyer in conjunction with the IFB to promote a “Cheatline” for reporting fraudulent businesses. This work involves the sharing of information, providing assistance and producing statements.



25. We have also accompanied some forces on a number of raids on premises where an authorised business is involved in organised crime rings. There are a number of ongoing operations that we assist with at any one time. Some of the investigations lead to arrests being made and police prosecutions. Some of these investigations also involve significant seizures of assets under the Proceeds of Crime Act 2002.

Case Study: Fraud Investigation

We provided information, assistance and statements to the IFB and the local police during an investigation into Mr G. He ran Business E, an authorised claims management business, operating in the North. In 2008 Mr G was sentenced to 5 years for arranging fake accidents for fraudulent insurance claims. Following the conviction, an investigation under the Proceeds of Crime Act was commenced. In late 2010 Mr G was ordered to pay police £150,000. Mr G was also required to pay the police a further £150,000 within 6 months of the order. If Mr G failed to meet the first payment within six months, he would serve an additional 2 years 4 months in jail.

Scams

26. Over the past year we have received complaints from people who have fallen victim to scams run by illegitimate businesses masquerading as authorised businesses or claiming to be working for the MoJ. Consumers will often follow the same route as a client of an authorised business and end up seeking advice from us.
27. We have gathered intelligence about a number of 'rogue' businesses that we have been able to identify. Some of those businesses have taken an advance fee for a claims management service that they have no intention of providing. Where it is clear that this is an 'advance fee fraud', we have engaged with local police forces and trading standards services who have also used their powers to deal with the rogue businesses.
28. We have continued to receive complaints about scam claims businesses operating overseas. Callers ask for money to be transferred to them on the basis that they have funds waiting to be released to the victim. If the victim makes the initial transfer, they will usually seek to obtain further and increasing payments from the victim based upon further false promises.
29. We have found that although the suggestion is that they are claims management businesses, they are usually not in the industry at all. Some also falsely pretend to be banks, the OFT or from the MoJ itself. This year, we received 247 calls about such "money transfer" scams (representing 1.41% of total consumer calls).

30. Consumer alerts and news releases were issued when we first became aware of these scams in 2009. We have updated our advice this year and all calls about these businesses are referred to Action Fraud, the UK's national fraud reporting centre, to ensure that the National Fraud Authority which runs this service, is aware of any developments and are able to aggregate the intelligence.

Refusal of authorisation

31. When an application is received from a business seeking authorisation, we carry out a number of checks on the business and the persons involved. Where there are concerns about the suitability or competence of an applicant, the application is refused.

32. In the past year we formally refused the applications of 9 businesses, although 186 businesses withdrew their application before a formal refusal decision was made. In addition, we authorised a number of businesses subject to individual conditions, such as restrictions on handling client money, providing certain services, or operating in certain sectors. Where conditions are imposed these are included in the authorised business search details published on our website. The reasons for refusals include the following:

- FSA banned director
- Serious unauthorised trading
- Suitability
- Links to previously cancelled business
- Convictions (relevant/non spent)
- Competence
- Immigration status

Suspensions and cancellations

33. If a business is acting in breach of the rules and has failed to comply despite advice and the opportunity to do so, its authorisation can be suspended. Suspension is a temporary measure, and we aim to lift suspension if businesses take remedial action to ensure they are no longer breaching conditions. This year, 10 businesses have had their authorisation suspended. The reasons for suspension include the following:

- Fraud (charges)
- Irresponsible conduct

- Incompetent employees
- Implying business model approved by the Government
- Non compliance with other laws
- Not dealing with clients fairly or reasonably
- Refusal to provide information to the Regulator
- Poor sales practices
- Consumers not provided with pre-contract information
- Poor refund and complaint handling

34. If businesses do not take the necessary remedial action during the period of suspension, their authorisation will usually be cancelled. A total of 349 businesses have had their authorisations cancelled this year. The majority of those cancelled were for non-payment of fees, but a significant number were cancelled for rule breaches that were not remedied. Reasons for cancellation of authorisation include:

- Not act dealing with clients fairly/reasonably
- Fraud (conviction)
- Poor treatment of clients
- Refusal to provide information to regulator
- Poor sales practices
- Consumers not provided with pre-contract information
- Poor refund and complaint handling
- Non payment of fees

Failure to pay authorisation fees

35. During the renewal process some businesses fail to pay their invoices; subsequently we cancel their authorisation. This year four businesses have appealed our decision to cancel their authorisation – two of those appeals have been struck out, one was not defended, and one is pending the Tribunal's decision. Further details about the Renewal of Authorisation process and fees payment procedures can be found at chapter 3.

