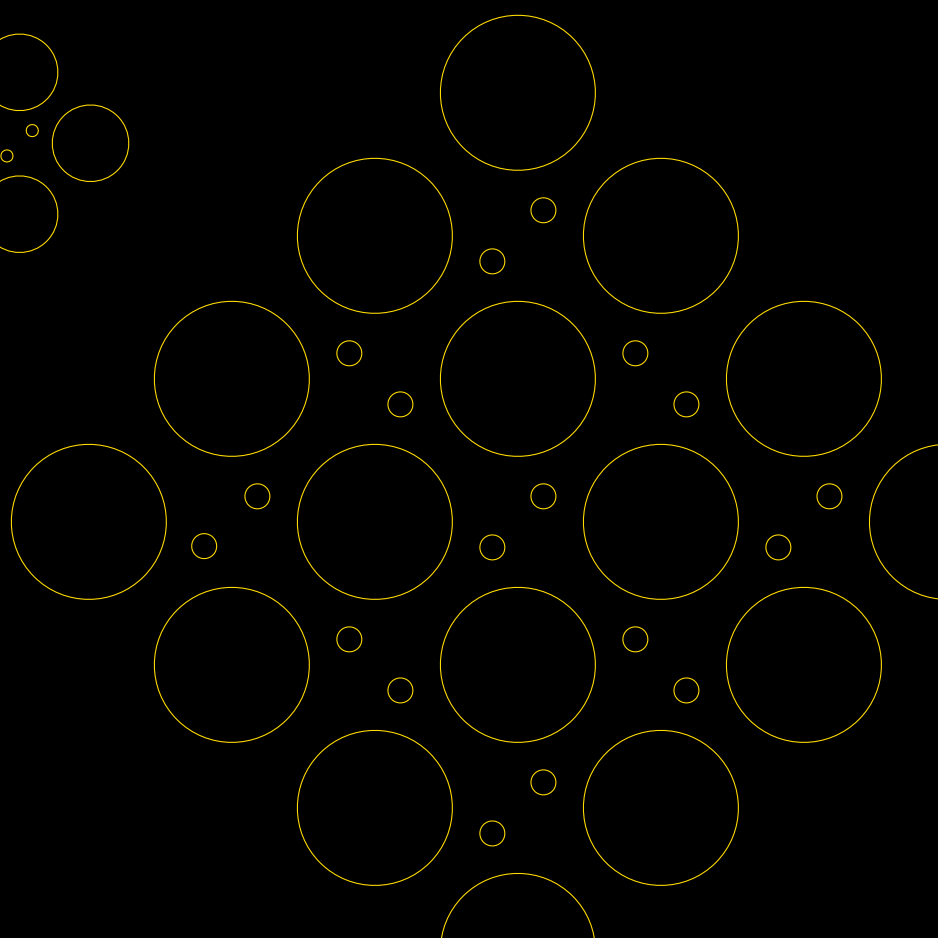
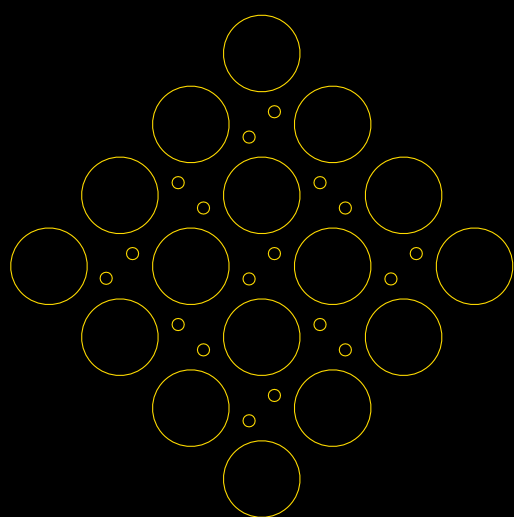


Claims Management Regulation

Annual Report 2009/2010



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Ministerial Foreword – Jonathan Djanogly MP, Parliamentary Under Secretary of State



At this early stage into my new role as Minister for Courts and Legal Aid I am very pleased to have this comprehensive report from the Claims Management Regulation Unit on the operation of the claims management regulation regime. The claims management industry developed rapidly over the last 10 years. Initially this was mainly in the injury claims sector. However, with the emergence of the mis-selling of some financial products and services a claims management industry also developed in an equally significant way to offer consumers services to obtain appropriate redress.

Many claims management companies provide an important service for thousands of consumers seeking compensation, redress and access to justice for genuine wrongs they have suffered at the hands of another party - whether they have suffered an injury, a financial loss or some form of detriment in an employment situation. However, the claims management sector needs to be subject to direct regulation to tackle the bad practices of some companies including misleading marketing, high pressure selling, unfair contracts, poor customer services, outright scams and fraud. Dealing effectively with the bad practices and bad companies in the claims sector is a challenging task but one which must be done.

This report highlights the continually evolving nature of the claims management industry. Work the Government and others are carrying out in a number of related areas could have a significant impact on the development of this industry in the next few years. I recently announced the Government's intention to consult in the autumn on implementing Lord Justice Jackson's recommendations on the reform of funding arrangements. The Legal Services Board is considering referral arrangements and their conclusions will inform the Government's position and there is the planned development of alternative business structures. We will also be considering the conclusions from the important review Lord Young of Graffham is carrying out into health and safety law and the compensation culture.

This report and the separately published independent assessment provided by Mark Boleat provide a wealth of material and analysis to help assess the performance of the industry, the regulation of it and some insights into the possible future. What is clear now is that regulation in this area is necessary. Its delivery via innovative

structures based on partnerships with other consumer protection and enforcement agencies is effective and importantly keeps costs, which are recovered from the regulated sector, to a minimum. I will be keen to see what more can be done to drive out bad practice and further improve the standards of service provided by the regulated sector.

A handwritten signature in black ink, reading 'Jonathan Djanogly'. The signature is fluid and cursive, with a large initial 'J' and a long, sweeping underline.

Jonathan Djanogly MP

Introduction from Head of Claims Management Regulation



While the Ministry of Justice's (MoJ) role as a regulator of the claims management industry has become firmly established the regime is still relatively young and continues to evolve. MoJ's direct regulatory responsibilities remain a unique function for a government department to hold. However, the significant progress made since the start of regulation has demonstrated that it is an arrangement that can work, at least in the short to medium term – and that it can deliver benefits at much lower cost compared with traditional regulation models. Indeed the Better Regulation Executive concluded last October that claims management regulation was a good example of efficient and low costs regulation.

2009/10 brought with it many new and significant regulatory challenges. The particular problems created by the unenforceable consumer credit agreement (UCCA) claims industry and the responses made have been well documented and are summarised in this report. A key challenge has been to maintain an effective response given the jurisdictional overlaps with other regulators and the range of powers and resources at our disposal. Close co-operation with other regulators such as the Office of Fair Trading and the Solicitors Regulation Authority has been a vital element of the drive to tackle malpractice in this and other areas.

In many respects the claims management regulatory regime may have become a victim of its own success and expectations of what it can and should be doing may have risen beyond what is actually deliverable from a relatively small focused operation. However, the claims management regulation team has made extraordinary efforts to tackle malpractice right across all sectors of the industry. It is often a thankless task but a task we have sought to deliver efficiently and effectively with the maximum of effort but the minimum of fuss.

During 2009/10 the volume of formal enforcement action has grown substantially and action has been taken against some of the most complex and largest claims businesses operating in the financial services area – and this trend is continuing into 2010/11. Overall the scale of operations and active caseload increased further during the year and contacts from businesses, consumers and other parties reached new peaks, particularly during the periods of more intense enforcement activity. Towards the end of the year the combination of enforcement action, enhanced authorisation checks, the contraction of the UCCA market meant that there were the first signs of the net number of authorised businesses falling.

The resources required to try to meet the regulatory demands were increased further in 2009/10. However, the size of the regulator is still very small both in terms of staffing and general overheads in relation to the size of the claims market and the range of responsibilities we hold. In the face of the regulatory challenges we have made full and effective use of the regulation fee income paid by claims management businesses to address the escalating enforcement, complaints and consumer advice issues. For the third consecutive year since regulation was commenced we have recovered in year all of our operating costs from the regulated sector.

I was also pleased during the past year to have the opportunity to take the claims management regulation messages to the trade, local and national media. In particular to promote further awareness of the factors that need to be taken into account when considering using the services of a claims business and the specific risks associated with some types of claim, including ones related to regulated consumer credit agreements.

And from the outset of regulation the 'post implementation assessment' has been an important element of our approach and we have benefited from having an external regulatory expert to consider what's worked well and not so well. For 2009/10 we asked Mark Boleat to extend his scrutiny to consider the impact of regulation on the development of the claims market, as well as how well malpractice has been tackled. His report is published alongside this Annual Review.



Kevin Rousell

Chapter 1 – Overview

- Key achievements
- Key figures
- Performance against 2009/10 objectives
- Other key developments
- Impact of Regulation assessment

Key achievements

1. The period covered by this Annual Report has overall seen further growth of the claims management industry, with more businesses seeking authorisation in all the sectors regulated, although during the year the number of applications for financial services and products claims services started to fall. We have taken action to deal with malpractice and by March 2010 we had cancelled the authorisation of 124 businesses. Over the year we dealt with an unprecedented number of consumer complaints and business enquiries.
2. There have been significant changes in the claims market during the year resulting in businesses having to alter their practices. Keeping pace with these changes, to ensure that authorised businesses respond appropriately and to also provide advice to consumers who are not satisfied with the service they have received, have been significant features of the year. The careful allocation of resources, rigorous prioritisation and close working with other regulators and interested organisations has been essential.
3. Key achievements and progress made during 2009/10 include:
 - Dealing with an increasing number of consumer enquiries and complaints about businesses. We recruited additional specialist consumer advisers to respond to the increased demand. We assisted around 7,000 consumers in resolving problems they have experienced with claims management businesses. We have also issued factsheets to signpost consumers to other organisations who are better placed to assist.
 - Working with the police and other enforcement and intelligence agencies to tackle claims management businesses involved in staged and contrived accidents. This work ranged from sharing information under appropriate arrangements to participating in and initiating some joint operations with police forces across the country.

- Identifying instances of long-established and emerging areas of malpractice in “call centre model businesses”. Working with businesses to deal with rule breaches such as misleading marketing during sales calls, and taking payment before providing required pre-contract information. Taking enforcement action where businesses failed to comply.
- Effective handling of the further expansion in the number of businesses seeking authorisation and the renewal of authorisations. We have taken action to ensure an effective service is provided to businesses and have handled around six times the number of businesses originally anticipated when regulation was introduced. It seems the peak in the number of authorised claims management businesses was reached in 2009/10 and the rate of applications made has started to show a downward trend.
- Introduction of additional application checks for businesses proposing to work in the financial products and services sector - in particular those planning to deal with claims for unenforceable consumer credit agreements (UCCA). Businesses are asked to provide information about claim handling arrangements including in-house, referral to another claims management business or direct to solicitors and further documents such as pre-contract information, marketing material and sales scripts are checked to ensure consumers are not being misled about the service provided.
- We took action to disrupt the activities of “scam” callers who pretend to be calling on behalf of the Ministry of Justice (or other official bodies such the Office of Fair Trading) seeking payment by money transfer to release funds allegedly being held for refunds on bank charges and the like. Although outside the scope of claims management regulation, we issued consumer warnings, liaised with police fraud teams and provided guidance to consumers. Reports are now made to “Action Fraud”, which is part of the National Fraud Reporting Centre.
- Claims Management Regulation was identified by the Better Regulation Executive as an effective regulatory model in the October 2009 report *“Better Regulation, Better Benefits; Getting the Balance Right”*.

Key figures

4. The following key figures provide a summary of claims management regulation activity from April 2009 to March 2010.

- The number of authorised businesses increased by 576
- Businesses authorised during this period 1,250
- Applications for authorisation ‘withdrawn/terminated’ 171
(473 since regulation started)

- Applications for authorisation refused (14 since regulation started) 7
 - Authorisation surrendered (650 since regulation started) 448
 - Authorisation suspended businesses 9
 - Authorisation cancelled businesses (124 since regulation started) 35
5. The average number of various contacts dealt with each month included:
- 1,300 requests for business advice - with a peak month of over 2,500;
 - 600 contacts from consumers each month, peaking at around 1,000;
 - 100 new applications for authorisation, peaking at 150 applications;
 - 140 enforcement actions including advice and warnings as well as action to remove the authorisation businesses.

Performance against 2009/10 objectives

6. Last year's Annual Review identified the following areas as priorities for 2009/10 – a brief summary of the action taken on each is set out below:

Combating unauthorised trading remains a priority. Work is planned in particular to remove websites of unauthorised traders.

We received around 40 reports alleging businesses carrying out regulated claims management activity without authorisation each month. Each report was investigated and risk assessed. We were able to eliminate many of these reports as other trading names used by authorised businesses, individuals acting under any agency arrangement for an authorised business, businesses that are exempt and those that are not in fact carrying out regulated activity.

Where businesses ignore our warnings we commence formal investigations. Usually businesses stop without the need for us to initiate criminal proceedings. We have had a good deal of success through disruption tactics including working with Internet Service Providers to disable websites. See following example case study.

Case Study 1 – action on unauthorised trading

We received a number of complaints from consumers that had agreed to Business A acting on their behalf to make a claim challenging the enforceability of consumer credit agreements. The business was not however authorised to provide regulated claims management services.

We identified that the business also had a website and immediately wrote to them, with a warning about their conduct and requesting that the website be removed without delay. However, we were then contacted by an individual who had received the warning letter, who had no knowledge of the business, also notifying us that he had received other post for the business.

Research was quickly carried out to identify the Internet Service Provider (ISP) hosting the website. Having spoken to the ISP, we served a Notice upon them requiring details of their client, pointing out that an offence was being committed by the website through providing a regulated service without authorisation, and as a result they were in breach of their terms and conditions for the hosting of the website. The ISP promptly disabled the website, thereby protecting consumers who might have viewed the marketing, and they also provided information about Business A that allowed our investigations to proceed.

Regular surveillance of websites and other marketing

Monitoring of websites of authorised businesses has continued, particularly to ensure that marketing and advertising material complies with the rules. In particular to ensure that court decisions are reflected and taken account of in relation to UCCA cases. Where the content of websites is misleading, businesses are required to immediately comply by make the necessary amendments. New businesses applying for authorisation that intended to market for UCCA claims have been asked to provide their marketing literature and this has been reviewed by us during the authorisation process.

