



Ministry  
of Justice

14

# Claims Management Regulation

ANNUAL REPORT 2014/2015

15



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# Introduction from Head of Claims Management Regulation



Last year we implemented a package of significant regulatory reforms, including the power to sanction poor conduct with financial penalties. The reforms have put claims management regulation (CMR) in the strongest position it has ever been in terms of having the necessary tools, resources and resolve to get the job done.

At the same time general deregulatory changes were introduced, designed to ensure regulation in all areas of business remains fair, effective and proportionate. For CMR that means a renewed responsibility to make sure that regulatory action is intelligence led and evidence based, is proportionate and is focused on those practices that cause most detriment to consumers and the general public.

That's why in the first instance the task is to bring claims management companies (CMCs) to compliance. If that does not work we now have the full range of tools needed to ensure the punishment fits the crime and where a CMC has got it badly wrong the consequences will be severe. The power to issue financial penalties is at the forefront of our new bold enforcement campaign.

To help deal with CMC conduct, good and bad, we will continue to work closely with the organisations receiving claims, particularly those that do so in high volumes. For example, over the last year we have worked more actively with the major banks to help remove the more wasteful CMC activity from the PPI claims process. We are now doing the same in respect of mis-sold packaged bank account claims.

There is also scope to do this in the personal injury and disease sectors where we are taking a tough line with CMCs seeking out leads to pass to solicitors for noise induced hearing loss claims. In this area some CMCs – and some solicitors – have a lot to do to in terms of making sure leads are legally obtained and claims are properly substantiated before being submitted. Our focus on fraud of all types will also be expanded further and we will be forging stronger links with the Insurance Fraud Enforcement Department, the Insurance Fraud Bureau and other enforcement agencies to disrupt and deal with the offenders.

Parallels with other regulators and regulatory regimes are difficult to make, as the CMC industry is probably like no other. It is certainly foremost a business activity rather than a profession and needs to be regulated as such. With new enforcement tools in place, CMR will be delivering a sharper crackdown for those CMCs that fail to operate compliantly and will be considering carefully further measures to improve the outcomes for consumers that use CMCs.

A handwritten signature in black ink, appearing to read 'Kevin Rousell'.

**Kevin Rousell**



# Chapter 1: Highlights of the year

## 2014/15

### April 2014

New regulation fees for 2014/15 came into effect. Annual fees and application fees increased to ensure CMR continues to be self funding

### May 2014

Appointment of two independent non-executive members to the executive-led CMR Board

### June 2014

Publication of our consultation response on changes to the Conduct Rules from a financial services perspective

### July 2014

Launch of our Annual Report 2013/14

### August 2014

Publication of the first quarterly enforcement update of 2014/15

### September 2014

Launch of guidance for CMCs on complying with the new Conduct Rules

### October 2014

New Conduct Rules came into force, strengthening requirements around submitting claims

### November 2014

Amended Regulations laid before Parliament to bring consumer complaints against CMCs within remit of Legal Ombudsman

### December 2014

Implementation of new power to impose financial penalties on CMCs for rule breaches

### January 2015

The Legal Ombudsman began accepting complaints about CMCs, providing a new avenue of redress

### February 2015

Participated in the government led Insurance Fraud Taskforce which was established to investigate the causes of fraudulent behaviour and recommend solutions

### March 2015

Kevin Rousell (Head of CMR) addressed the Insurance Fraud Bureau Forum





# Chapter 2:

## Who we are and what we do

“The CMR Unit works to protect and promote the interests of consumers and the public and to ensure that the CMCs we regulate understand and comply with the conditions of their authorisation.”

### Who we are

1. The Ministry of Justice (MoJ) has been responsible for directly regulating the activities of businesses providing claims management services since April 2007 under Part 2 of the Compensation Act 2006. The Compensation Act defines claims management services as “advice or other services in relation to the making of a claim”. Secondary legislation defines the scope of regulation including the regulated sectors and the regulated activities subject to the authorisation regime.
2. Any business providing regulated claims management services in England and Wales is, unless exempt, required to be authorised irrespective of their registered address or location of the business. Exemptions under the Act include those already regulated, for example, solicitors and insurers – and independent trade unions. Businesses authorised under the Compensation Act are subject to a range of statutory conditions, including compliance with conduct rules geared firmly towards consumer information and safeguards. Businesses that do not comply with the conditions of authorisation (including the conduct rules) are subject to appropriate enforcement action.

### What we do

3. Claims management regulation is delivered by the MoJ’s Claims Management Regulation (CMR) Unit. The CMR Unit is responsible for managing the operation of the regulatory system, which includes handling applications and complaints, monitoring compliance, investigating malpractice and taking enforcement action. Duties also include approving statutory decisions made on behalf of the Secretary of State in respect of authorisations, suspensions and cancellations, and managing policy, funding, communications, and stakeholder relations. The CMR Unit operates on a self funding basis with all operating costs recovered through regulation fees paid by claims management companies (CMCs).