Surrendered authorisation

36. 539 businesses surrendered their authorisation between April 2010 and March 2011. Many of the businesses that surrendered at the start of this period were involved in the financial products and services sector (mainly dealing with bank charges and UCCA claims which were adversely affected by court decisions on the viability of making certain claims).
37. Businesses exiting the industry tend to make this decision around that time, but there are other reasons for businesses surrendering their authorisation. Some businesses surrender because of changes to the structure within a group of companies, those running the business retire or suffer ill health, or the business has made the decision to focus on providing services other than claims management. It is also not uncommon for businesses to surrender their authorisation while under investigation by us and where we are considering, or have commenced, enforcement action.

Tribunal Appeals

38. A decision made by the Claims Management Regulator is subject to appeal if:
- an applicant is refused authorisation;
 - an authorised person has conditions attached to the authorisation; or
 - authorisation is suspended or cancelled.
39. 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.
40. During 2010/11, there were six appeals to the First-tier Tribunal (General Regulatory Chamber):
- One appeal of our decision to vary the conditions of a business's authorisation has been heard over two separate Tribunal hearings. The first was to consider whether our decision should be stayed, and that part of the appeal was dismissed. The other hearing into the substance of the Regulator's decision was also dismissed.
 - Four appeals were lodged against our decisions to cancel businesses' authorisations for not paying their annual fees in accordance with Regulation 20 of the Compensation (Claims Management Services) Regulations 2006. Three of those appeals were struck out, and the Regulator did not defend the other.

- One appeal was lodged against our decision to issue a warning, which was struck out on the basis that it fell outside the Tribunal's scope.

Audits

41. During the last year, 111 businesses were audited. Subsequently three had their authorisation cancelled, three were suspended, and sixteen surrendered. Regulatory audits may be carried out for a number of reasons. There may have been concerns raised during the application process, or concerns about compliance may arise following authorisation. Sometimes other enforcement agencies raise concerns that can relate directly or indirectly to compliance with our rules. This may lead to joint work with other enforcement agencies.
42. We also carried out thematic audits relating to specific business sectors or geographic areas for market monitoring purposes. These types of audits are conducted by visits to the business, with the owner, director or manager required to be present. Any advice given during the audit is confirmed by letter, which is sent with a copy of an audit report. Details of any information that a business is required to provide or remedial steps that need to be taken will also be included in this audit letter. For example, this year we conducted thematic audits of a small number of businesses involved in the PPI claims sector. This proved valuable in assessing business models and practices against complaints received about the way this particular sector operates. As well as identifying areas of concern, we established best practice which has informed wider guidance for other businesses and assisted in discussions with other regulators such as the FOS. This exercise allowed us to establish that more than half of the potential PPI claims already with businesses were yet to be settled or referred to the FOS.
43. We also carried out postal audits to collect information about how businesses operate, including how they acquire and refer work. These types of audits can be more efficient for us and less time-consuming for businesses. Requests for information, often in the form of questionnaires, were also used where pro-active, project-led work is underway in specific sectors or markets, for example, establishing which businesses held client money.

Unauthorised trading

44. We have continued to receive allegations from various sources regarding businesses suspected of trading without authorisation. A number of these prove to be one of the following:
 - Exempt businesses such as solicitors

- Agents for businesses that are authorised
- Undisclosed trading names for businesses that are authorised

45. Our priority is to prevent businesses from trading without authorisation. We work with other stakeholders to ensure that unauthorised traders do not have a ready market. Where we only have evidence of advertising we issue a warning to the business involved and if necessary, we contact the media owner (often an Internet Service Provider) which usually results in the advertising and any websites being removed. Where businesses subsequently apply for authorisation, their unauthorised activity is taken into account and they may be refused or authorised with a warning. If the latter, they are required to pay a full year's annual fee, regardless of the date of authorisation.

Chapter 7 – Fees and Finance

- **Costs**
- **Fees**

Costs

1. The operating costs of the Claims Management Regulation costs are financed by fees charged to businesses (application fees and annual fees). The fee levels paid by authorised businesses are reviewed and consulted on each year to ensure that they are proportionate and regulation is self financing. The claims management market can be volatile, subject to changes in the economy, legal judgments on types of claims allowed (in particular personal injury and financial products and services claims/complaints), reforms to the personal injury claims process and new regulation being introduced in respect of legal costs and funding. The number of claims management businesses trading and level of business conducted is difficult to predict.