Authorised businesses that require professional indemnity insurance (PII) will be contacted to ensure that they have appropriate insurance.

We conducted an exercise to identify businesses required to hold PII insurance and policies were checked to ensure they met the requirements.

Review contracts used by authorised businesses to ensure that they comply with relevant legislation and provide advice to businesses to ensure that contracts are amended appropriately.

We reviewed client contracts from (a) businesses seeking authorisation and intending to handle UCCA claims and (b) those where concerns have been raised by consumers complaining about service they received from a business usually in connection to the fee that has been charged. See case study 4.

Information received by the regulator will be analysed for trends and where there are concerns remedial action will be planned; this may be providing generic advice to businesses, audits or enforcement action.

We have monitored the frequency and nature of contacts from consumers. Where these examples or other concerns are repeated about the same business, the regulator considers whether enforcement is appropriate. This has resulted in business authorisation being suspended or cancelled.

Work will be carried out with businesses that use call centres to address current concerns regarding cold calling and examples of misleading information being given by callers.

We have received a number of contacts from consumers who have been "cold-called" by claims management businesses via a call centre. This intelligence has helped to identify potential rule breaches and enabled targeted advice and enforcement action. See case study 2:

Case Study 2 – Identifying and dealing with "cold-calling" rule breaches

When monitoring the level and nature of complaints and enquiries made by consumers, we detected a sudden increase in complaints about Business B. Consumers were complaining about persistent calls; that the business claimed to be working on behalf of the Ministry of Justice; aggressive sales techniques; taking payment without providing required pre-contract information and payment being taken without permission. We contacted Business B requesting that all tele-marketing should cease until they were able to comply with conduct rules and provide an explanation of the situation and events leading to the reports of multiple rule breaches.

Business B explained that they had recently been contacted by a call-centre who had offered to tele-market for financial claims on a trial basis, which they had then commenced prior to full agreement. Business B instructed the call-centre to cease tele-marketing immediately, and assured us that they would deal with all complaints. The business was warned for allowing the situation to arise, advised of their responsibilities of ensuring marketing carried out by third parties on their behalf was compliant and undertaken by those with competence to do so and told that their marketing would be closely monitored.

Review the use of agents in the UCCA market.

We have worked with businesses that use multiple agents to ensure that they were operating under a legitimate agency agreement and to ensure they were under the full control of the business. We also instructed any 'introducers' not operating under an appropriate agency agreement to remedy this or seek authorisation in their own right. See case study 3:

Case study 3 – Business P failing to control agents

We received enquiries from consumers who were unable to find the claims management business they had used on the authorised business search. They were confused as they had been contacted by one business, made payment to a different business, received paperwork from another and had been contacted by a solicitor. We investigated and it became clear that Business P was the principal business, but that their agents were not making this clear at the outset, or were carrying out regulated activities without the benefit of an appropriate agency agreement.

Business P was advised that they were responsible for the marketing of their agents, and that they may be accepting referrals from an unauthorised source. The agents were also advised that they were acting outside of an appropriate agency agreement, told to stop marketing and that they would need to be authorised in their own right if they wished to operate in this way. All parties had not understood that the way they were providing the service was in breach of the rules, and they subsequently amended marketing literature, websites and their practices to ensure they complied.

Regular emails to businesses, in addition to the bulletin, providing advice to authorised businesses.

Information, advice, guidance and quarterly regulation bulletins have been sent to businesses by email as well as published on the Claims Management Regulation website.

Continue to work with partner agencies to tackle claims management businesses involved in fraud.

We have worked with the Association of Chief Police Officers to publicise our role and remit to police forces throughout England and Wales and have established a number of information sharing agreements with a range of forces. Further joint work has been carried out with the insurance industry and police forces to tackle staged accidents and fraudulent claims.

To implement a revised procedure for authorisation of new and existing businesses involved in the UCCA sector – to include checks on their processes for effective handling of claims.

We introduced revised procedures for assessing the suitability of applications from businesses planning to handle UCCA claims. See case study 4.

Case Study 4 – Review of client contracts used in “UCCA” claims

Following concerns that consumers were being asked to enter into agreements which contained unfair terms we reviewed client contracts used by some authorised businesses providing services to challenge the enforceability of consumer credit agreements and directed changes to those client contracts. General guidance on such contracts was also issued to all businesses operating in this sector.

We also requested contracts from businesses seeking authorisation that they intend to use and reviewed these during the authorisation process. Inserting a new stage into this process meant that many businesses were required to amend their agreements to ensure they were compliant before contracting with clients. Some businesses failed to complete the application process and were deterred from entering the industry.

The types of terms dealt with included;

- failure to include the required 14 day cooling off period;
- restricting cancellation rights of the client;
- standard penalty charges for cancelling the agreement; and
- confusing and ambiguous terms, often containing legal jargon.

Other key developments

7. Other key developments since last year’s Annual Review include:
 - We have streamlined the authorisation process and improved the application form with enhanced online functionality for applications due to be introduced by autumn 2010;
 - We have improved our ethnicity and diversity monitoring, the initial results of which are set out in Chapter 3 of this review;
 - We have published specific guidance and FAQs for businesses and factsheets for consumers.

Impact of regulation assessment

8. We asked Mark Boleat to carry out an independent assessment of the impact of regulation over the last year and to consider the progress made over the three years since the introduction of regulation in 2007. Mark has considered the impact of regulation on tackling malpractice in the claims sector and has also whether there has been any impact on access to justice. His assessment Claims Management Regulation – Impact of Regulation Third Year Assessment is published along side this report.

Chapter 2 – Claims Management Regulation regime

- About us
- Regulatory objectives
- Who and what we regulate
- Better Regulation Executive review

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. The Head of Claims Management Regulation (an established MoJ civil servant, currently Kevin Rousell) takes statutory regulatory decisions on behalf of the Secretary of State. Such decisions include the authorisation, suspension and cancellation of the authorisation of a business to provide claims management services. The Head of Regulation is supported by a small team of London based MoJ officials and a Monitoring and Compliance Unit (MCU) located in Burton-on-Trent, which leads on the processing of applications, monitors compliance, complaint handling, investigations and enforcement actions. The MCU is provided by Staffordshire County Council under contract to MoJ and consists of a team with a range of trading standards, police, legal, consumer advice, intelligence gathering and fraud investigation experience and skills.

Regulatory objectives

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

Who and what we regulate

5. The claims sectors subject to Compensation Act 2006 regulation are:
 - Personal injury;
 - Industrial Injuries Disablement Benefit;
 - Financial products/services;
 - Employment;
 - Criminal injuries compensation;
 - Housing disrepair.
6. The types of claims management activities regulated include:
 - Advertising for, or seeking out (for example direct marketing) persons who may have a cause of action;
 - Advising a claimant or potential claimant in relation to his claim or cause of action;
 - Referring details of a claim/claimant or cause of action for a fee to another person;
 - Investigating or commissioning investigation of a claim with a view to using results in pursuit of the claim;
 - Representing the claimant.

Better Regulation Executive (BRE) review

7. The BRE leads the regulatory reform agenda across Government with the aim of improving the design of new regulations and to simplify and modernise existing regulations. In its October 2009 report *"Better Regulation, Better Benefits; Getting the Balance Right"*² the BRE featured claims management regulation as an effective regulatory model, with the engagement of stakeholders, minimal administrative burdens for business and post implementation reviews identified as key factors to the success of this regulatory regime.
8. The report included a case study on claims management regulation and considered that: *"Claims management regulation is a good example of how regulation can be introduced quickly, efficiently and at low cost, with the support of the industry concerned, to protect consumers..."*

² <http://www.berr.gov.uk/whatwedo/bre/benefits/better-benefits/page53245.html>

Chapter 3 – Working with claims management businesses

- Authorised businesses analysis
- Applying for authorisation
- 2009/10 renewal process
- Business surveys
- Ethnicity and Diversity Survey

Authorised Businesses Analysis

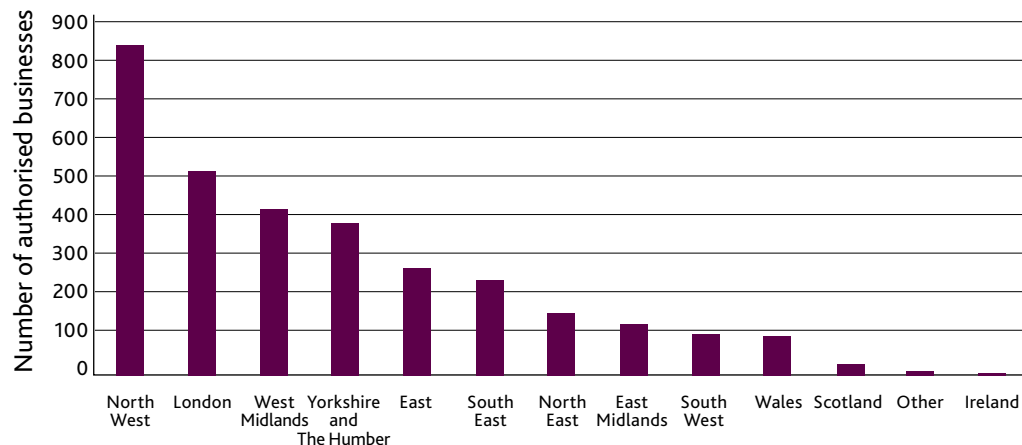
1. The second half of the regulation year (October 2009 to March 2010) saw some major changes to the claims management sector. At the end of January 2010, 3,367 businesses were authorised, the highest total number of authorised businesses since regulation commenced in April 2007. However, between January and the end of March 2010 almost 200 businesses had surrendered their authorisation. There are a number of factors likely to have contributed to this.
2. The annual request for information and fee collection has historically had an impact on the number of authorised businesses, with many leaving the industry at this time. However, court decisions in relation to 'unfair bank charges' cases and consumer credit agreements have caused a number of authorised businesses to consider the future viability of their business model. More than half of the businesses surrendering their authorisation as set out above are operating in the financial products and services sector.
3. Taking into account businesses that have been suspended, cancelled or have surrendered their authorisation, a total of 4,166 businesses have been authorised to provide regulated claims management services since the commencement of regulation in April 2007. In the last year, 44 businesses have been suspended or cancelled, with 448 confirming that they no longer require to be authorised. There has therefore been a 14.5% exit rate in the twelve months to March 2010, which was a 2.5 increase on the previous year of 12%.

Geographical distribution of claims management businesses

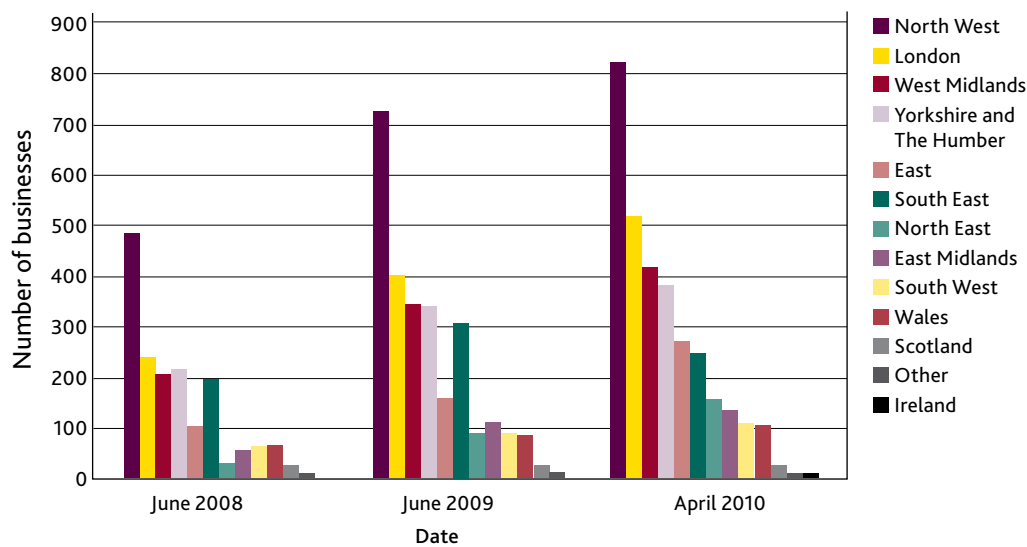
4. At the end of March 2010, there were 3,176 businesses authorised to provide regulated claims management services. The North West region contained the highest number of authorised businesses with 815 businesses – over one quarter of all authorised businesses. Roughly half of authorised businesses are

located in the next four largest areas in claims management terms, London, West Midlands, Yorkshire & The Humber and East.

Authorised businesses – by region



Authorised businesses by region – 2008-2010

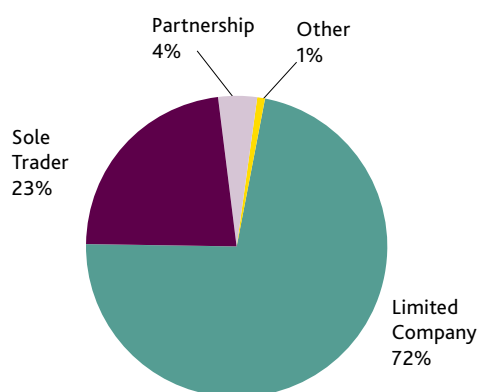


- Looking at the numbers of authorised businesses by region over the last three years, all regions have seen a reduced rate of increase since June 2009 in comparison to the previous year (with the exception of the East and South West regions). The South East has actually seen a decline in the numbers of authorised claims management businesses between June 2009 and April 2010. There has also been a disproportionate increase in the number of businesses based in the North East. In June 2008, the North East had about half the number of authorised businesses as the South West and Wales, but by 31 March 2010 they had more businesses than either of those regions.

Legal entity of authorised claims management businesses

6. The overall make up or “legal form” of businesses has not changed greatly since the introduction of regulation in 2007. Sole trader authorisations have remained at a constant 23% over the last couple of years, while there has been a slight increase in limited companies (to 72%) and a corresponding decrease in partnerships (of 1%). There remain some businesses that fall outside of the three main legal forms that authorised businesses take, with a small number of public limited companies, unincorporated associations and companies registered overseas also authorised.