### Our objectives

4. Our ongoing primary objectives are:
  - Protecting and promoting the interests of consumers
  - Protecting and promoting the public interest
  - Improving standards of competence and conduct of authorised persons

## Our remit

5. The claims sectors subject to regulation under the Compensation Act 2006 are:
  - Personal injury
  - Financial products and services
  - Employment
  - Industrial Injuries Disablement Benefit
  - Criminal injuries compensation
  - Housing disrepair
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
8. Carol Brady has over 20 years experience working in the field of regulation and consumer protection. She is Chairman of the Trading Standards Institute's Board and has been appointed to the role of Secretariat for the Consumer Code for Home Builders as well as to the Commission for Local Administration in England. Caroline Wayman is a non-practicing barrister and spent time working in the insurance industry and the Insurance Ombudsman Bureau before joining the Financial Ombudsman Service. She is currently the Chief Executive and Chief Ombudsman at the Financial Ombudsman Service.

## CMR Board

7. The CMR Board meets quarterly and is made up of members of the senior management team and two non-executive members. A reconstituted CMR Board had its first meeting in July 2014 following the appointment of Carol Brady and Caroline Wayman as non-executive Board members. These appointments reflect changes to internal governance arrangements that allow independent challenge and receipt of expert advice to enhance the delivery of continuous service improvement and effective regulation.

## CMR Board members

Kevin  
Rousell

Chair of Board &  
Head of CMR Unit

Carol  
Brady

Non-executive  
Board member

Caroline  
Wayman

Non-executive  
Board member

Alison  
Wedge

Deputy Director  
(Ministry of Justice)

Sarah  
Mutton

Deputy Head of  
CMR Unit

Trish  
Caldwell

Staffordshire  
County Council

Maggie  
Finnie

Head of CMR  
Compliance

Antony  
Bolton

Deputy Head of  
CMR Compliance



# ESB

# Chapter 3:

## Overview of activities and performance

“Consumers’ interests have been at the forefront of our work and there has been real progress in driving out bad practice.”

1. Over the past year, we have made significant advances in how we regulate and improve our operational effectiveness. Consumers’ interests have been at the forefront of our work and there has been real progress in driving out bad practice. We have focused on getting the most out of the available resources and developing our regulatory tools – as reflected in this year’s programme of regulatory reforms.
2. In October 2014 we tightened the conduct rules for CMCs to help tackle abuses in the financial claims sector. Existing requirements have been strengthened to ensure that claims are properly substantiated and any leads CMCs receive through telemarketing are legally obtained. These changes have been timely. While payment protection insurance (PPI) claims remain the most active claim type, other claim areas such as mis-sold packaged bank accounts and mis-sold investments are beginning to emerge.
3. We reinforced our enforcement tools in December 2014 with a new power to impose financial penalties on CMCs that break the rules. We will exercise these powers to tackle issues such as submitting speculative claims, unsolicited calls and texts, mis-leading marketing and failing to handle complaints properly. These powers bring us in line with other similar regulatory bodies such as the Financial Conduct Authority (FCA), Solicitors Regulation Authority (SRA) and Information Commissioner’s Office (ICO).
4. We improved our governance structure by appointing two non-executive board members to the executive-led Claims Management Regulation Board. These appointments represent a greater element of external challenge to help ensure continuous improvement.
5. Consumers were given a new avenue of redress in January 2015 following the extension of the Legal Ombudsman’s jurisdiction to deal with complaints about poor service from CMCs. The Legal Ombudsman now has powers to order compensation, make CMCs reimburse costs or to provide other forms of suitable redress.
6. Nuisance calls and texts have remained high on our agenda. We have strengthened and focused resources on this area by establishing a team which delivered a programme of audits to specifically address these issues. We have collaborated with the ICO, Ofcom and Department for Culture, Media and Sport to tackle any consumer harm more effectively.
7. We have maintained our focus on the personal injury claims market which has undergone significant change following the introduction of a ban on referral fees in 2013. Building on last years extensive programme of visits to monitor

how CMCs are adapting to the ban, we began a proactive programme of audits this year, which involved scrutinising more closely those CMCs that have remained in the market. We have also had to consider and assess the new and varied operating models and where we have identified breaches we have taken enforcement action, as appropriate.