Costs and fee receipts summary 2010/11		£m
Costs		
Monitoring and Compliance		1.86
HQ		0.39
Total		2.32
Fee income		
Application fees		0.44
Annual regulation fees		1.88
Total		2.32

Fees

2. During the first part of 2010 the claims management industry contracted more than expected in some claims areas due to changing market conditions, the outcome of test cases and increased enforcement action against businesses engaged in malpractice. A fall in the number of new applications was particularly pronounced. The fall in fee receipts fed through into an estimated projected shortfall in fees receipts over costs for the end 2010/11.

3. We addressed the projected shortfall partly through costs savings measures and the vigorous pursuit of any outstanding fees. The bulk of the deficit was recovered through an increase in the fees due from regulated businesses in 2010/11. Regulation fees are usually set at the start of the year to which they are to apply but there is provision for in year adjustments to align fee income with costs incurred. This was the first year that such an adjustment proved necessary. The start of year fees had been left unchanged from 2009/10. We also proposed that for the regulation year 2011/12, application fees and annual fees would need to be increased substantially to ensure an ongoing, robust and stable self financing position.
4. We published a consultation⁴ on the proposals to adjust the fees payable for 2010/11 and increase fees scales for 2011/12 in October 2010. The consultation paper went to all regulated businesses but only a very small number responded (11 out of over 3,000) as well as two representative organisations from other parts of the claims and finance industries. The fee increases were implemented in full to ensure adequate resources would be available to regulate the industry effectively at little or no costs to the taxpayer.

⁴ *Fees Determination Amendment 2010-11: Fees Determination 2011-12 (CP05/10) October 2010*

Chapter 8 – Communications and Partnerships

- **Communications**
- **Interested parties**
- **Media stories/coverage**
- **Guidance and advice**
- **Information Sharing Agreements and Memorandum of Understanding**
- **Other regulators**

Communications

1. Communication with businesses, consumers, stakeholders and the media has continued to be a major feature of regulation throughout this period. This has ensured that developments and changes in the claims sector are identified and action taken to inform, influence or obtain views from those affected. This is achieved through a variety of communication outlets.

Business bulletins and surveys

2. We publish quarterly 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 new procedures for PI claims arising from road traffic accidents (April 2010); notification of new FOS guidance on dealing with PPI claims (April 2010); advice on use of unsolicited text marketing (August 2010); advice on the OFT guidance on challenging consumer credit agreements (November 2010).
3. The preparation of the Business Survey at Annex A has also provided a valuable communication channel with businesses.

Conferences

4. The Head of Regulation has attended and given presentations at a number of conferences/meetings over the past year, for example addressing the Finance and Leasing Association (FLA) Consumer Finance Conference (July 2010). Officers have also given presentations and advice to local Licensing Authorities and presentations have been made at insurance related seminars.

Claims Management Regulation website

5. Towards the end of the 2010/11 financial year, preparations were made to converge the Claims Management Regulation (CMR) website content on to a newly redesigned “Justice” website. This was completed in May 2011. In addition to this, there is also a claims management presence on the Directgov website (www.direct.gov.uk – information for citizens) and the Business Link website (www.businesslink.gov.uk – information on services for employers).

Stakeholders

6. A Regulatory Consultative Group meets quarterly to review progress and ensure that stakeholders are involved in the development and operation of the regulatory regime. The Group includes representatives of claims management businesses, other regulators, trade associations, consumer groups and other interested organisations. A full list of stakeholders is set out in Annex C.

Media stories/coverage

7. Claims management regulation has featured in various legal/insurance/financial publications, and in stories in the national press and the BBC. Various channels of communication have been used - for example an MoJ Press Release in September 2010 marked the occasion that the number of suspensions and cancellations of authorisations had reached a total of 200. This communication highlighted the success of our efforts to protect customers, and ongoing work to stop unwanted cold-calling in person, by phone and by text message and cracking down on misleading marketing, unfair upfront fees and “cash for crash” frauds. A number of media/press stories were generated by these topics.
8. The publication of Lord Young’s review of health and safety regulations and the “compensation culture” in June 2010 attracted a significant amount of coverage and was accompanied by targeted MoJ Press Releases that covered the claims management regulation angle.
9. Claims management regulation stories were also covered in the following media channels:
 - BBC Wales (July 2010 - cold calling)
 - Debt Management Today (Oct 2010)
 - Which Money (Oct 2010 – texts & cold calling)
 - BBC Radio One Newsbeat (Nov 2010)
 - MoneySavingExpert.com (Nov 2010 – car insurance costs)