Authorised businesses – by entity



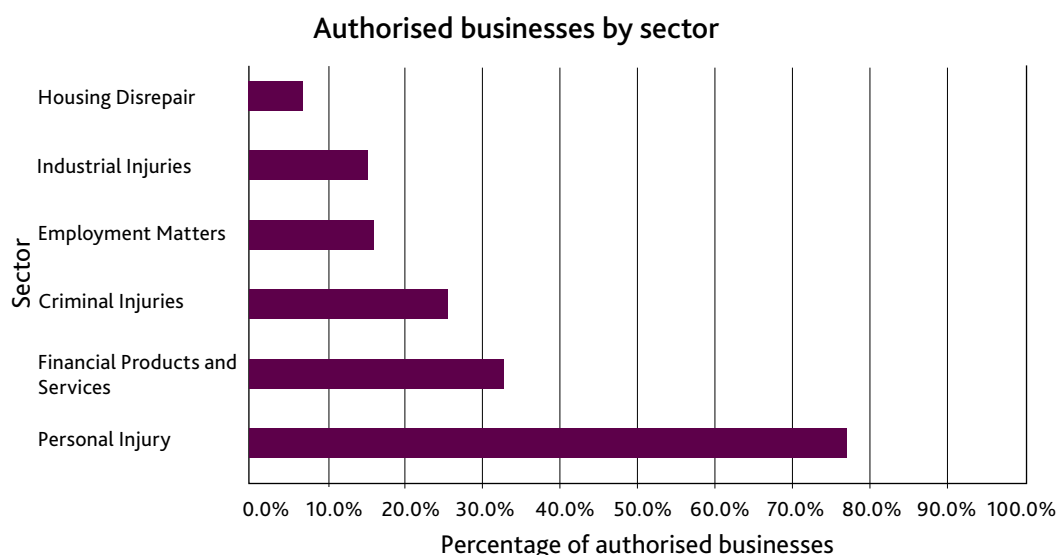
Renewal data – number of employees, turnover etc.

7. Towards the end of the regulation year (February/March 2010) information is requested from authorised businesses including turnover, claim sectors in which they operate, type of activities carried out and number of staff employed (to carry out claims management work) plus any changes to directors or persons in control of a business that have not previously been notified to us. This information is required to ensure records are up to date and to calculate the annual fee due for the following year. Those businesses which fail to respond or respond but then fail to pay their invoice will have their authorisation suspended or cancelled.

Sectors

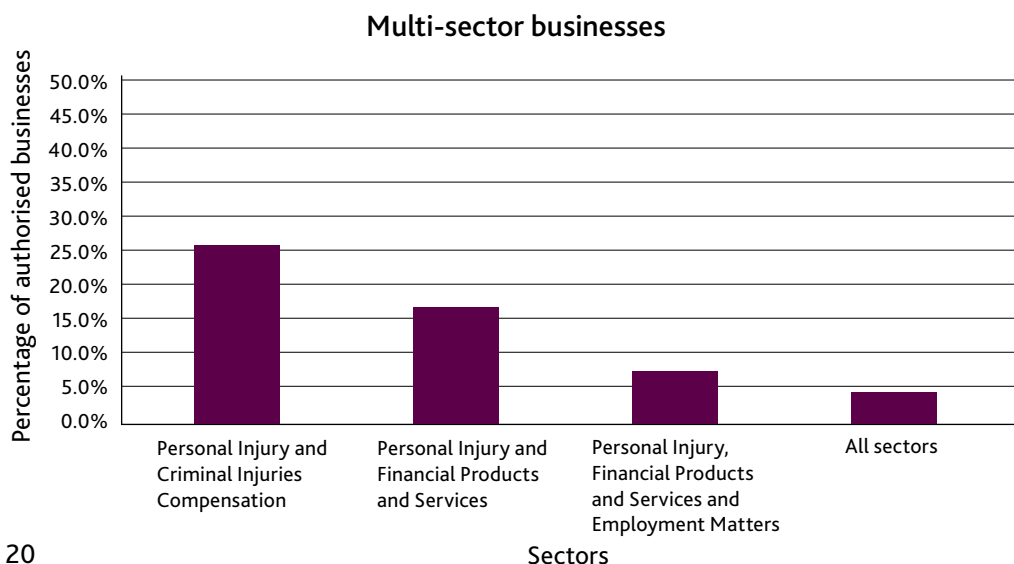
8. The personal injury sector continued to have the highest number of authorised businesses with more than three quarters declaring that they are operating in this sector. This is compared to just one-third of businesses that carry out activities in the financial products and services sector.

9. The employment sector and industrial injuries disablement benefit sector have approximately 16% of the total number of authorised businesses in each. Housing disrepair remains the smallest claims sector, with less than 10% of businesses authorised to operate in this sector.



Multi-sector services

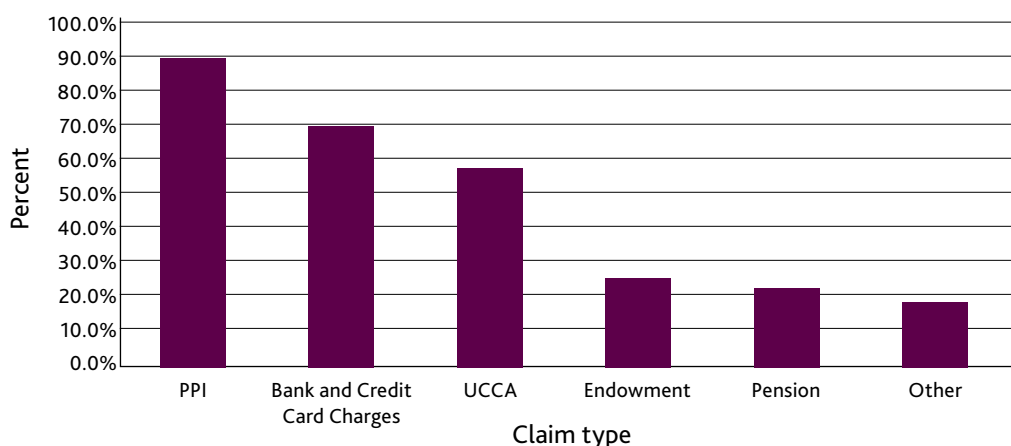
10. The number of authorised businesses does not equate to the sectors operated in because many businesses provide regulated services in more than one sector. The most common linked sectors are personal injury and criminal injuries compensation, where businesses often obtain some criminal injury compensation clients as a result of aiming marketing to potential personal injury claimants. Some businesses (about 15%) provide services in the two most lucrative sectors of personal injury and financial products and services. Few businesses declare that they intend to provide regulated claims management services in all regulated sectors. The graph below shows the percentage of businesses that have declared that they operate in more than one sector.



Financial products and services sector

11. As part of the 2010 renewal exercise businesses in the financial products and services sector were asked to provide details about the types of claims they handle. By far the most common type of claim in this sector is for mis-sold payment protection insurance (PPI) (589 of the 657 businesses from which information collected). The next is bank and credit card charges (457) and then UCCA claims (374). Some businesses are still progressing claims for mis-sold endowment (162) and mis-sold pensions or the State Earnings Related Pension Scheme (141) but there are very few of these that are ongoing. It is anticipated that these cases are likely to decrease each year as a result of time limits on presenting the claims.
12. Some businesses have also confirmed that they are making claims in other financial areas such as mortgage claims, hidden commissions and mis-selling for other insurance and financial products. The graph below shows these claim areas against the total businesses that provide services in this sector as at the end of March 2010.

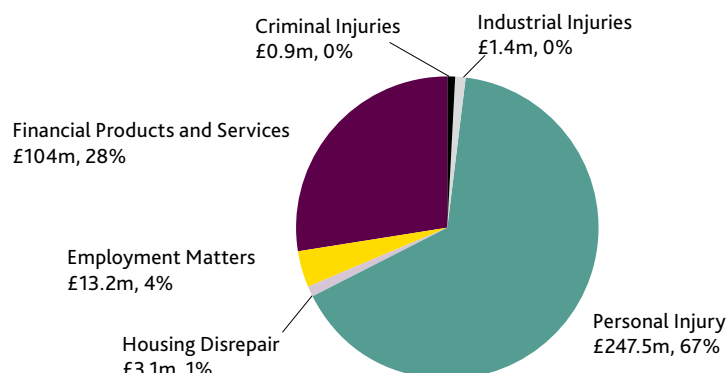
Financial products and services – by claim type



Turnover

13. Total turnover confirmed to the regulator at the end of March 2010 stood at £370 million, although some businesses were still to provide their turnover figures. This is an increase from £361 million in 2009 and £280 million in 2008. There has been some fluctuation across the sectors, with the financial products and services, employment matters and housing disrepair areas reporting an increase in turnover and a slight decrease in personal injury, criminal injuries and industrial injuries disablement benefit sectors.

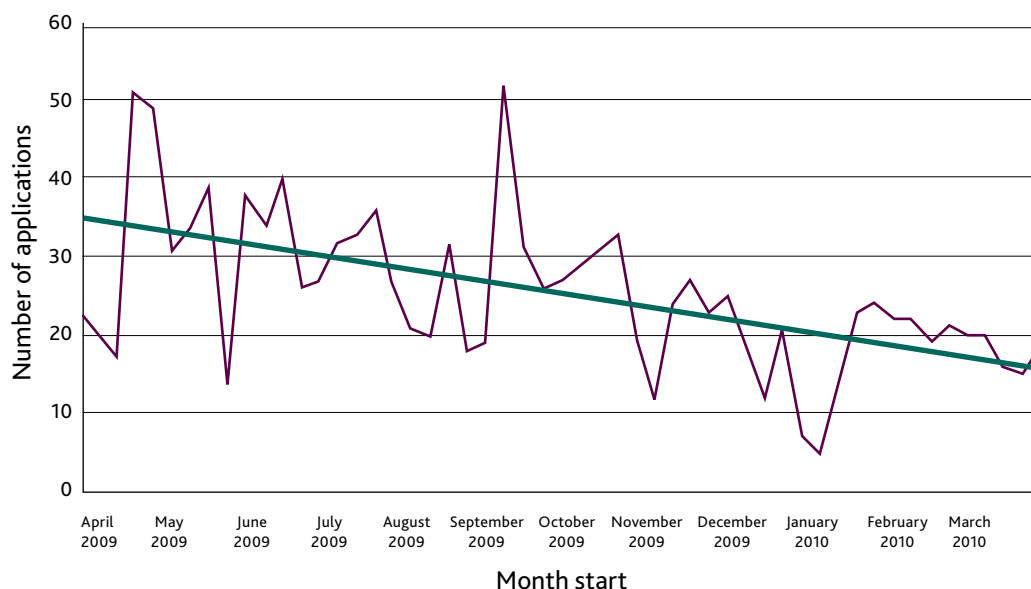
Annual turnover of industry by claim sector



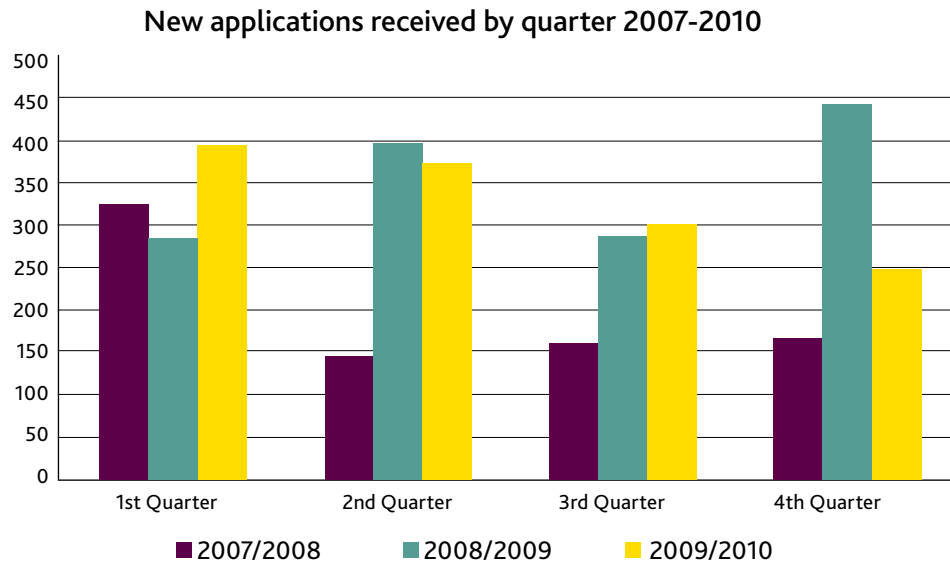
Applying for authorisation

14. The number of businesses seeking authorisation fluctuated throughout 2009-2010. The following graph shows that there has been a general decrease in new applications in the second half of the regulation year.

New applications (by week) – April 2009 to April 2010



15. Considering new applications by quarter since the start of regulation, it is clear that the significant increase in the final quarter of 2008/2009 (by 50% from the previous quarter) has been followed by a steady decline in new applications. This is likely to be due to a combination of factors, including the reduction of "UCCA" applicants, market conditions and economic conditions.



16. It is important to note that new applications does not equate to businesses that become authorised. Firstly, some businesses' applications have been refused for various reasons including the applicant (or a director) having relevant criminal convictions, in particular dishonesty or fraud offences and where the applicant, or directors have been subject to enforcement action by the Regulator whilst involved with a previous authorised business, or for action taken by another regulator.
17. The most common reason an applicant business fails to become authorised is because they withdraw their application or it is deemed withdrawn by the Regulator. During the 2009/2010 regulation year 171 businesses left the authorisation process, most of these applications were deemed withdrawn. This includes some businesses that have completed the process but fail to pay the annual fee.
18. More common, however, is where the applicant fails to respond to a request for information. Where these attempts fail it is deemed to have been withdrawn. Often this is where checks during the application process raise issues which may concern the suitability of the business to be authorised and the business fails to respond to questions or requests for information the applicant had deliberately failed to disclose. Other reasons known for businesses withdrawing their application are ill health, the business is exempt, or the business is not providing regulated claims management services.
19. Since 2007 13% of the applications received have been withdrawn. This has increased sharply over the last year with 8% of the total number of applications being withdrawn. This is likely to be due to extra scrutiny of and further information being required from businesses seeking to enter the financial products and services sector. Due to the increased risk of consumer detriment, businesses seeking to provide services in this sector (and in particular UCCA claims) were required, at the application stage, to provide

additional information. This included details of proposed marketing material, pre-contract client information and contracts that the business intended to use, as well as details about the measures a business had in place to deal with these claims. The High Court decisions on UCCA cases are also likely to have been a factor for businesses that were in the application process withdrawing.

20. We reviewed the application form in 2009/10, taking into account the evolution of the application process and results of a survey of authorised businesses. The layout of the form has been improved and is now in a more business-friendly format. This has had a positive result with fewer applications returned to businesses due to missing or incorrect information.