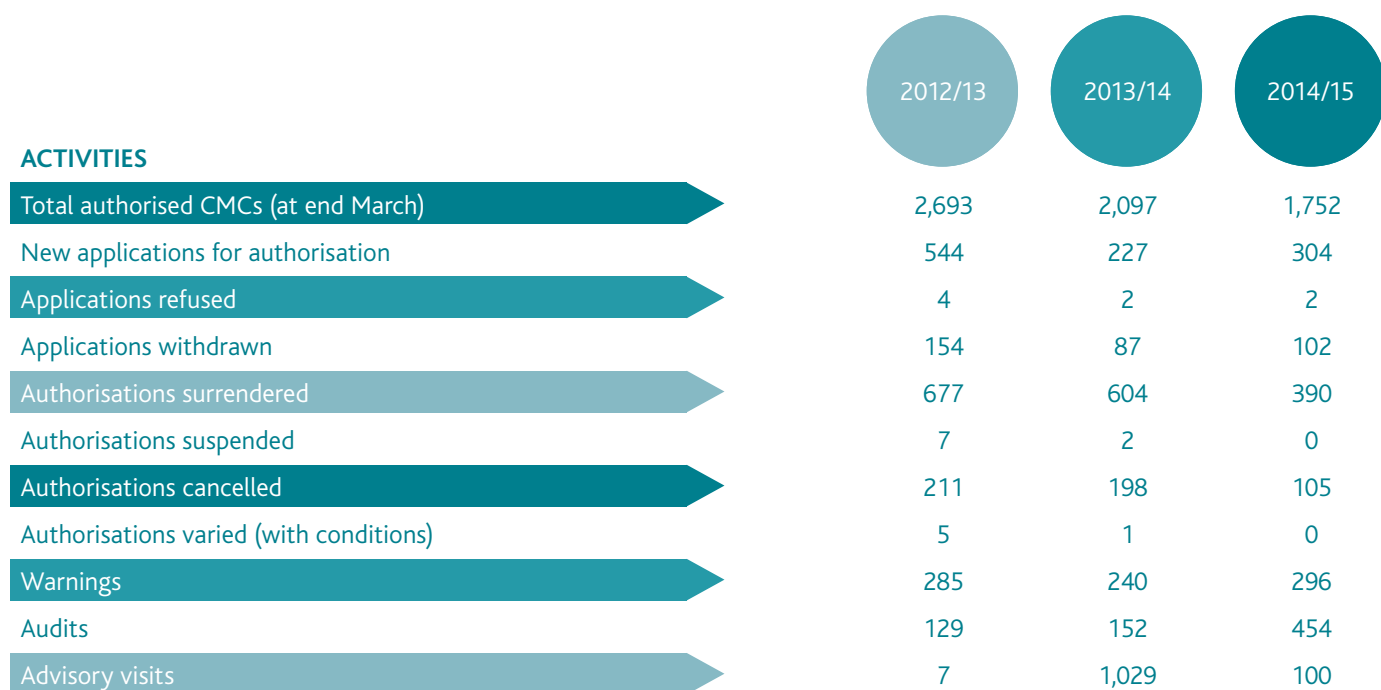
- 8. Tackling personal injury fraud has also been a significant area of work. Working closely with other enforcement agencies has enabled us to disrupt the wider criminal activities of individuals and groups involved in the claims market. In some cases we have been able to support law enforcement agencies in securing criminal convictions.
- 9. There has been no let up in our actions to deal with businesses providing claims management services without the necessary authorisation. We have increased the number of staff

responsible for conducting these investigations, which has given us more capacity to take the necessary enforcement action where offences are being committed for unauthorised activity.

## Key activity figures

- 10. The following data provides a summary of claims management regulation activity over a period covering financial years 2012/13 to 2014/15. These statistics show the trends and the significant volume of work involved – also demonstrating the range of the tasks that have been accomplished. Quarterly updates on CMR performance can be found on our enforcement web page at:

[www.gov.uk/government/publications/claims-management-regulator-enforcement-actions](http://www.gov.uk/government/publications/claims-management-regulator-enforcement-actions)



## Progress against 2014/15 compliance priorities

11. We carried out the following key work to deliver against the compliance priorities as set out in last year's report:

- **Nuisance calls and unsolicited marketing**

We established a team dedicated to tackling this issue and conducted 102 audits of CMCs involved in either marketing their services by calls or texts, or receiving leads generated by this marketing activity. We have shared information and worked with key partners in making an impact in this sector and engaged in wider government and industry initiatives designed to tackle malpractice.

- **Tackling malpractice in handling of PPI and other financial claims**

Auditing of the largest and highest risk CMCs has continued in order to tackle systemic issues within the sector. We have audited 157 CMCs and acted upon intelligence provided by customers of CMCs and the financial services providers receiving claims from them to ensure CMCs have the appropriate competencies, mechanisms and processes in place to present claims appropriately.

- **Enforcing ban on referral fees for personal injury claims**

386 CMCs have been audited this year as we continued to pro-actively enforce the referral fee ban. We have had to respond to a developing industry, scrutinising operations and making decisions on the compliance of models during our work in the field.