- Mail on Sunday (early 2011 on various CMR topics)
- BBC Radio 5 Live (Feb 2011 – “cash for crash” PI story)
- Observer (Mar 2011 – PPI claims)
- BBC Watchdog (April 2011 – car insurance costs)

10. The Head of Regulation has also given various interviews (radio, TV, newspapers, journals) over this period including:

- Post Magazine (Sept 2010 - unsolicited texting)
- Legal Futures (Sept 2010 - unsolicited texting)
- Claims Management Magazine (Nov 2010 - CMR/PI)
- Law Society Gazette (Nov 2010 – unsolicited marketing)
- Post Magazine (April 2011 – unsolicited texting)

Guidance and advice

11. We have also published several items of guidance and advice to business and consumers. These include:

- Publication of a fraud alert flyer/poster produced in collaboration with the Insurance Fraud Bureau (see chapter 6) encouraged businesses to report any suspicions or knowledge about insurance fraud to “Cheatline” – a dedicated resource specifically established for this purpose.
- Notification to businesses about the “Publication of Regulatory Action Policy” in November 2010, which sets out the circumstances where the Regulator may publish and/or disclose action that is being taken against a business, including investigations, warnings, undertakings, as well as formal enforcement steps i.e. regulatory decisions. It also sets out the criteria that will be taken into account in making the decision as to whether to publish or disclose.
- Guidance on Marketing and Advertising Claims Management Services – updated in October 2010 to include advice on marketing around Unenforceable Consumer Credit Agreements, the impact of recent ASA adjudications and an amended marketing checklist.
- Regulator’s warning on taking up-front fees and cold calling originally published in 2009 was updated in August 2010 in response to complaints received from consumers, reminding authorised businesses of legal requirements in relation to taking "up-front" fees and "cold calling". The update Warning provided essential information on these requirements for all businesses that take up-front fees.

- Advice to consumers via the MoJ website about ongoing scams which have tricked a number of consumers into sending money overseas via a money transfer at their Post Office. This advice included a request to report such incidents to Action Fraud, the UK's central fraud reporting centre run by the National Fraud Authority.
- Notifying consumers of the cancellation of the authorisation of particular businesses (where considered appropriate). We provided consumers with a dedicated factsheet that sets out the options and advice on next steps for customers when such action is taken against a business. Consumers were also alerted to other advice such as the Office of Fair Trading (OFT) guidance for consumers who were considering challenging their credit agreements.

Information Sharing Agreements and Memorandum of Understanding

12. During the past year we established memoranda of understanding and information sharing agreements with other regulators and organisations, including the Financial Services Authority (FSA), Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme. We are currently also working on establishing agreements with the Legal Ombudsman. 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.

Other regulators

13. We continue to have regular meetings with other key regulators such as the Solicitors Regulation Authority, FSA, FOS and OFT to ensure we are aware of developments, emerging markets and any new areas of concern, so that issues are identified at an early stage and any action is agreed.

Chapter 9 – Claims Management Rules review

1. We consulted earlier this year on a proposal to amend Client Specific Rule 6 (b) of the Conduct of Authorised Persons Rules in order to prohibit claims management businesses from offering financial rewards or similar benefits as an inducement that would encourage consumers to make a claim. The majority of responses received from regulated claims management businesses and other interested parties indicated an agreement with the proposed amendment to the rule.
2. This proposal is in response to Lord Young's conclusion contained within his report entitled *Common Sense Common Safety* published in October 2010⁵ that the offering of inducements encourages individuals to believe that simply bringing a claim can be financially rewarding. Lord Young felt that the current rules do not go far enough and that further restrictions were required in order to control the volume and type of advertising currently allowed.
3. The wording of the current Client Specific Rule 6 (b) allows for an inducement to be paid upon acceptance of a claim by a solicitor as it states that '*In soliciting business through advertising, marketing and other means a business must not offer an **immediate** cash payment or similar benefit as an inducement to make a claim*'. The proposed change and the impact assessment is subject to consideration by the Regulatory Policy Committee (an independent body which considers impact assessments) and clearance by the Reducing Regulation cabinet sub committee. This process would include consideration of the issue of a waiver from the micro business moratorium on new regulation.
4. We have also started work on a general review of the claims management regulation conduct rules, which will take into account Lord Young's and others' general concerns over the conduct of claims management businesses. Informal consultation is underway with primary stakeholders and a full consultation on the conduct rules is planned for early autumn, again subject to scrutiny and relevant clearances from of the reducing regulation committees mentioned above.