2009/10 Renewal exercise

21. At the beginning of February 2010 we commenced the third annual renewal exercise. We took into account lessons learnt from previous exercises including the results of surveys of authorised businesses about their experiences of the process. We have remodelled the process as follows:
 - Businesses were able to complete the form on-line again but were also able to complete and return a hard copy of the form;
 - Businesses told us that they prefer emails to letters, so wherever possible, all communications relating to the process were emailed;
 - A significant number of emails sent in the 2009 process had been received as junk or spam mail by businesses. We understood this was likely to be due to links forming part of our emails. We advised businesses they should add us to their safe senders list and sent a pre-emptive email alerting businesses before the main email was sent;
 - We acknowledged receipt of forms by email where businesses did not submit the form online and had automatic confirmation;
 - We invoiced businesses sooner dealing with any queries relating to the information provided after the process;
 - We produced certificates earlier.
22. We will also be carrying out a further survey of businesses to learn about their experiences of the process and will review responses in Summer 2010, before planning the 2011 renewal process.

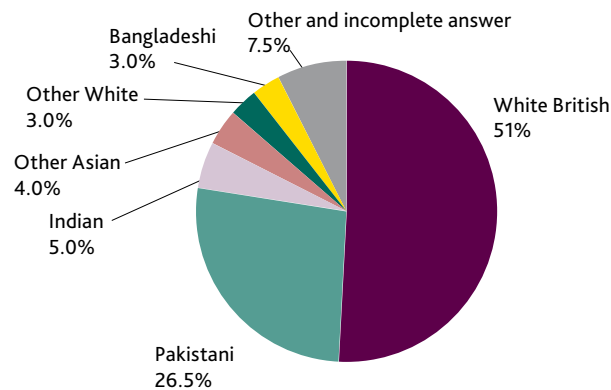
Business Surveys

23. We have conducted surveys through the year with businesses that have recently been authorised, and with businesses that have contacted our Monitoring and Compliance Unit (MCU) for advice or information. Small samples of businesses are interviewed each month about their experience of the authorisation process, or about contacting the MCU, and they are asked for suggestions on how the services we provide can be improved. These surveys have found good levels of satisfaction with the service provided by the MCU and have also identified that businesses find the website useful.
24. We conducted a survey of a small sample of businesses that had completed the renewals process. This survey also found good levels of satisfaction with the conduct of the renewals process this year, with many businesses commenting favourably on improvements that had been made to the process as a result of feedback received from businesses the previous year. A number of concerns were raised by businesses through the surveys and specific suggestions were made for improvements to the application process or the service provided by the MCU helpline. Our response to these concerns and suggestions is outlined in a summary of the survey findings which is attached at Annex C.

Ethnicity and Diversity Survey

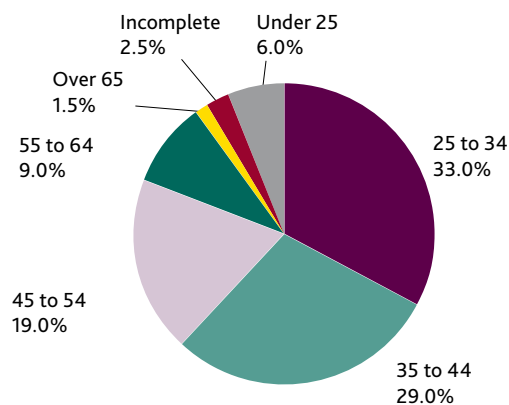
25. We carried out an Ethnicity and Diversity Survey of authorised claims management companies during August and September 2009. The survey was conducted to gather information about authorised businesses in relation to their ethnicity, the need for translated written material and any disability issues affecting their interaction with the Regulator.
26. We also collected Ethnicity and Diversity data at the same time as carrying out the fees collection process, providing us with the most significant volume of data since regulation commenced. By the end of March 2010 we had received completed and partially completed forms from 1,609 businesses. The survey was optional and questions were asked about the ethnic background, age and gender of the person operating the business and whether any of the businesses staff had a disability that would affect interaction with us.
27. Over half of the businesses that responded to the survey confirmed that the ethnic background of the person was White-British. More than one quarter of businesses stated they were of Pakistani origin. 5% of authorised persons who responded were of an Indian background. This left less than one-fifth of authorised business from other ethnic backgrounds, or choosing not to answer the question.

Authorised businesses by ethnic background



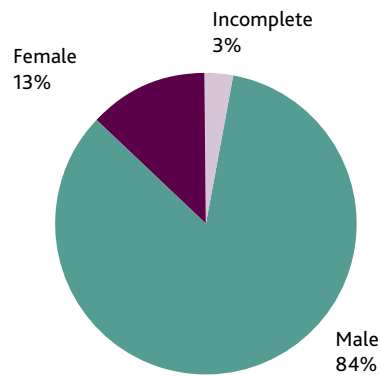
28. In relation to the ages of those operating claims management businesses, it was found that one third were between the ages of 25 and 34 years old and slightly fewer in the next eldest bracket of 35 to 44 years.

Authorised businesses by age



29. In relation to the gender of those running authorised businesses the results confirm that the claims industry is male-dominated, with more than four out of five businesses male-owned/run.

Authorised businesses by gender

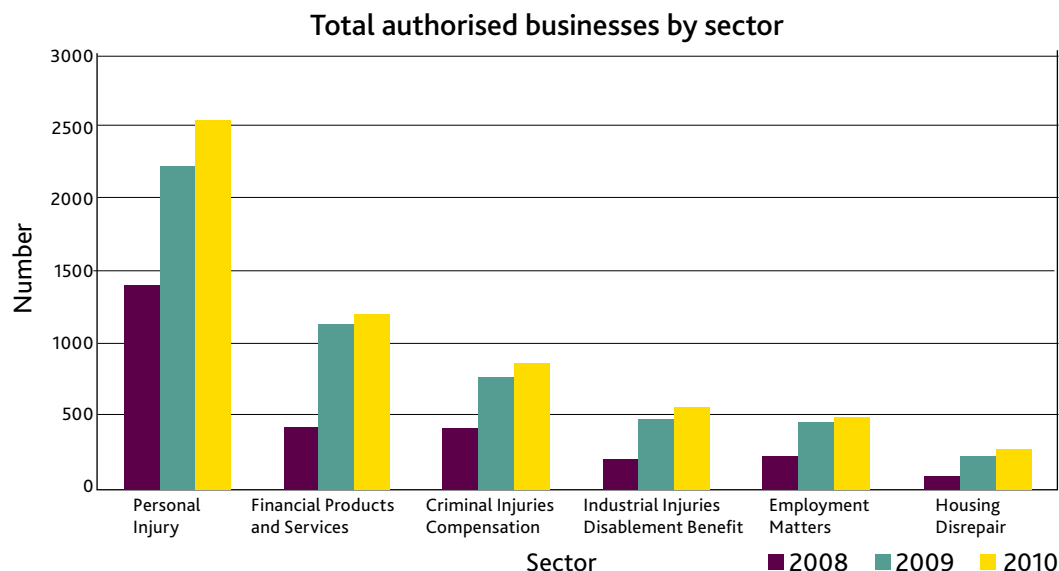


30. Fifteen businesses responded confirming that the business employed staff with a disability that would affect how they interact with us.
31. The primary actions taken in response to survey:
 - We have introduced a monitoring questionnaire to capture data on ethnicity and disability that accompanies all applications for authorisation;
 - We have also introduced the questionnaire for all businesses renewing their authorisation;
 - We are also considering obtaining information on ethnicity and disability from businesses about their customers.

Chapter 4 – Information on specific sectors

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

1. Businesses enter and leave the claims management market and the specific sectors of the market on a regular basis. Businesses often provide services in more than one sector. The claims management market can be volatile and fluid and notoriously difficult to predict and the fortunes of individual businesses can change rapidly. The commentary that follows in this chapter is therefore simply a snapshot based on the developments during 2009/10.
2. There has been a much smaller increase in each sector during the last year compared with the 2008 to 2009 period. Businesses authorised in multiple sectors means the total sector count outweighs the total business count.
3. The personal injury sector remains by far the largest, with more than twice the number of businesses operating in this sector than financial products and services, the second most popular. There remain a small, but not insignificant, number of businesses authorised in the relatively niche claim areas of industrial injuries disablement benefit, employment matters and housing disrepair.



Personal Injury

4. Personal injury continues to represent the largest regulated sector with some 2,500 authorised businesses. Most businesses in this sector operate as introducers or referral agencies – providing personal injury claims to solicitors. The main regulatory work undertaken in this sector is summarised below:

Expanding work with enforcement partners to tackle crime

- We have committed resources to assisting partner agencies in tackling businesses involved in suspected criminality, in particular where there is evidence of businesses submitting fraudulent claims and staged accidents. During the year, the Association of Chief Police Officers circulated an article we produced which generated further interest from police forces around England and Wales. We established Information Sharing Agreements (ISA's) with 13 police forces during 2009/10, making 14 overall with more to follow in 2010/11. We continue to work closely with other enforcement agencies in this area, in particular the Insurance Fraud Bureau, with whom we share intelligence and data to enhance efforts to tackle criminality and malpractice in this sector.

Case study 5 - Work with Police forces

We continue to alert police forces where we receive allegations or hold evidence relating to criminal activity of authorised claims management businesses. In one particular case, following an audit of a business and identifying information which suggested the business was involved in insurance fraud (staged and contrived accidents), we presented an evidence package to the Economic Crime Unit of the relevant police force.

The force commenced a full investigation, which identified a large number of suspects with varied roles in the crimes, including other authorised claims management businesses. The first arrest warrants were executed during early 2009 and we have continued to support the investigation throughout the year. Progress with this operation continues, and those involved are now being tried and sentenced, but the investigation remains ongoing. We are involved with a number of similar operations with forces at varying stages, and hope to publicise more of our work in this area as these operations come to fruition.

Call centre activity

- Intelligence received from consumers has made us aware of malpractice by staff in some call centres dealing with personal injury claims. We have tackled non compliant practices carried out by some businesses that have cold-called existing customers regarding personal injury claims. See case study 6.

Case Study 6 - Cold calling and marketing malpractice

Business K was the subject of a radio programme that featured a recorded telephone call that the business had made to an accident victim. The call was misleading because the consumer was under the impression that the caller was from or was calling on behalf of their insurance company. Of more concern was the encouragement to the consumer to make a claim for personal injury and exaggerate the symptoms so as to maximise any potential settlement.

The radio station provided us with the full recording and we promptly contacted Business K asking for an explanation, as well as details and information about training, business practices and where data was obtained from. Business K accepted responsibility for the breaches and agreed to put in place processes which would prevent this from happening in the future. They were warned about their conduct and we continue to monitor their behaviour.

Use of Ministry of Justice 'identity'

- Some businesses have used their authorisation by the Ministry of Justice as a marketing tool to enhance their credibility. This is a breach of the Conduct Rules and when we are made aware of this we have taken immediate action.

Case Study 7 – Misleading use of Ministry of Justice identity in 'sales calls'

It had become evident from information received by consumers that some businesses were using the fact that they are authorised by the Ministry of Justice, particularly during sales calls, in a manner that had led consumers to believe the business was acting on behalf of the Ministry of Justice or in some cases, that they were the Ministry of Justice. Where this conduct was identified with businesses, we quickly advised and warned those businesses that they were breaching a condition of their authorisation and that they must re-train staff or closely monitor sales activities as appropriate, or risk losing their authorisation.

This non-compliant conduct was also referred to in a Bulletin issued to all authorised businesses warning them of their responsibility not to mislead consumers. In the case of Business C, despite specific advice about the breach, and warnings about their conduct, it was clear that consumers were still being misled during the initial sales call. Business C was also in breach of other Rules and this conduct was used as one of the grounds in suspending the authorisation of Business C.

Financial products/services

5. At the end of 2009/10 some 1,200 businesses were registered as providing claims management services in the financial services sector, although far fewer were active in this area. Originally centred on mis-sold endowment claims, the market now features a variety of claims for mis-sold financial products or services, such as unfair bank/credit card charges, Payment Protection Insurance (PPI), and Unenforceable Consumer Credit Agreement (UCCA) claims.
6. This sector has proved to be the most high profile over the year – in terms of the number of complaints received, enforcement action taken and resulting media publicity. Businesses operating in this sector have been particularly active in identifying new markets (such as UCCA claims) and during the year high profile enforcement action has been taken against a number of major businesses operating in this sector. The main sub divisions within the financial services sector and significant actions we have taken are summarised below.

Unenforceable Consumer Credit Agreement (UCCA) cases

7. The Consumer Credit Act 1974 (CCA) contains provisions that allow consumers to challenge the enforceability of certain consumer credit agreements. There has been a significant rise in the number of claims management companies and solicitors who claim to be able to help borrowers challenge creditors using consumer credit legislation. The following grounds are often used in such challenges:
 - where a lender does not or is unable to provide a “copy” of the credit agreement;
 - lack of “prescribed terms” (CCA 1974) for pre April 2007 agreements; and
 - on unfair relationships grounds (CCA 2006).
8. UCCA claims have been the major growth area in the financial products and services sector and we have worked closely with bodies such as Office of Fair Trading (OFT) and the Trading Standards Service to challenge the more extravagant claims made by some claims management businesses about the possibility of consumers challenging their loan or credit agreements. We published specific marketing guidance to deal with this, followed by strict enforcement action against such activities.
9. 2009/10 also saw a number of UCCA related cases coming to various levels of court. Such litigation has helped to clarify the overall position and demonstrated that the courts take a pragmatic approach, and in broad terms, are unlikely to find that agreements are unenforceable unless they are missing important information. Significant UCCA related court decisions include *McGuffick v Royal Bank of Scotland plc* [2009] EWHC 2386 and *Carey v HSBC Bank plc* [2009] EWHC 3417 (QB). Although not strictly ‘test cases’, the impact

of such decisions has been significant and has had a direct effect on the business models of a number of businesses operating in the UCCA claims market.

10. The OFT also issued guidance for consultation in January 2010². The guidance was issued following OFT concerns that “debtors are being misled as to the meaning and impact of sections 77 to 79 (of the CCA) and that some creditors appear not to understand the nature and extent of their obligations under these sections”. The guidance aimed to clarify the situations when an agreement could or could not be challenged and rendered unenforceable.
11. The High Court decisions and OFT guidance slowed down growth in the UCCA market, although businesses operating in this sector continue to be active in pursuing other possible grounds on which claims to challenge credit or loan agreements could be based. However, overall the peak in UCCA related activity was reached and passed in 2009/10.
12. We have also taken the following specific action to deal with issues arising from the UCCA claims market:
 - We implemented a revised procedure for authorisation of new and existing businesses involved in the UCCA sector – to include checks on their processes for effective handling of claims;
 - We established a specific ‘Unenforceable Consumer Credit Agreement’ (UCCA) stakeholder group that has met 3 times during this year to discuss issues specifically related to claims management regulation, UCCA claims and the financial services sector.