- **Working with partner agencies to tackle businesses that support crime**

Our work with other law enforcement agencies,

including the City of London Police's Insurance Fraud Enforcement Department (IFED), regional forces and HM Revenue and Customs has continued. We have presented cases to partner agencies to investigate as well as responding to requests for information and statements in order to disrupt and tackle criminal activity associated with claims management.

- **Unauthorised activity**

Assessing and responding to reports of unauthorised activity has led to 33 investigations. Our action results in most businesses promptly ceasing the activity but a number of targets have been identified that warrant further action.

- **Consumer money at risk**

We have maintained our focus on those CMCs that take payment from customers during sales calls and in advance of providing a claims service. Several CMCs operating this way, have breached the rules and we have investigated them and subsequently cancelled their authorisation.

- **Complaints handling and fair and reasonable dealings with consumers/clients**

Some CMCs have continued to handle complaints poorly despite continued intervention from us and the subsequent extension of the jurisdiction of the Legal Ombudsman. We continue to address this routinely and now receive information from the Legal Ombudsman about CMCs failing to deal with customers fairly or their complaints properly.

- **Publication of enforcement action**

The publication of investigations and action has proved to be a useful tool in exposing CMCs for their malpractice and alerting potential customers and other partners of concerns about the practices of certain CMCs.

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# Chapter 4: Claims management landscape

“There has been increased activity in other financial claims areas – most notably around claims for mis-sold packaged bank accounts.”

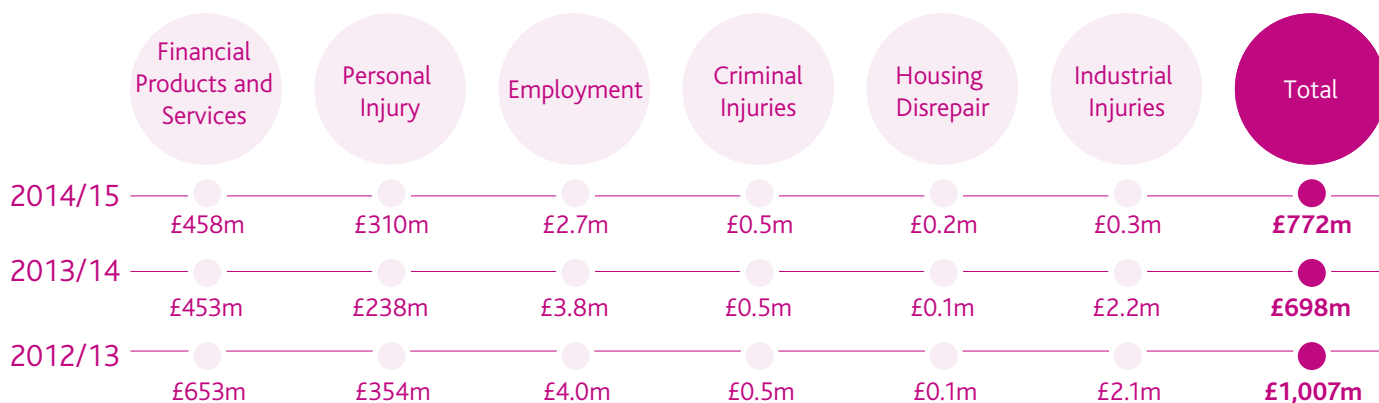
## CMC Turnover

1. The total declared industry turnover for the 12 months to 30 November 2014 increased by 11% – 1% up in the financial products and services sector and 27% up in the personal injury sector. The increases in turnover reflect a stabilisation of the claims market. Despite PPI payouts reducing during the corresponding period, these remained strong and the contribution of new claim types has resulted in a modest increase in turnover. The larger increase in personal injury turnover is mainly due to the largest CMCs increasing their market share, as well as the smaller CMCs that had suspended claims activity immediately following the referral fee ban, returning to the market with new compliant models.