⁵ http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf

Chapter 10 – Priorities for 2011/12

- **Outcomes**
- **Priorities for 2011/12**

Outcomes

1. The following outcomes drive the operational priorities:
 - Consumers not exploited by claims companies
 - Claims companies responsive to regulatory safeguards
 - Reduced misperceptions and false expectations of compensation and reduction of fraudulent claims and disrupting claims management businesses engaging in other forms of criminality
 - Improvements in quality and professionalism of regulated providers and restoring confidence in compliant providers and in the system
 - Increasing transparency of the market with regard to charges, commission payments and the provision of information
 - Regulation delivers improvement in market practices and processes providing consumers with genuine claims with more efficient and effective routes to redress

Priorities for 2011/12

Unsolicited SMS text marketing

2. Identify the sources of unsolicited SMS text marketing and tackle any non-compliance with the rules.

Tackling malpractice in handling of PPI claims

3. Address and resolve issues arising from the handling of PPI claims by some claims management businesses – including unsolicited marketing of PPI claims; use of generic template PPI complaints; and to raise consumer awareness of options for pursuing complaints.

Advance fees

4. Continue work commenced last year to identify businesses that handle up front fees and apply established and newly identified additional controls.

Misleading marketing

5. Tackle misleading marketing to ensure compliance with the rules.

Fraud / staged accidents

6. Work with partners to target businesses involved in insurance fraud.

Unauthorised trading

7. Tackle unauthorised trading and identify priority targets on a risk assessed basis.

Fair and reasonable dealings with clients

8. Work with businesses to ensure that they offer refunds for consumers who are entitled to them. Businesses that do not meet these legal obligations risk suspension and cancellation.

Validation of authorised claims management business information

9. Continue to improve the way we check information given to us by businesses at application and renewal. In particular we will question the validity of zero, and near zero, turnover claims.

Contract compliance and fairness

10. Improve clarity of information given by businesses about fees payable by consumers. Any unclear terms will be challenged. In addition contractual terms that are unfair will be taken up with businesses.

Protecting Client Money

11. We will build on the work carried out last year to protect client money. Specific checks on compliance with client account rules will be carried out with identified businesses.

ANNEX A

Business Satisfaction Survey 2010-11

Introduction

During April 2010 to October 2010, research was carried out on our behalf to explore business satisfaction with the following:

- a) The application for authorisation process; and
- b) The business enquiry service provided by the MCU.

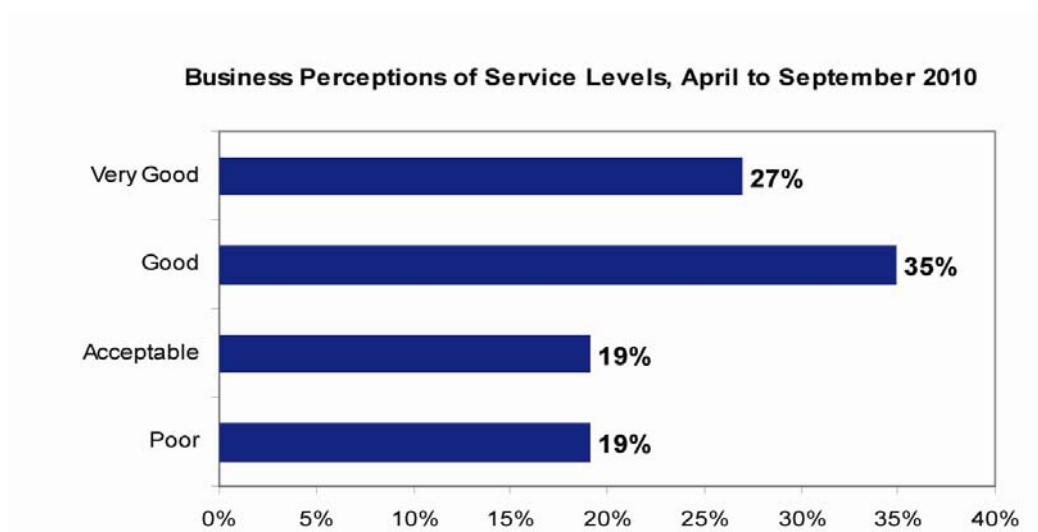
The research aimed to identify where improvements to the service could be made.