Bank Charges

13. In December 2009 the Supreme Court ruled that the fairness of charges for unauthorised overdrafts cannot be challenged on grounds proposed by the OFT. The Supreme Court decision on unfair bank charges affected all businesses in the bank charge claims market. We have kept a watching brief on the situation and issued guidance to businesses as the court case progressed on how they should be updating their clients.
14. Although the decision signalled the end for many bank charge claims, the court indicated that unfair bank charges may still be open to challenge on other grounds, and refunds of bank charges may therefore still be an active area in situations where there has been a mistake by the bank or where it can be shown that a customer has not been treated fairly. Such claims will be decided on the specific facts and circumstances of individual cases and as such are less attractive for large scale involvement of claims management businesses.

² http://www.offt.gov.uk/shared_offt/consultations/OFT1175con.pdf

Payment Protection Insurance (PPI) claims

15. The payment of PPI and the possibility that such payments may have been mis-sold were accompanied by increased activity by claims management companies in this market over the year. Evidence of this trend can be seen in the fact that the Financial Ombudsman Service (FOS) has seen a 58% increase in the number of PPI related complaints from consumers – reaching 49,196 during the financial year 2009/10, with claims management businesses being involved in six out of ten PPI cases received by FOS and representing 67% of the total cases that FOS receive from claims management businesses.³
16. We have worked closely with FOS to address concerns around the practice of claims management businesses presenting PPI claims in a standard format, with non-specific allegations. This led to FOS issuing guidance to claims management businesses in April 2009. This included advice on the specific information that should be obtained about any potential claim; the timing of any referral to FOS and the fact that generalised correspondence between a claims management business and a financial respondent business would not be considered as a basis for deciding whether FOS should accept a case.
17. We issued further guidance concerning the new requirements and indicated failure to follow this could be a breach of rules and ultimately lead to enforcement action against the business. More recently we have liaised with the FOS on the introduction of revised forms to be used when submitting PPI related claims, with the aim of encouraging more efficient, co-ordinated and consistent complaints handling across the financial services industry but particularly with reference to PPI complaints. We issued advice to claims management businesses in March 2010, when the FOS issued the revised forms to ensure businesses were aware of the changes.

Call centre activity

18. Malpractice in call centres has also been an area of concern in the financial services and products sector. Intelligence from consumers suggests that some businesses in this sector have also misled consumers about who they are, or on what basis they are contacting them by claiming for example, that they are calling on behalf of, or working in conjunction with, the Ministry of Justice (MoJ), or have received consumer details from the MoJ. As a result, we have been reviewing proposed marketing material to be used by businesses. We also issued warnings to businesses that contract their “tele-marketing” to overseas call centres to remind them of the strict requirements under the Data Protection Act 1998 governing the handling of personal information. Case Study 8 is an example of the issues that arise.

³ Figures from FOS 2009/10 Annual Review - <http://www.financial-ombudsman.org.uk/publications/ar10/index.html>

Case Study 8 – Business not providing pre-contract information and misleading consumers

We were alerted to the conduct of Business G when we received reports from consumers that they had been misled during a sales call that a settlement had been made and was waiting for them and Business G required credit card details to credit their account, when they were in fact taking payment. We also learnt that payment was being taken from consumers without Business G providing the consumer with pre-contract information which is a requirement in the rules. Business G was issued with a formal warning and subsequently its authorisation was cancelled.

Employment

19. We receive few contacts and complaints about businesses operating in this sector. However, when they do arise, problems can be complex and emotive given the circumstances of the allegations from clients and other parties (for example, in unfair dismissal cases). Complaints include there being no written agreement between the business and client; claims that businesses have demanded further payment in order to appear at Employment tribunal hearings; hidden fees; and an unprofessional standard of representation provided by the business at tribunal hearings.
20. Some of these issues may be partly addressed by new regulations introduced on 8 April 2010 (the Damages Based Agreements Regulations 2010) which will affect businesses dealing with employment matters – in particular affecting their agreements with clients. Amongst other things, the Regulations set out the requirements of the agreement, the information that must be given to the client before the agreement is signed, the form the agreement must take, and a cap of 35% (including VAT) on the representative's payment.
21. During 2009/10 we established an Employment Sector Working Group comprising some claims management businesses and other interested parties to consider options for improving the standards of businesses offering services in the employment sector. The work of this group continues.

Industrial Injuries Disablement Benefit

22. Claims management businesses play a relatively minor role in this sector. In July 2009 osteoarthritis in the knee of miners, commonly known as 'Miners' Knee', was added to the list of diseases covered by the Industrial Injuries Scheme operated by the Department for Work and Pensions. We have addressed some instances of misleading marketing of claims. Business models and services provided by businesses have been scrutinised and guidance on handling such claims issued.

Criminal Injuries Compensation

23. Criminal Injuries Compensation is usually a sector that is included in addition to businesses registering for the personal injury sector and activity levels are relatively low. Contacts and complaints mostly relate to claims made to the Criminal Injuries Compensation Authority (CICA). Original problems with businesses who claimed to have a connection or part of CICA were dealt with in the early stages following introduction of regulation. Where allegations are made, most usually about businesses withholding settlements, these are dealt with and resolved quickly.

Housing disrepair

24. There are few businesses active in this sector and few complaints. Early concerns about businesses who marketed by calling on people in their homes were dealt with by the ban on face-to-face cold calling and this sector has since remained relatively compliant. An example of one of the few complaints received related to door-to-door leafleting by an unauthorised business and appropriate action was taken.

Chapter 5 – Complaints handling

- Complaints handling by authorised businesses
- Consumer contacts about businesses
- Formal complaints to the Regulator

Complaints handling by authorised businesses

1. Authorised businesses are required to operate a complaints handling scheme in accordance with the Complaints Handling Rules, if a consumer complains about the service received, the business is given the opportunity to put things right. If a consumer is unhappy with how their complaint has been handled we work with the consumer and business in an attempt to bring about a successful resolution. If these steps do not prove successful, the consumer can request a review of their complaint. Reviews involve a re-examination of the facts and in some circumstances require further investigation and discussions with the business concerned. If a complaint is upheld there are powers for the Regulator to direct a business to apologise, re-do work and in some limited circumstances provide a partial or full refund of fees paid.

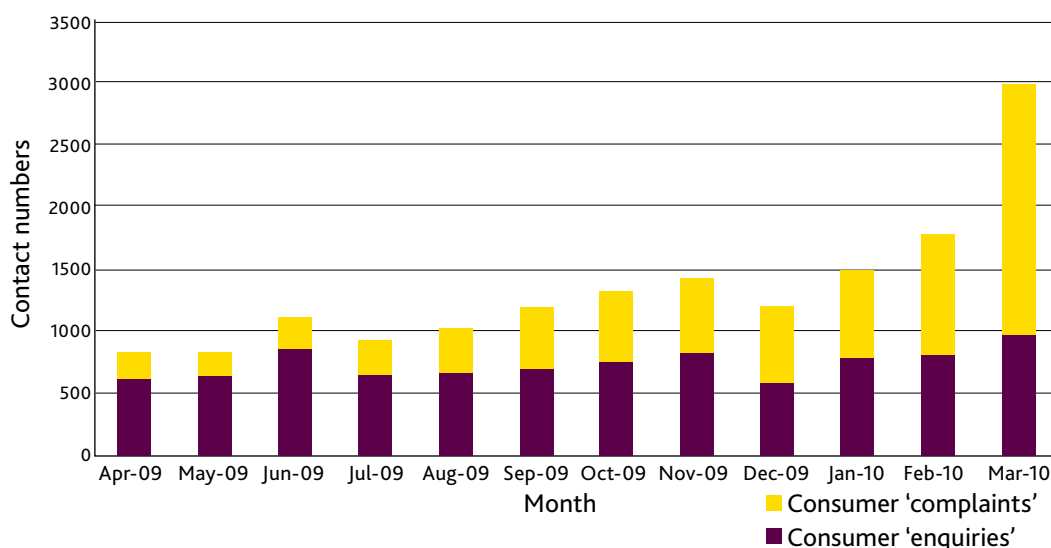
Consumer contacts about businesses

2. Whether they are thinking about dealing with a claims management business or whether they already have, consumers often contact the Regulator for information and advice. Consumers can obtain this information in a variety of ways, including via our website, by telephone, by email or in writing. This year more than 16,000 consumers contacted us.
3. Many consumers contact the regulator for initial advice, for example they may have received an unsolicited call from a claims management company and would like to find out a bit more about the sector before they decide whether to proceed. In these circumstances the consumer is signposted to our pre shopping top tips and is advised about the requirement that regulated businesses provide pre-contract information, aimed at ensuring they have the material needed in order to be able to make an informed decision. If a consumer is concerned about receiving a cold-call in the first place, they are advised how to register with the Telephone Preference Service.
4. When consumers have concerns about how a business has handled an issue, they contact the regulator before formally complaining to the business. In these circumstances the consumer is given brief, practical advice (first-line advice) on the Complaints Handling Rules and procedures, including how businesses are required to acknowledge, investigate and respond. They are

therefore advised to contact the business to trigger these requirements. Consumers are also generally advised to put their complaint in writing and if possible to get confirmation of receipt, so they have a record of their complaint.

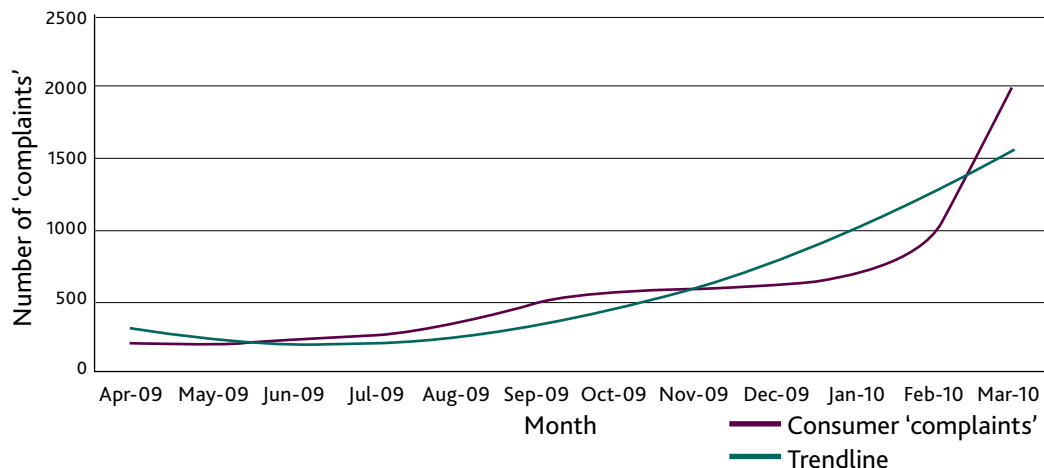
5. Examples of this type of contact include:
 - The consumer has paid a fee but heard very little about progress from the business;
 - The consumer has been unable to get through to a business on the telephone.
6. During the contact, where we are able to identify that the business may have committed a breach of the Conduct of Authorised Persons Rules, then the contact will be classed as a complaint. If the contact is merely an enquiry, then this will be recorded as such. The following table shows consumer contacts during the last year, and the split between 'complaints' and 'enquiries'. The number of contacts has increased over the course of the year, largely due to a large increase in complaints.

Consumer contacts – by nature – 2009/2010



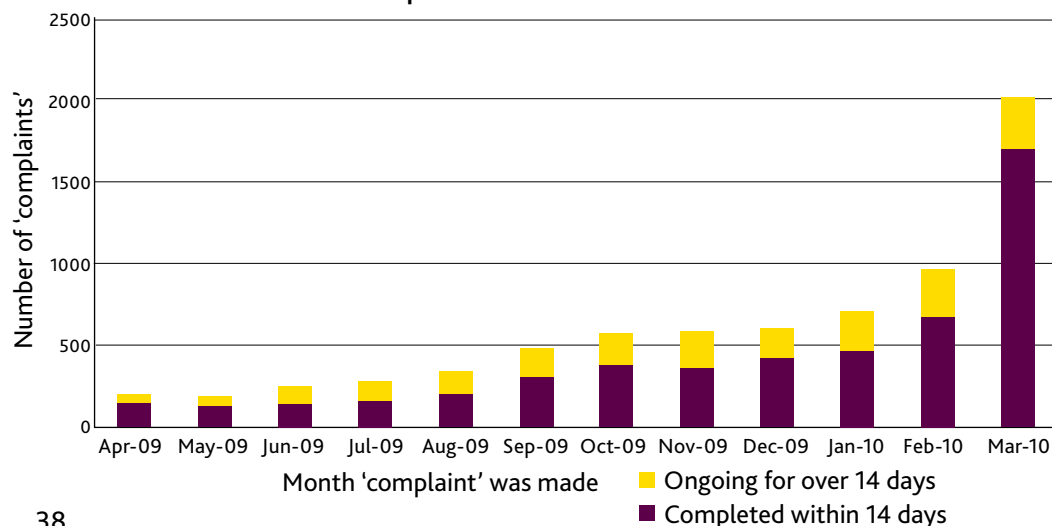
7. The number of complaints peaked during March 2010 when action was taken to suspend the authorisation of one of the largest claims management businesses in the financial sector. The number of contacts during this month was therefore far higher than previously experienced. This will be reflected in the subsequent statistics displayed in this Report. Despite this 'spike' in March 2010, the graph shows a gradual steady increase from the beginning of the period (April 2009) into early 2010.

Consumer 'complaints' – 2009/2010



8. We monitor the frequency and nature of contacts and where these examples or other concerns are repeated about the same business, the regulator would consider whether enforcement is appropriate. In some cases it is clear that first line advice is not what is needed, for instance where a complaint has already been made, and/or if the business's response following their contact is not acceptable. In such cases the regulator will often attempt to resolve the dispute between the business and its customer by advice or intervention that is more involved (second line advice).
9. The most accurate method of determining whether a contact has required only first line, or first and second line advice, is referencing when the consumer contacted us for advice, and when this contact was recorded as complete by the advising officer. This should not be taken as being 100% accurate as a consumer may have contacted us on a number of occasions for clarification or reassurance relating to first line advice, but this gives a reasonable indication of the consumers who are handled within two weeks, and do not return to us, and those which require handling beyond 14 days after initially contacting us.