## Applications for authorisation

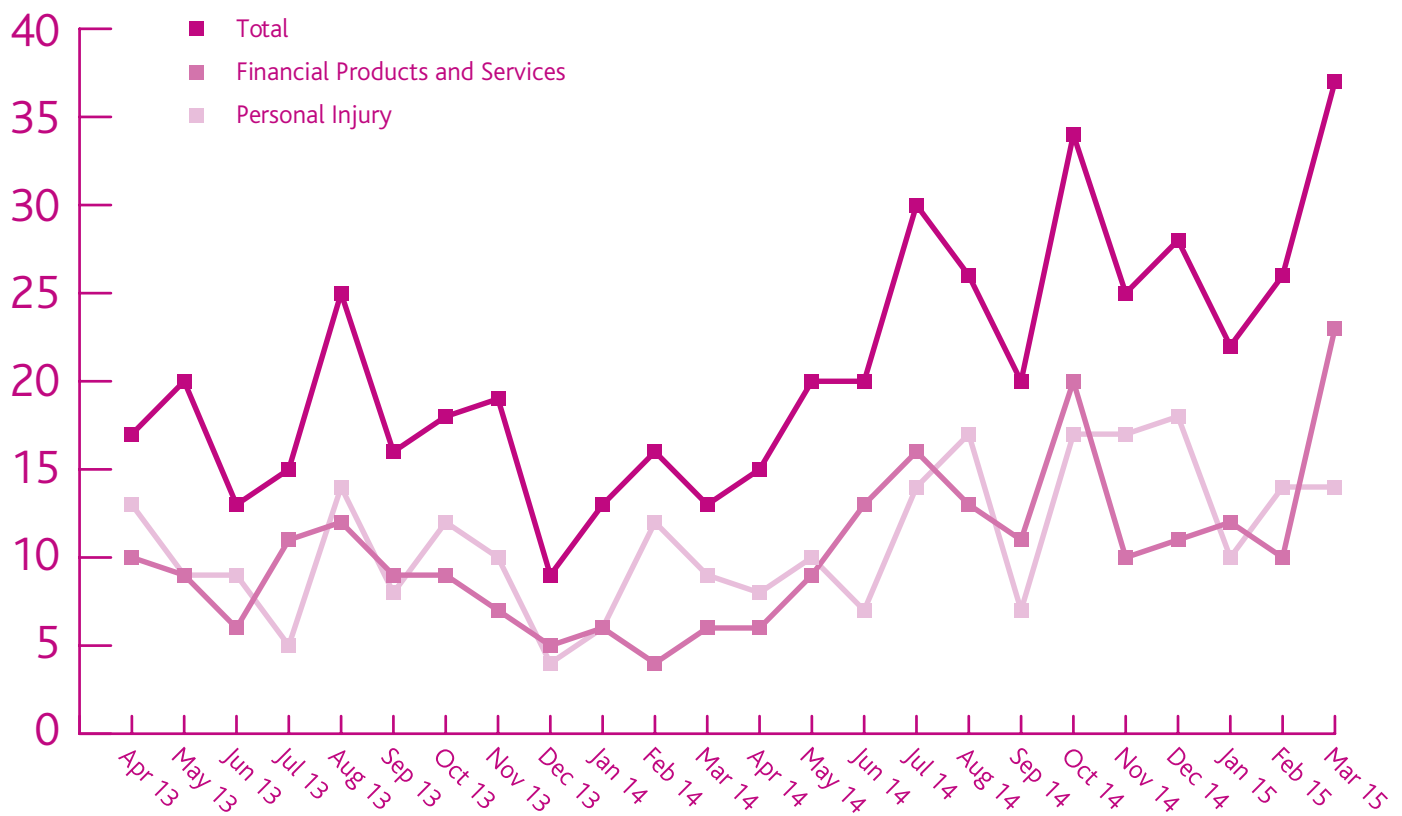
2. Applications for authorisation increased this year to an average of 25 applications per month (compared to 16 applications per month last year). This is however still significantly down from 2013 levels when we were receiving around 40 applications each month. Applications from businesses intending to operate in the personal injury sector were up almost two thirds (64%) and applications in the financial products and services sector increased by more than a third (38%).

### Industry turnover since 2012/13



Based on industry turnover for the 12 months to 30 November.