Telephone interviews were conducted each month with randomly selected businesses that had made recent enquiries to our helpline and businesses that had recently completed the applications process and received authorisation. A total of 90 businesses were interviewed during the six month period. These businesses were asked about their recent experience of our Unit and about their use of the Claims Management Regulation website. They were invited to make suggestions for specific improvements that could be made to the service provided.

Business Perceptions of Service Levels

1. The research found good levels of satisfaction with the service provided with over 60% of interviewees⁶ rating the service as 'Good' or 'Very Good'. However, these figures show a small decrease in satisfaction levels compared to those reported for 2009-10.

⁶ This question was asked of all interviewees who had recently been authorised or made an enquiry to the helpline.



2. A minority of interviewees reported that the service that they had received was 'Poor'.

Response: Where businesses reported a poor experience, their case has been reviewed and, where requested, they have received individual feedback.

We have carefully examined the comments made by those interviewees who were not satisfied with the service that they received and the most common issues raised related to difficulties experienced in accessing the service, and delays experienced during authorisation. These issues are addressed below.

The Application for Authorisation Process

3. A significant number of interviewees have commented on the time taken to process applications for authorisation.

Response: Early in the period covered by this report, a separate team was created to deal specifically with applications for authorisation, and new procedures have been introduced to improve processing times.

During the period surveyed we experienced unprecedented levels of demand. Additional resources were provided to help mitigate this. Extended processing periods are inevitable in those cases where we are considering refusing or placing additional conditions on authorisation.

The main cause of delay continues to be failure by businesses to respond promptly to requests for information.

A new tool is currently being developed for the Claims Management Regulation website which will allow applicants for authorisation to check online what stage their application has reached. It is anticipated that it will be even clearer to applicants when their application is on hold because we are awaiting a response to an information request, and applicants will therefore respond to information requests more promptly.

4. A small number of those interviewed continue to report that they have experienced difficulties in completing the application form. We have carefully reviewed the guidance for applicants and the issues raised by most interviewees are adequately covered in the guidance. However, comments have been received from a small number of applicants who had difficulties with the application process because their first language is not English.

Response: We have provisions in place to arrange for translated material to be provided to applicants where a need is identified but this facility is not clear. We will be reviewing how we can make this facility clearer.

5. A number of suggestions for improvement were made by interviewees in respect of the application process:

- 5.1. Ensure that the total cost of becoming authorised is clear at the outset.

Response: The total cost of becoming authorised is covered in the Fees Determination and this is clearly referred to in the guidance that accompanies the application form. As it depends on business turnover it is not possible to give businesses applying the annual fee they will be required to pay in advance, but only to indicate how they can calculate it. We have reviewed where this information is available and have improved the clarity of the information provided on our website.

- 5.2. Consider having separate application forms for businesses of different types.

Response: The application form is designed for all different types of businesses and parts that are not relevant can be marked 'Not Applicable'. However, we recognise that some applicants have difficulty in understanding the legal status of their business and we have sought to address this by providing further guidance in the 'Pre-application FAQs' that are now sent to all businesses that request an application form.

5.3. Provide an online application facility.

Response: The online application facility has been enhanced and re-launched.

5.4. Provide updates on progress of applications.

Response: Wherever a query arises, causing delay in processing an application, we contact the business concerned. Providing routine updates on all applications would reduce the time that we spend on processing applications, introducing unnecessary delay. We have introduced an on-line tool to allow applicants to check on the progress of their application. This will be made available in your individual on-line area, accessible through your user-name and password.

The Helpline

6. A significant number of interviewees commented on the frustration that they had experienced when trying to contact us by telephone as they were rarely able to get straight through to an officer.

Response: We have introduced dedicated telephone lines for authorised businesses and for applicant businesses, which have helped to improve our response times. Calls to these numbers are usually dealt with live, and any messages left are almost always responded to the same day.

The new business numbers are only for use by businesses and are included on all letters that we send to businesses, along with a direct dial number for an officer.

7. A small number of interviewees reported that they had not been called back after leaving messages or that further action that had been promised, such as an update, had not materialised.