Consumer complaints 'resolution' time – 2009/2010



10. Examples of how our intervention (second line advice) has successfully resolved complaints include:

Undue delays in UCCA claims

- Consumers had been given an unconditional money back guarantee but the business insisted they wait for the outcome of case. Although it was still possible that they may have had a successful claim, the fact that there had been undue delay meant that they were entitled to a refund of their upfront fee. Intervention by the regulator ensured consumers were offered refunds when they were requested.

Case study 9 – Business L delaying making contractual refund to Mr H where it fell due

Business L was involved in the unenforceable credit agreement market and a large upfront fee is taken to assess the enforceability of the consumer credit agreement. Mr H was told that his agreement was unenforceable and the agreement would be passed to a solicitor to be declared unenforceable in court. Mr H contacted us when, two years after paying the fee to Business L, he was still waiting to learn from the solicitor whether his claim was likely to be successful or not. Business L were also failing to provide Mr H with any information, or even if the case had been accepted by the solicitor.

We provided Mr H with our consumer factsheet about businesses failing to provide a service, and signposted to other resources where he learnt how to recover his fee from his credit card provider under the joint liability provisions of the Consumer Credit Act. Our investigations continued, and led to the suspension of the business.

Delays in implementing cancellations within the cooling off period:

- Consumers have exercised their right, as set out in the rules, to cancel the agreement within 14 days. Rather than action the request in line with the rules, businesses have treated the request as a complaint, attempting to wait until the mandatory time periods in the Complaints Handling Rules were exhausted – in effect delaying payment of refunds for at least 28 days. Intervention by the regulator ensured customers were treated fairly by ensuring the businesses concerned refunded their fees promptly.

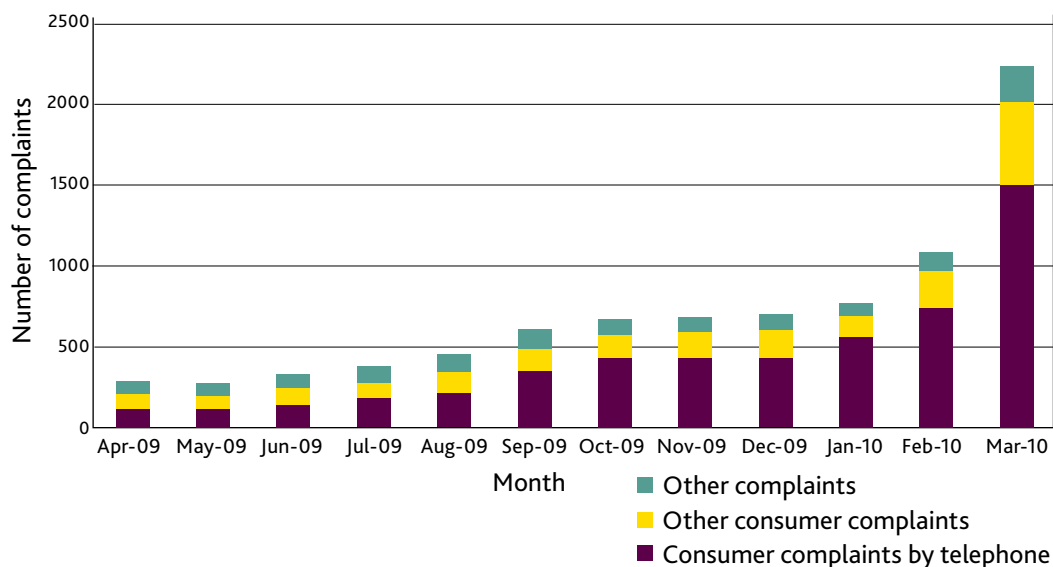
Case Study 10 – Business J failing to refund consumers when they fell due

We had received a number of complaints about Business J from consumers stating that they had cancelled the agreement within 14 days of signing the contract, but were not refunded. Mrs K told us that when expressing her wish to cancel the agreement two days after entering into it, she had received an acknowledgment from the business of her complaint. Business J went on to say that she could expect a response to this within four weeks, in accordance with their complaints handling procedure.

We contacted the business to discuss the growing number of complaints, and in particular our concern that it would appear consumers cancelling within the 14 day cooling off period, and therefore entitled to a full fee refund, were being treated as 'complaints' under their complaints procedure, resulting in unreasonable delays in providing the refunds. Business J were warned that this was a breach of the rules, and if they did not change their procedure to comply, and if the complaints were not reduced, we would be considering taking appropriate enforcement action. Business J made the appropriate changes and began refunding those consumers that were due their money back.

11. The majority of complaints received are from consumers and mostly by telephone. The graph below shows all 'complaints' received, broken down into telephone complaints by consumers, other consumer 'complaints' (by one of the other contact methods) and all other complaints. As well as consumers, we receive 'complaints' from a wide range of individuals, including from solicitors, referrals from Trading Standards departments, other regulators, other claims management businesses and financial institutions. The sharp rise in the number of complaints in February and March 2010 was related to the activities and action taken against a single business, as explained in paragraph 7 above.

All complaints by source – 2009/2010



Formal complaints to the regulator

12. Eleven requests for a formal review by the regulator of the way in which a complaint has been handled by the regulatory team were received in the past year. The number of complaints escalated in this way therefore account for only a very small proportion of the total number of complaints received. We have however reviewed the procedures for dealing with such matters in light of experience and given the complexities involved in such cases, with the aim of providing effective and timely responses.

Chapter 6 – Enforcement of the regulatory rules

- Data/Statistics
- Dealing with malpractice
- Refusal of authorisation
- Suspensions and cancellations
- Tribunal appeals
- Audits
- Information Sharing Agreements (ISA)

Data/Statistics

1. Enforcement action against authorised businesses is based upon intelligence received and pro-active work. These steps are recorded against the businesses record (for internal purposes) as 'formal' and 'other' enforcement activity. During the last year, there have been 1,379 'other' enforcement actions recorded, this is typically where action is taken (for example, requesting a business to give an undertaking), or specific advice given to a business to bring them to compliance. In addition, there are 315 'formal' enforcement activities recorded against businesses including letters of warning, or steps taken to commence suspension or cancellation of a business' authorisation.

Dealing with malpractice

2. Enforcement action to tackle malpractice expanded this year, particularly in the two main sectors of financial services and products and personal injury claims. For example:
 - Action taken to tackle misleading marketing of services that offer to 'write off debts' – resulting in the taking down of offending websites and adverts;
 - Measures taken to tackle the practice of staged motor accidents, which has resulted in close working relationships with a number of police forces and the Insurance Fraud Bureau. This work has already led to the conviction of company directors involved in such fraudulent activities.
3. Other areas of significant malpractice tackled during the year included:
 - **Pre-contract information** – ensuring businesses that market by telephone provide pre-contract information before taking payments from consumers so that informed choices can be made. A number of businesses that have

persistently failed to provide the required information to consumers before taking a fee have had their authorisation suspended or cancelled for a breach of this condition of authorisation.

- **Businesses failing to provide a service** – typically this involves a business failing to provide updates to their clients about the progress of their case and not providing due refunds to clients. Several businesses that have persistently breached these rules have had their authorisations suspended or cancelled.

Case study 11 – Business W failing to provide a service to their clients

We had received complaints from clients of Business W that they were unable to contact the business, had not been updated on their claim for some months and upon making a complaint in writing, the post was being returned. We attempted to contact the business using alternative contact details on file, but were also unable to make contact with the business. We visited the business premises of the company to learn that they were in arrears with their rent and had been evicted. We were able to obtain details of an alternative address for the director of the business and confirmed that he was there.

We contacted Business W at the new address seeking an explanation of the numerous rule breaches Business W failed to respond and was suspended. We then returned to the complainants we were in contact with and advised them of the action taken and options available to either obtain a refund or progress their claim.

- **Failing to act in the best interest of clients** – We have identified a number of businesses operating in the UCCA field that had advised their clients to stop paying their debts, thereby putting them at significant financial risk and also damaging their credit rating. We arranged an audit of the business at short notice and having warned the business, their practices were changed.
- **'Moneygram' transfer scams** – people purporting to be claims management businesses (or government departments or banks) have been asking consumers to pay significant sums (up to £5,000) in order for non-existent refunds/compensation that they claim to have obtained to be released. Consumer warnings were issued which resulted in media publicity. We were able to disrupt activities of these businesses and initiate co-ordinated action with City of London police. Arrangements are now in place for intelligence on such scams to be passed to the National Fraud Authority.
- **Advertising Standards Authority (ASA) adjudications** – over the past year there have been a number of ASA adjudications in respect of UCCA advertising. We have been able to use these adjudications when advising businesses preparing advertising materials. This has also helped to

tackle malpractice as the ASA provided helpful guidelines as to what is considered to be misleading. For example, an advert will be misleading if it:

- Exaggerates, or does not accurately reflect, the likelihood of having a credit card or loan balance written off;
- Implies that the date of issue of a credit card is the key factor in determining whether or not the consumer credit agreement is likely to be unenforceable;
- Exaggerates success rates. Any advert which refers to success rates is not acceptable unless supported by documentary evidence;
- Makes unrealistic claims concerning the time a claim takes to reach a conclusion;
- Does not accurately reflect the potentially adverse affect on the consumer's credit rating.

Refusal of authorisation

4. When an application is received from a business seeking authorisation to provide regulated claims management services, a number of background checks are carried out on the business and the individuals who control it. If there are any doubts, or the application is incomplete, these are raised with the business and further information sought. We need all the required information to determine whether a business is competent and suitable to become authorised.
5. Most applications for authorisation are approved as they meet the criteria set out in the regulations.⁴ Where there are significant concerns about the suitability of an applicant to provide regulated claims management services, the application is refused. Between April 2009 and March 2010, seven applications have been formally refused – although it should be noted that many applicants withdraw their application before the formal refusal decision is made.
6. Examples of refusal of authorisation can include:
 - Individuals/Directors involved in the business have been convicted of passport, mortgage or insurance fraud;
 - Evidence of a business providing regulated claims management services without authorisation where it is clear that it was aware of the requirement to be authorised;
 - Applicants who have previously been involved in an authorised business or businesses that had been subject to enforcement action and there is concern that consumers would be at risk if the application was approved.

⁴ Compensation (Claims Management Services) Regulations 2006

7. During the last year 171 businesses have withdrawn their application, or deemed to have withdrawn. Often this will be as a result of issues raised with the business as part of the application process and the business failing to respond, perhaps because they feel that they will not be authorised. The types of queries included questions about undeclared criminal convictions of an applicant or a director of an applicant, about the conduct of an individual associated with the applicant where they had been involved with a previously authorised business that was subject to enforcement action and where concerns have been directly expressed with regards to the competence or suitability of the applicant.
8. Occasionally, businesses do contact us to confirm that they no longer wish to proceed with the application, and some of the reasons include:
 - change of intended business practice by the applicant;
 - breakdown of the relationship between partners/directors of the business;
 - the business has since received advice that confirms they are exempt or do not require to be authorised for some other reason.

Suspensions and cancellations

9. Where significant consumer detriment is identified - for example failure to refund clients where they are due or not providing required pre-contract information – businesses are warned, and where these issues are not remedied, they can have their authorisation suspended or cancelled. This route has been followed on a number of occasions with 44 businesses having had their authorisation suspended or cancelled between April 2009 and March 2010. This number includes action taken during the year to suspend or cancel the authorisation of two major businesses operating in the financial services sector.

Failure to pay fees

10. Businesses have also had their authorisation removed for non payment of fees, failure to provide information or documents on request and failure to co-operate with enforcement arrangements.

Surrendered

11. 448 businesses surrendered their authorisation between April 2009 and March 2010. Some had surrendered their authorisation when enforcement action was imminent, some of those a day or two before their authorisation was due to be suspended or cancelled. Many of these businesses found market conditions, and adverse court decisions (i.e. on bank charges and UCCA claims) meant that it was going to be difficult to continue carrying out regulated claims management activity and they made the decision to leave.

12. Some businesses found that they had fallen into the exempt introducer category, and there was no need for them to remain authorised, businesses being taken 'in house' with a solicitors practice (meaning they are exempt) or acquired by another authorised business (or merged). Some businesses ceased carrying out activities as those running the business were suffering ill health or simply retired.

Tribunal appeals

13. The Claims Management Services Tribunal (CMST) was established under the Compensation Act 2006 to consider appeals against decisions of the Regulator. Appeals can be made where:
 - an applicant is refused authorisation;
 - an authorised person has conditions attached to the authorisation;
 - authorisation is suspended or cancelled.
14. Since Regulation commenced in April 2007 there have been in total 9 appeals lodged with the Tribunal and 2 applications for the Tribunal to suspend the decision of the Regulator. Most appeals have been dismissed by the Tribunal because the appellant has failed to comply with the requirements of the rules. Making an appeal requires cooperation from all parties.
15. During 2009/10 there were 4 appeals to the CMST and 2 applications to suspend the decision of the Regulator. One appeal has been dismissed, one was withdrawn, and the Tribunal upheld the decision of the Regulator in another case. The other case is pending. All hearing decisions are posted on Tribunals website.⁵
16. In January 2010 the CMST was replaced by the First Tier Tribunal (Claims Management Services). Appeals to the Tribunal are considered by the General Regulatory Chamber. The Tribunal rules were also repealed and replaced by the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.⁶ All appeals pending have become appeals to the First-tier Tribunal (Claims Management Services). The key changes are:
 - Much faster process which just requires a response to an appeal from the Regulator;
 - Case management powers which will also ensure a speedier resolution of an appeal;
 - An order for costs where an appellant has acted unreasonably in bringing, defending or conducting the proceedings.

⁵ <http://www.tribunals.gov.uk/cms>

⁶ <http://www.tribunals.gov.uk/cms/rulesandlegislation.htm>

Audits

17. Regulatory audits are risk related, occasionally arising as a result of joint work with other enforcement agencies where rule breaches are suspected. The business owner, director or manager are required to be present during the audit. If non-declared individuals are present, appropriate enquiries can be made of the business and of the other individuals demonstrating an influence over the business. Postal audits are also used. This is often useful to determine how a business operates, other businesses associated i.e. who they accept work from and refer work to, and how new business is acquired and handled by the business.
18. Businesses are often required to provide information or take remedial steps following the audit. Businesses are sent a copy of the audit report and an accompanying letter detailing any advice and requesting information that was either not available during the audit, or required to be produced or amended following the visit. Audits also often provide a business with an opportunity to discuss any issues they are experiencing or questions they may have about regulation or the rules face-to-face, and receive specific advice on their business or proposed practices.
19. Almost 100 audits were carried out during the last year, and of those, 6 businesses have had their authorisation cancelled, 3 suspended and 13 businesses have since confirmed that they wish to surrender their authorisation. Many other businesses have received advice during the audit and, where rule breaches were identified, given the opportunity to remedy these and demonstrate they are able to comply.