## New applications for authorisation per month



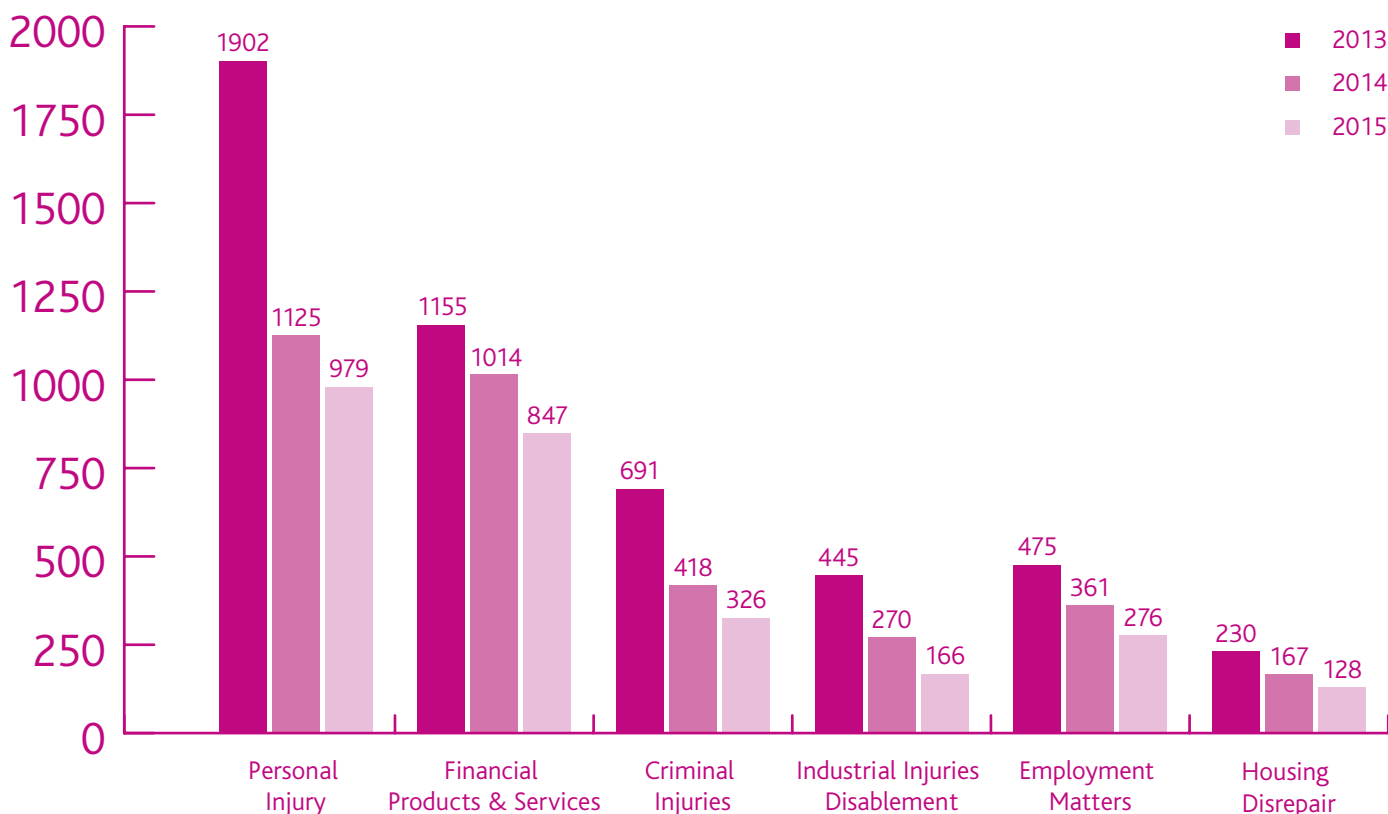
## Overview of claims sectors

### Personal injury

3. Over the past year, the personal injury sector has begun to stabilise after adjusting to the effects of major civil justice reforms introduced in 2013. The personal injury sector has remained the largest with 979 authorised CMCs at the end of March 2015. However, the number of CMCs operating in the sector has continued to fall, making the sector the smallest it has ever been since the early days of regulation in 2007. Although we had anticipated a continued contraction in the sector during 2014/15, the rate at which this has occurred has slowed.

4. The characteristics of the sector have also remained polarised with a small number of the very largest CMCs featuring prominently in the personal injury claims sector. Despite the ongoing consolidation of the sector, a large number of small and locally operated CMCs have worked with solicitors to try and adapt their business models to make them compliant with the referral fee ban.
5. For many of these CMCs, the main focus of their business is on providing services ancillary to personal injury. Other accident management activity including vehicle recovery, storage, repair and hire, has been proving more profitable than injury claim services. Some CMCs have actively

## Total authorised CMCs by sector



diversified into these areas while those CMCs which are already doing so have seen these services become the primary income source.

### Financial products and services sector

- During 2014/15 claims for mis-sold PPI have remained the most common and profitable claim type in the financial products and services sector. The number of CMCs active in the financial claims market has fallen by a similar amount to the reduction seen last year with just under 900 CMCs now in operation at the end of March 2015.
- There has been increased activity in other financial claims areas – most notably around

claims for mis-sold packaged bank accounts (PBA). The larger CMCs with a background in PPI claims have been most active in this area, as well as some newer and smaller CMCs. This market has grown throughout the year and we believe more than 90 CMCs are now specialising in making claims for mis-sold PBAs.

- Some CMCs have also been providing claims services for mis-sold investments, interest rate hedging swaps, credit card charges, mis-sold mortgages and mis-sold debt management plans, however the activity in these areas is low when compared to the PPI and PBA claims market.

9. A feature of this sector is that a small number of CMCs account for a significant market share with just 14 CMCs accounting for more than half of the turnover in the whole financial products and services sector. While some CMCs have been exploring new claims areas we do not expect the sector to grow further – the amount of redress paid out each year for mis-sold PPI has begun to fall together with fewer potential customers who have yet to make their claim.