Response: We log all the calls we receive, and we actively monitor for open calls to ensure that we haven't "missed" anyone. Whilst we do sometimes make mistakes, there are times when we cannot contact a business, for instance where we try to call back but get no answer. In such cases we close the call and this may sometimes lead to perceptions that we have not tried.

8. Some interviewees commented that they had provided information but had not received any feedback on what had happened as a result of this information.

Response: We deal with high volumes of calls and cannot feed back on every piece of information we receive. Generally we treat information received as intelligence to inform our risk assessment of businesses and enforcement priorities. There are limits on the feedback we can give as all businesses are entitled to a degree of privacy.

The Claims Management Regulation Website

9. 80% of businesses that had recently been authorised reported that they had used the claims management regulation website for reasons other than to access the application area. All of these businesses reported that they had found the website useful.

10. A number of positive comments were made on the website, with businesses finding it 'easy to use and navigate' and 'a great tool'. However, a minority of businesses reported that they had had some difficulty finding the information that they needed.

Response: The website content was reviewed and updated earlier this year and this has made it easier to find the information that applicant, and authorised businesses need. We have now carried out further development work to improve navigation of the site for authorised businesses and applicants. We welcome any comments that will help us to ensure that the guidance provided on the website meets the needs of claims management businesses.

11. Comments have been received from a small number of businesses that had looked for information on the website about the action that they needed to take in respect of changes to their business, for example, notifying us of a change of address or additional trading names.

Response: We expect businesses to write or e-mail with any changes which they are required to inform us of under the Conduct of Authorised Person Rules. However, we have introduced a new facility on our website that businesses can use to inform us of any changes. They will need their user-name and password to do so. These are sent out during the annual fee collection exercise each year.

ANNEX B

Consumer Satisfaction Survey

Introduction

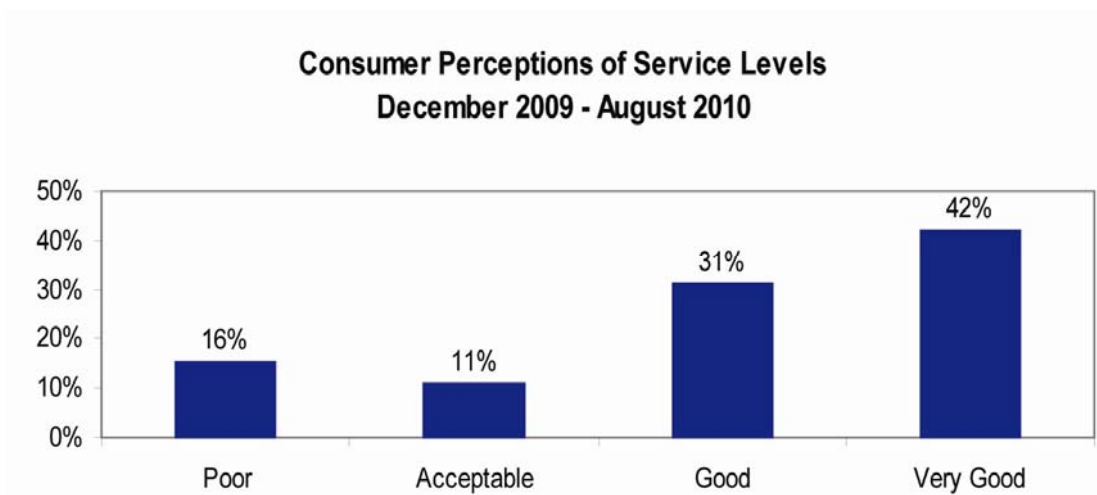
Between December 2009 and September 2010, research was carried out on our behalf to explore consumer satisfaction with the service they provide.

The research aimed to identify where improvements to the service can be made.

Telephone interviews were conducted each month with randomly selected consumers that had made recent enquiries to our helpline, with a total of 90 consumers being interviewed during this period.

Consumer Perceptions of Service Levels

1. The research found good levels of satisfaction with the service we provide, with over 17% of interviewees rating the service as 'Good' or 'Very Good'.



2. Analysis of the responses revealed a strong correlation between a consumer's expectations in contacting the service and their subsequent satisfaction levels.
3. The majority of the consumers who had contacted us for advice or information reported that they had received the information or advice that they needed and half of them rated the service provided as 'Very Good', with just 7% rating the service as 'Poor'.