Chapter 7 – Resources and Finance

- Staff resources
- Funding
- Fees determination

Staff resources

1. The claims management regulation function in the Ministry of Justice (MoJ) is an innovative low cost model based on utilising existing mechanisms, structures and resources as far as possible to keep overheads low, maximise efficiencies and secure value for money for every pound collected from regulated businesses. The regulatory regime was designed, delivered and is being led by the team that developed the original policy, legislation and detailed requirements.
2. Claims management regulation is organised across two sites. HQ (based in London) 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 and funding, communications, stakeholder relations and on policy matters – keeping in contact with policy developments across government which may impact on the claims sectors. The HQ contingent is made up of 10 staff including the Head of Regulation. Over the course of 2009/10 we have benefitted from having secondees from the FSA, OFT and the Advertising Standards Authority.
3. The Monitoring and Compliance Team (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 the MoJ and is staffed by 40 people with a range of trading standards, police, consumer advice, intelligence, legal and fraud investigation experience and skills.
4. The location of this unique government function within a policy environment in the Departmental structures has proved beneficial to the effective delivery of this new regulatory regime and the development of more informed policy. The development of the claims management market has been (and will continue to be) impacted by reforms to civil justice and legal services systems. The continuing close interaction of the claims regulatory function with the teams working on key issues such as legal costs, civil legal aid scope, funding private litigation and legal services reform would help ensure operational experiences feed into policy development and the practicalities of possible reforms can be tested out more fully.

Funding

Costs and fee income summary 2009/10	£m
Expenditure	
Monitoring and Compliance	1.86
HQ	0.39
Total	2.25
Fee Income	
Application fees	0.94
Annual regulation fees	1.30
Total	2.24

5. Costs are financed by regulation fees charged to businesses (application and annual). Operating costs have been fully recovered year on year since the start of regulation in April 2007. The regulatory costs base increased over 2009/10 as more resources were required to deal with the continued growth of the claims management sector including further expanded application, monitoring and compliance activities. The fee income increased as more businesses entered the claims management sector. The reported turnover of the sector increased slightly over the year from £361m to £371m.
6. The claims management market is volatile, being subject to changes in the wider economy (claims businesses seem to thrive in a downturn) as well as legal judgments on types of claims allowed (e.g. in particular in 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. As such the number of claims management businesses trading and level of business conducted is subject to large and difficult to predict swings, which could impact, potentially significantly, on workloads and on fees in the future.

Fee determination

7. Fee levels paid by authorised businesses are reviewed each year to ensure that they are proportionate and achieve the principle that regulation should be self financing. Businesses pay an application fee for authorisation and an annual renewal fee based on their turnover. A consultation paper "*Claims Management Regulation – Fees Determination 2010/11*" issued in November 2009 proposed that the application fee paid by new businesses and the annual renewal fee scale for existing businesses should remain at the 2009/10 levels. That proposal was subsequently implemented. A consultation on fee levels for 2011/12 will be issued in the autumn.

Chapter 8 – Communications

- Communications
- Interested parties
- Media stories/coverage
- Guidance and advice
- Other regulators

Communications

1. Communications with stakeholders, consumers and the media remains an important element of achieving and expressing the aims and role of the regulatory regime. Key communications achievements included:
 - publication of regular bulletins to businesses;
 - business surveys;
 - consumer alerts and press notices;
 - presentations at various relevant conferences/meetings;
 - provision of general advice and guidance to members of the public.
2. We operate a dedicated website at www.claimsregulation.gov.uk which facilitates communications with businesses, consumers and other interested parties. The following statistics provide an indication of the website usage:
 - The site was accessed more than two and a half million times last year;
 - The most popular page is the 'Authorised Business Search' page, which, being used by all stakeholders, consumers and businesses themselves, was accessed more than 1.5 million times;
 - The home page was accessed more than 750,000 times last year, and the consumer page, on just less than 50,000 occasions;
 - Numerous documents are also made available for download on the claims management regulation website. Our Consumer Alert (published jointly with Office of Fair Trading) warning of the misleading marketing for UCCA claims, was the most popular download with almost 9,000 downloads;

- Guidance about who needs to be authorised, marketing claims management services (general and UCCA specific), the Conduct of Authorised Persons Rules and our warning to businesses about taking up-front fees in breach of the Rules were downloaded more than 6,000 times each.
3. The Head and Deputy Head of Regulation have presented at a number of interested parties' events during the year and further details are at Annex A.

Interested parties

4. The Regulatory Consultative Group, which was established from the beginning of regulation to ensure effective involvement of interested parties in the development and operation of the regime, has continued to meet three times a year. This provides a regular forum for input and updates from members of the group, who include claims management businesses, other regulators, consumer groups and other relevant organisations. We have also established a sub group to discuss issues specifically related to claims management and arising from the claims challenging the enforceability of consumer credit agreements. A list of the organisations represented on both of these groups is at Annex D.

Media stories/coverage

5. Claims management regulation has featured in an increased and significant number of media features over the past year. A list of the various media engagements undertaken by the Head of Regulation is included in Annex A.
6. The media often play a public interest role by unmasking 'scams' and helping people to avoid disreputable companies. These aims are of course shared by the regulator who works closely with the media to advise them on accurate reporting.
7. In August 2009, we issued a press notice to mark the 100 claims management company authorisation to be cancelled since regulation began. This provided an opportunity for companies to be warned, through the media, that a tough stance is taken over regulatory breaches.
8. Interviews with the Head of Regulation appeared on BBC1 and BBC News Channel television news bulletins and BBC national radios 1, 2 and 5 Live. These will have been seen or heard by over half the population of England and Wales. This was accompanied by articles in national Sunday newspapers, interviews on local radio stations, and hundreds of articles and comments across internet media. Details of this story are set out below.

Case study – Media campaign 100 cancellations

In August 2009 we generated considerable media attention following a press release which highlighted the fact that the total number of claims management businesses that had their authorisation cancelled had reached 100. The key headline message was “One hundred claims management companies cancelled as Moj continues crack down on firms who mislead the public... Misleading claims that debt can be written off as unenforceable, high pressure selling and cold calling in person will not be tolerated”. This message was faithfully reproduced, with coverage being 100% positive and not challenged on any point. The audience reached was several million – including BBC TV and Radio, national newspapers and online news channels. The coverage attracted by this story is set out in Annex A1.

9. The Head of Regulation has continued to do a number of interviews for Radio 4 across the year, and he has either advised or been interviewed by its *You and Yours* and *Money Box* programmes on several occasions.
10. In November 2009, we issued a press notice warning the public about scam telephone calls. The Office of Fair Trading (OFT) and City of London police, who are the lead national force on fraud issues, supported this media work which demonstrated a joined up approach to protecting the public. The Daily Mail and Channel 4 News were among the media who took up the story.
11. In March 2010 the suspension of one of the larger claims management providers required careful media engagement to help affected consumers know where to turn and to avoid confusion. The Head of Regulation gave several radio interviews, and Ministry of Justice press office briefed journalists across the consumer media, to ensure that concerned consumers received a clear message to visit the regulator website or phone a helpline for clear guidance on what steps to take.
12. Ministry of Justice press office continues to assist the regulator on media engagement. Their contacts with national and specialist consumer media provide a route to send three main messages to listeners, viewers and readers: that people should beware of disreputable firms; that the regulator can advise where to turn if problems do occur; and that disreputable firms are dealt with fairly and firmly in the interests of creating a claims management industry that people can trust.

Guidance and advice

13. Providing general and specific advice and guidance to businesses and consumers has been a significant element of the communications strategy this year. Examples include:
 - Issuing joint consumer warnings with the OFT about misleading marketing in the area of UCCA marketing;

- Guidance to businesses on provision of pre-contract information to prospective clients before they enter into contracts, in particular targeted at those businesses who market by telephone to ensure they are not inadvertently breaching the rule and disadvantaging their customers;
- Consumer advice on dealing with scam telephone calls;
- Updated advice to businesses on marketing of UCCA claims in light of court decisions, the ASA adjudications and draft OFT guidance;
- Guidance to businesses on dealing with bank charges claims following the Supreme Court decision in December 2009.

Other Regulators

14. Regular meetings and communications with other key regulators such as Financial Services Authority, Financial Ombudsman Service, Office of Fair Trading, Advertising Standards Authority and Solicitors Regulation Authority have taken place with the aim of ensuring that information and developments are shared. An effective communications strategy with other regulators has enhanced close working when tackling malpractice – for example the collaborative working with OFT and SRA when taking separate enforcement actions this year against two particularly high profile businesses operating in the financial products and services sector.

Chapter 9 – Priorities for 2010/11

1. The key priorities for the fourth year of claims management regulation are summarised below.
2. We will review these throughout the year and amend as necessary to ensure that they reflect emerging and declining issues and help focus our resources on delivering an efficient and effective regulatory regime which protects the consumer and public interest.

Outcomes

3. The high level outcomes underpinning the operational priorities are:
 - Consumers not exploited by claims companies and 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 2010/11

- Protecting client money – identifying client money at risk, be this payments made on account, or settlement monies, and seeking to ensure this is safeguarded;
- 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;
- Rule 11 enforcement – tackling breaches of this rule which 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;

- Upgrade the claims regulation website – more business and consumer friendly site and a useful resource for all users; information for consumers to be improved, with fresh updates, advice and signposting;
- Improving application process for businesses – introduce on-line updates of application information such as change of address or directors;
- Continuing to combat unauthorised trading – including working with ISPs and merchant providers to disrupt illegal trading alongside formal steps;
- 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;
- Marketing using MOJ authorisation – using powers to ensure businesses comply with rules and do not use authorisation as a marketing tool capable of misleading consumers;
- Fraud/staged accidents – we shall continue to work with partners to target businesses involved in insurance fraud and seek to establish ISA's with more police forces;
- Working with other enforcement agencies - in particular Companies Investigation Branch, OFT and Trading Standards to ensure transgressing businesses and the directors of those businesses are dealt with comprehensively across the entire consumer protection regime;
- Introduce a publication scheme – raise public awareness about formal enforcement action taken against claims businesses including authorisations have been cancelled or suspended.

ANNEX A

Head of Claims Management Regulation (or Deputy Head*) major speaking engagements 2009/10

Claims Management Conference
London
April 2009
Speech/presentation

Association of Personal Injury Lawyers Annual Conference
Newport, Wales
April 2009
Panellist

Credit Services Association*
Brighton
September 2009
Speech/presentation

County Court Users Association*
Liaison Group Meeting, London
November 2009
Speech/presentation

Money Advice Liaison Group*
Stakeholder Group Meeting
London
November 2009
Speech/presentation

ACPO Staged Accidents Conference
Stafford
November 2009
Speech/presentation

Eversheds claims farming seminar
London
November 2009
Q&A

British Bankers Association Forum
London
January 2010
Speech/presentation

Council of Mortgage Lenders conference
London
February 2010
Speech/presentation

Claims Management Conference
Manchester
March 2010
Speech/presentation

Head of Claims Management Regulation major media contributions 2009/10

You and Yours (Radio 4)
April 2009
Interview – financial services

BBC Radio Cumbria
August 2009
Interview – personal injury

Law Gazette
July 2009
Interview – overview

BBC News 24 and associated features
August 2009
Interviews – overview

BBC Radio Cornwall
November 2009
Interview – financial services

You and Yours
November 2009
Interview – financial services

Money Box
January 2010
Interview – financial services

You and Yours
February 2010
London
Interview – personal injury

Daily Mail
March 2010
Interview – financial services

Money Box
March 2010
Interview – financial services

ANNEX A1

Media Coverage of August 2009 Claims Management Regulation story "100 claims management companies have authorisation cancelled"

Television

- BBC1 (up to c.25 million) – Live interview with Kevin Rousell (Head of Claims Management Regulation, MoJ) at 9.20 on Sunday. They also used a package elsewhere in the programme which included a clip of Kevin Rousell together with excerpts from our press notice.
- BBC News Channel (audience not verified) – The package from BBC1 continued to run hourly throughout the day.

Radio

- BBC Radio 2 (up to c.13 million listeners) – clip of Kevin Rousell alternating in hourly bulletins with voicepiece by reporter.
- BBC Radio 1 (up to c.11 million listeners) – copy in hourly Newsbeat news bulletins.
- BBC Radio 5 Live (up to c.6 million listeners) - clip of Kevin Rousell alternating in hourly bulletins with voicepiece by reporter.
- BBC local radio (40 stations with a combined listenership of up to c.9 million) – clip of Kevin Rousell, voicepiece by reporter and newsreader copy provided by BBC central newsroom to all local radios: It is impossible to capture how many used the story or how often.

National Newspapers

- The Observer (c.134,000 readers) – "Beware the siren call of the firms that claim they can wipe out your debts". Includes Kevin Rousell saying "Misleading claims that debt can be written off as unenforceable, and high pressure selling and cold-calling in person will not be tolerated."
- The Mail on Sunday (c.2 million readers) – "Debt-rescue rogues are targeted"". Includes Kevin Rousell saying "Some people pay big fees for a service that doesn't live up to the hype and that is the area we intend to tackle."