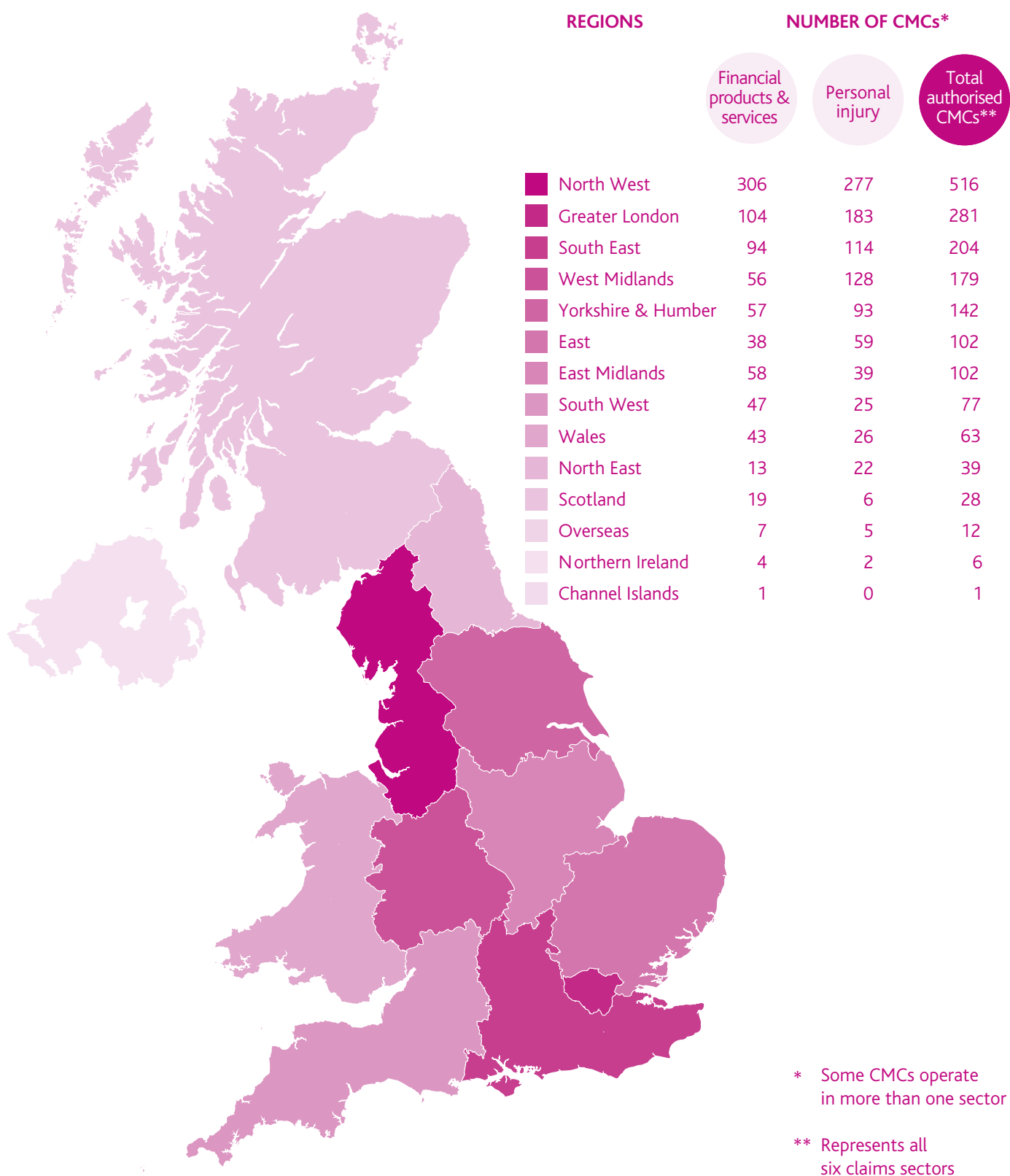
### Other regulated claims sectors

10. There are four other regulated claims sectors – employment matters, criminal injuries compensation, industrial disablement benefit and housing disrepair. As with previous years, only a small number of CMCs have been actively operating in these sectors. The most active area among these smaller sectors is employment matters. The number of CMCs operating in this sector has been falling year upon year and those generating a turnover in this sector are far fewer than the 276 CMCs listed as authorised at the end of March 2015. Analysis of the turnover figures confirms that 64 CMCs had a turnover of over £5,000 last year.

11. We receive information about CMCs operating in the employment sector from a number of different sources including CMCs, consumers, solicitors and other representatives, and the employment tribunals. The concerns reported can range from unauthorised trading to the quality of representation.

## Geographical distribution of CMCs

12. The highest concentration of CMCs remains in the North West region. The map below illustrates the current geographical distribution of authorised CMCs with 13 CMCs based outside of the UK.