4. Of the consumers who had contacted us expecting action to be taken by the Regulator, just over a quarter of these interviewees rated the service provided as 'Very Good', whilst a third rated it as 'Poor'.
5. The interviews identified that consumer dissatisfaction with the service was often rooted in two areas:
 - a) Consumers felt that the advice given did not help them to resolve their problem. Examples included:
 - *Consumers who want us to confirm if a particular business is trustworthy:* We are not in a position to do this in respect of individual businesses. Businesses are required to comply with minimum standards but while we can take action if they breach the rules, we cannot guarantee in advance that they will.
 - *Consumers who told us they were struggling to contact businesses at their published address or that the address published is out of date:* We can only publish addresses given to us by businesses. Businesses are required to notify us of changes to their principal place of business and/or registered office.
 - b) Consumers who had paid money to a claims management business and were seeking to recover the money often had an expectation that the Regulator would be able to obtain a refund for them. They were unhappy that this was not the case, although several did comment that they had received useful practical advice which had enabled them to pursue the refund themselves, for example by taking out a small claim in the county court.

Response: Consumer complaints are important to us as we use their content to monitor the activities of claims management businesses. We understand that consumers expect the Regulator to be able to obtain refunds for them. The rules require businesses to refund paid fees if a client requests it during 14 days cooling off period and at any other times subject to any reasonable deductions for work undertaken. We aim to provide clear, practical advice to equip consumers to deal with refund issues for themselves. We also provide information to explain what actions we can take.

The Claims Management Regulation Website

6. A significant number of consumers had been made aware of the Regulator by a claims management business, either during a sales call or from information on the business paperwork or website. More than half of the consumers interviewed had visited our website, many of them in order to check whether or not a business was authorised and the majority of these reported that they had found the website useful. For example, one consumer reported that having identified from the website that a business that had called him was not authorised, he therefore declined to use the service they were offering.
7. However, it was apparent from the interviews that many of these consumers were not using the website to find practical advice.

Response: The 'Consumer Page' of the website has been reviewed and improved to make practical guidance easier to find. Links to this guidance have been added to the 'Business Search' page, as we recognise that many consumers access the site via this page.

Suggestions for Improvement

8. Consumers were asked for suggestions as to how the service could be improved and a number of suggestions were made. Most of these related to matters already covered in this report. However, a number of suggestions were also made about improving access to the service.

Response: We continue to experience high volumes of calls from consumers and we have recently introduced a process which will improve our ability to get basic practical guidance out promptly to all consumers. An automated email response to consumer enquiries provides FAQs and links to specific factsheets that cover the most common problems that consumers contact us about. We have provided e-mail access for consumers where these do not meet their needs and we try to get back to consumers where further help is required.

ANNEX C

Claims Management Regulation stakeholders

Regulatory Consultative Group – members as follows:

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 Independent Financial Advisors (AIFA)
www.aifa.net

Association of Personal Injury Lawyers (APIL)
www.apil.org.uk

British Bankers Association (BBA)
www.biba.org.uk

British Insurers Brokers Association (BIBA)

Building Societies Association (BSA)

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 Ombudsman Service (FOS)

www.financial-ombudsman.org.uk

Financial Services Authority (FSA)

www.fsa.gov.uk

Financial Services Compensation Scheme (FSCS)

www.fscs.org.uk

Forum of Insurance Lawyers (FOIL)

www.foil.org.uk

Law Society

www.lawsociety.org.uk

Legal Ombudsman

www.legalombudsman.org.uk

Legal Services Board (LSB)

www.legalservicesboard.org.uk

Motoring Accident Solicitors (MASS)

www.mass.org.uk

National Debtline

www.nationaldebtline.co.uk

Office of Fair Trading (OFT)

www.offt.gov.uk

Solicitors Regulation Authority (SRA)

www.sra.org.uk

UK Cards Association

www.theukcardsassociation.org.uk

Unison/TUC

www.unison.org.uk

Which?

www.which.co.uk

ANNEX D

Contact Information

For queries concerning the authorisation of businesses or to report concerns of complaints:

Ministry of Justice
Claims Management Regulation
Monitoring and Compliance Unit
57-60 High Street
Burton-Upon-Trent
Staffordshire
DE14 1JS

Telephone: 01283 233309/ 0845 450 6858

Fax: 01283 233 335/ 0845 450 6866

E-mail: info@claimsregulation.gov.uk

For queries concerning information in this publication:

Telephone: 020 3334 3555

Fax: 0203 334 4282

E-mail: claimsmanagementregulation@justice.gsi.gov.uk

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