Internet

- Guardian, Daily Mail – websites ran online versions of the national newspaper coverage.
- BBC News – ran a story based on their broadcast coverage which was the seventh highest read story of the day.
- MSN Money UK – this was linked from MSN's home page which automatically flashed up each time anyone logged off MSN hotmail or chat, or every time someone with MSN set as their home page logged in.
- Wales Online – ran a straight story based on our press notice.
- Press Association
- Debt Free.org
- Moneysavingexpert.com
- This Is Money
- Myfinances.co.uk

ANNEX B

Key Claims Management Regulation Publications

All of these publications can be found at www.claimsregulation.gov.uk

Legislation

Compensation Act 2006

Compensation (Claims Management Services) (Amendment) Regulations 2008

Rules

Complaint Handling Rules 2006

Client Account Rules 2006

Conduct of Authorised Persons Rules 2007

Claims Management Services Tribunal Rules 2007

Fees Determination 2010

Guidance notes

Complaints Handling Procedures (Issued May 2007)

Information for claims representatives in the employment sector (Issued April 2008)

Who needs to obtain Professional Indemnity Insurance (Issued June 2008)

Marketing and Advertising Claims Management Services (Revised November 2008)

Marketing and Advertising Claims Management Services: Unenforceable Credit Agreements. (Issued January 2009)

Who needs to be authorised under the Compensation Act 2006 (Revised July 2009)

ANNEX C

Claims Management Regulation Monitoring & Compliance Unit Business Satisfaction Surveys 2009-10, Summary Report

Introduction

During 2009-10 research was carried out on behalf of the Claims Management Regulation Monitoring & Compliance Unit ('MCU') to explore business satisfaction with the following:

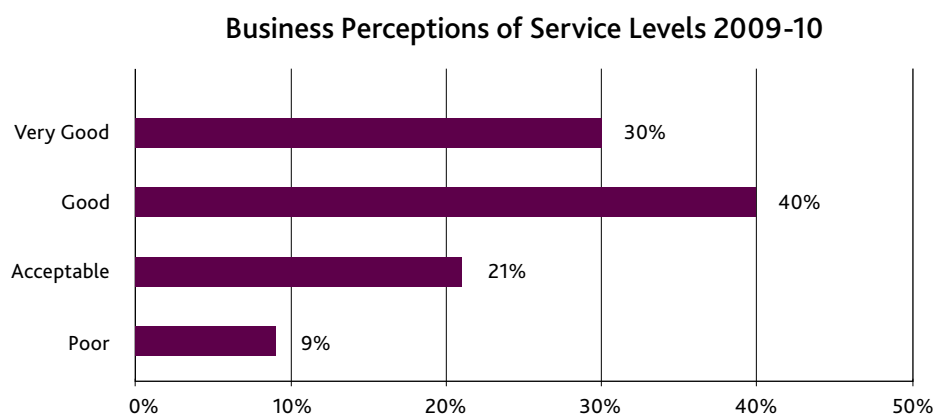
- a) The application for authorisation process;
- b) The renewal of authorisations process; and
- c) The business enquiry service provided by the MCU.

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 the MCU helpline and businesses that had recently completed the applications process and received authorisation. A total of 180 businesses were interviewed through the year. In June 2010, a further 30 interviews were conducted with randomly selected authorised businesses about their experience of the renewals process.

Business Perceptions of Service Levels

- 1.1 The research found good levels of satisfaction with the service provided by the MCU with seventy percent of interviewees rating the service as 'Good' or 'Very Good'. Overall, satisfaction levels were similar to those reported for the previous year.



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

Response: The issues raised by these businesses have been reviewed by the MCU and, where requested, individual feedback has been provided.

- 1.2 The survey showed some variation in satisfaction levels through the year, with a particularly high proportion of businesses that had made enquiries to the MCU helpline expressing dissatisfaction in the second quarter (July to September 2009: 24% of these businesses rated the service as 'Poor').

Response: We recognise that dissatisfaction amongst users of our helpline is often linked to difficulties experienced in getting through to an officer. We have now increased the number of staff who are available to take calls so that callers are less likely to reach our voicemail service.

The Application for Authorisation Process

- 2.1 Through the year, a significant number of those interviewed continued to report that they had experienced difficulties completing the application form. This was often because they did not understand particular questions or felt that there was insufficient clear guidance. A number of these interviewees reported that they had found the MCU helpline very helpful in resolving their difficulties.

Response: Specific comments that were made by applicants in relation to questions that they did not understand have been considered. A number of the comments made have helped us to make fundamental changes to the application form and the information we provide, for example:

- *In response to feedback from a small number of businesses who had thought that the application fee was the only fee payable, the information provided on the application form and on our website has been revised to make it clearer that an annual fee for authorisation is payable in addition to the application fee.*
- *The question in relation to forecast turnover of the business has been simplified.*
- *Guidance has been added to the application form on terms such as 'exempt introducers', 'contractual relationship' and 'represent clients'.*
- *Guidance has been provided on the application form to make applicants aware that if they are newly formed limited companies or limited liability partnerships, their application may be delayed if checks with Companies House raise any queries.*

- *Information provided to applicants will in future make it clear that registration with the Information Commissioner is checked during the application process.*
- *The application form has always included details of who cheques for application fees should be made payable to. This information has now been made clearer on our website.*

2.2 Interviewees have suggested that it would be easier to complete the application form if 'worked examples' were available.

Response: This suggestion has been considered. However, the businesses that apply for authorisation are varied, in terms of their backgrounds, practices, and intended activities in the sector, and our view is that 'worked examples' could give rise to further confusion. It is anticipated that improvements that have been made to the application form and associated guidance will make it easier for applicants to complete the form.

2.3 A significant number of interviewees commented that they would have preferred to complete their application online but this facility was unavailable.

Response: The online application area was suspended because of technical difficulties. The application form is now available to download from our website and the online application facility will be re-introduced as soon as possible, with significant improvements. It will be easier to navigate and will include 'pop-up' guidance notes to assist applicants.

2.4 A number of those interviewed commented adversely on the length of time taken for their applications to be processed.

Response: We understand that businesses want to be authorised as quickly as possible so that they can begin trading. We have now set up a dedicated team to deal with applications and have improved processing times.

However, this is a comprehensive process that often requires us to seek further information from applicants. Our experience is that most delays arise due to businesses failing to respond to our requests, or responding slowly.

2.5 A number of interviewees commented that it would be helpful to have more information on the progress of their application, through regular updates or an online facility

Response: We will be introducing a facility on our website this year which will provide applicants with an up-to-date indication of what stage their application is at, so that they will know, for example, whether we are processing their application or have placed it on hold whilst we wait for a response from them.

The MCU Helpline

- 3.1 Interviewees generally reported that the officers they had spoken to had been polite⁷ and helpful, with the majority feeling that they had received the advice they needed. However, a significant number of interviewees commented on the frustration that they had experienced when trying to contact the MCU by telephone as they were rarely able to get straight through to an officer. A small number of interviewees reported lengthy waits for a call back when they left a message.

Response Call levels to the MCU helpline remain high and we recognise that relatively few telephone enquirers are able to get through to us on their first call to the helpline. As explained above, we are doing what we can to address the peaks and troughs that we experience in call volumes, by making more staff available to take calls.

We have a messaging service and we respond as quickly as we can. Through the year, 80% of callers who left a message received a response the same day and 90% were responded to within 3 working days.

The Renewal of Authorisation Process

- 4.1 Feedback on the renewal process was very positive this year, indicating that the changes made to the process last year have been well-received by businesses.
- 4.2 A higher proportion of businesses reported that they had received the renewals documentation by email, rather than through the post, and significantly higher proportions had responded by emailing the documentation or by using the online facility, compared to the previous year. However, comments made by businesses made it clear that they have very different preferences in terms of how they receive this documentation and how they return it to us.

Response: Next year we intend to send the documentation by post to all businesses and also by email for all businesses for which we have an email address. We will retain all of the same options for businesses to respond to us.

- 4.3 In response to feedback from businesses in 2009, the MCU sent email acknowledgements in 2010 to all businesses for which it holds email addresses, confirming receipt of their completed renewals documentation. There was a positive response to these acknowledgements.

⁷ 98% of those interviewed in relation to contacting the Unit for advice or assistance felt that the officer dealt with their enquiry in a polite manner

The Claims Management Regulation Website

- 5.1 Over 70% of businesses that had recently been authorised reported that they had used the CMR website and all of these businesses reported that they had found the website useful.

A range of comments were made on the website, with some businesses finding it 'user friendly' and 'easy to navigate' and a minority of businesses finding it 'complex' or 'confusing'.

Response: The website is well used, with over 750,000 visits to our home page through the year. The authorised business search facility was used more than 1.5 million times during the year.

However, we recognise that some users have had difficulty finding the information that they need on the website and have recently undertaken a review of the website. The information provided on the website has been simplified and key guidance should be easier to find.

We welcome any comments that will help us to ensure that the website meets the needs of claims management businesses.

Suggestions for Improvement

Businesses were asked for suggestions as to how the service could be improved and a wide range of suggestions were made, including the following:

- 6.1 Enable businesses to apply, track their application and pay online

Response: As explained above, the online application facility will be made available again as soon as possible. We will also be introducing the facility to check application status and hope to deliver an online payment facility in the current year.

- 6.2 Reduce the length of the application form, or have a separate shorter form for businesses that only deal with one type of claim or that have a low turnover

Response: The application form is comprehensive. This is largely because a thorough process is important. The structure of the application form has been improved and this should help to make it easier to complete. Applicants will continue to be able to mark questions that are not relevant to their business as 'Not Applicable'.

- 6.3 Send a reminder email to businesses, a week before the deadline for returning the renewals documentation

Response: We had not considered that a reminder would be helpful, as businesses are sent the renewals documentation just two weeks before the deadline. However, we will consider introducing a reminder next year.

- 6.4 Provide businesses with a clear indication of the costs of renewing authorisation when the renewals documentation is sent out.

Response: It is not possible for us to advise individual businesses of the costs of renewing their authorisation when we send the renewals documentation out as the fee for each business is dependent on the information that it sends to us about its turnover. However, these fees are calculated on the basis of the Fees Determination which is available on the Publications page of our website, under the heading 'Rules for Authorised Claims Management Businesses'.

- 6.5 Clamp down on rogue businesses that trade without authorisation

Response: We are conducting a number of investigations into unauthorised trading. Our experience is that once we become aware of unauthorised activity by a business and start to investigate, the business tends to leave the claims management market.

- 6.6 Inform businesses of the outcome of investigations as this would reassure the sector that action is being taken by the Regulator

Response: Information about the enforcement work that we do with individual businesses is confidential but we are considering introducing a publication scheme that would allow us to publish certain information in specific circumstances.

- 6.7 Drive regulation forward by auditing regulated businesses and producing quarterly statistics to encourage businesses to improve services.

Response: The regulatory regime is designed to drive improvements in the service provided in the sector over the long term but at the moment we believe it is best that our enforcement resource is focussed on the most serious and persistent non-compliance.

- 6.8 Provide information to authorised businesses on how many businesses renewed their authorisation in 2010 and how many businesses are currently authorised.

Response: Details of the number of businesses that are authorised are published each year in our Annual Report, which is available on the Publications page of our website. An up-to-date check on the number of businesses authorised and the number of businesses that have surrendered their authorisation can be carried out at any time using the Authorised Business Search facility on our website – just search on the 'Authorisation Status' that you are interested in, leaving the 'Name of Business' box empty.

- 6.9 Improve staffing levels so that staff are available to respond to queries

Response: There is an ongoing process of reviewing the balance between staffing levels and costs, and the allocation of resources to the different areas of work of the MCU.

- 6.10 Consider a live 'web chat' facility to provide online assistance

Response: We do not have the resource to provide this facility and feel that our resources are best allocated to the telephone helpline, which is the preferred method of contact for most businesses.

- 6.11 Ensure that information sent out by email to multiple businesses is always sent as blind copies

Response: We accept that information has been sent out, by mistake, that was not in this format, and we apologise for this. We will endeavour to ensure that this mistake is not repeated.

- 6.12 Respond promptly to email enquiries so that businesses know their enquiries are being dealt with.

Response: We receive high volumes of email enquiries and are working hard to improve response times.

- 6.13 Increase the use of email rather than post

Response: We have significantly increased our use of electronic communication through the year and now use email as a preferred means of contact where possible, for all businesses that provide an email address to us. However, some communications, such as invoices and certificates, are always sent to the postal address that we hold for a business. This is an important part of our checking processes.

- 6.14 Provide a named contact for each business

Response: The Unit has a small team of officers responsible for over 3000 authorised businesses that generate as many as 2,500 enquiries a month. It is not practical for us to provide a named contact for each authorised business.

Instead, we operate a 'Duty Officer' system – there is always a trained officer responding to business enquiries.

- 6.15 Consider opening the phone lines earlier in the morning and closing them later in the evening, to accommodate people who are employed during the day.

Response: We appreciate that not all of our businesses find it convenient to talk to us between 8.30am and 5pm. Where businesses let us know when they are available, we will attempt to contact them at those times.

ANNEX D

Claims Management Regulation interested parties

Regulatory Consultative Group Members

Solicitors Regulation Authority (SRA)
www.sra.org.uk

Advisory Conciliation and Arbitration Service (ACAS)
www.acas.org.uk

Council of Mortgage Lenders (CML)
www.cml.org.uk

Unison
www.unison.org.uk

Which?
www.which.co.uk

UK CARDS
www.theukcardsassociation.org.uk

Motor Accident Solicitors Society (MASS)
www.mass.org.uk

National Debtline
www.nationaldebtline.co.uk

Forum of Insurance Lawyers (FOIL)
www.foil.org.uk

British Insurance Brokers Association (BIBA)
www.biba.org.uk

Legal Complaints Service (LCS)
www.legalcomplaints.org.uk

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

Office of Fair Trading (OFT)
www.oft.gov.uk

Claims Standards Council (CSC)
www.claimscouncil.org

Financial Ombudsman Service (FOS)
www.financial-ombudsman.org.uk

Law Society
www.lawsociety.org.uk

Finance and Leasing Association (FLA)
www.fla.org.uk

Citizens Advice Bureau (CAB)
www.citizensadvice.org.uk

Advertising Standards Association (ASA)
www.asa.org.uk

Association of British Insurers (ABI)
www.abi.org.uk

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

Financial Services Authority (FSA)
www.fsa.gov.uk

The Association of Independent Financial Advisors (AIFA)
www.aifa.net

Association of Mortgage Intermediaries (AMI)
www.a-m-i.org.uk

UCCA Sub Group Members List

Department for Business Innovation and Skills (BIS)
www.bis.gov.uk

Experian
www.experian.co.uk

Office of Fair Trading (OFT)
www.oft.gov.uk

Citizens Advice Bureau (CAB)
www.citizensadvice.org.uk

Claims Standards Council (CSC)
www.claimscouncil.org

Financial Leasing Association (FLA)
www.fla.org.uk

Financial Services Authority (FSA)
www.fsa.gov.uk

National Debtline
www.nationaldebtline.co.uk

UK CARDS
www.theukcardsassociation.org.uk

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

Solicitors Regulation Authority (SRA)
www.sra.org.uk

Council of Mortgage Lenders (CML)
www.cml.org.uk

Which?
www.which.co.uk

ANNEX E

Contact Information

For queries concerning the authorisation of businesses or to report concerns or 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: 0203 334 3555

Fax: 0203 334 4282

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