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# Chapter 5: Contacts

“We gather detailed information from consumers which is then used to inform co-ordinated enforcement action across the unit”

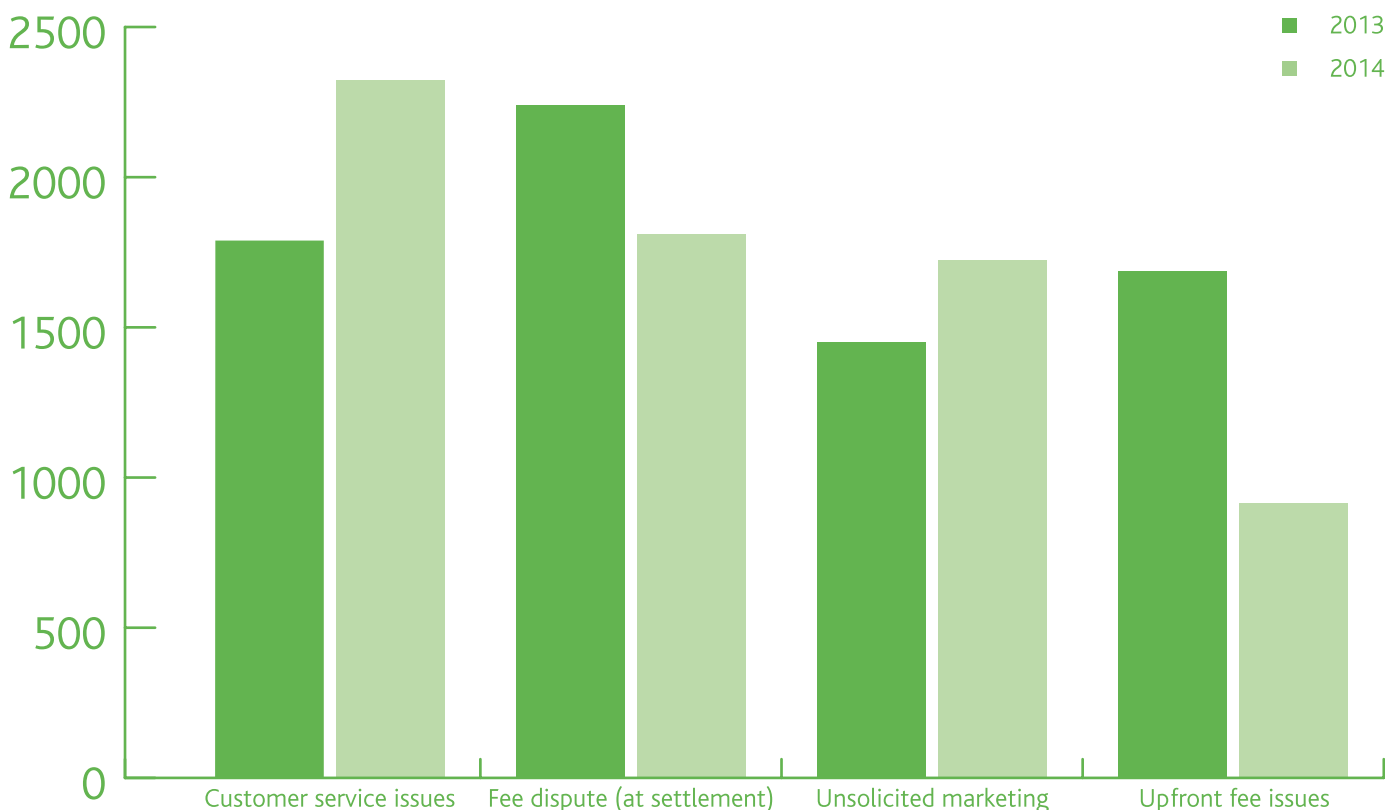
## Consumer contacts

1. We dealt with 10,106 new consumer contacts this year, slightly fewer than last year. Consumers usually contact us for three main reasons – either they are unhappy with the service they received from a CMC; they want to

check the authorisation of a CMC; or because they have received a nuisance call about making a PPI or accident claim.

2. During 2014/15 our contact centre received 20,709 calls in total, 7,393 (74%) of which were new contacts. We also received 2,218 new

Top consumer issues – 2014/15



contacts by email and over 470 new contacts by letter from consumers. Almost all (88%) new contacts concerned CMCs operating in the financial products and services sector (primarily PPI). 10% of contacts were about personal injury with the remaining four sectors receiving 2% of contacts. This year we exceeded our service level target with 88% of incoming calls answered within 20 seconds each month.

3. We have continued to gather detailed information from consumers which is then used to inform co-ordinated enforcement action across the unit. Where appropriate we provide consumers with advice and assistance or signpost some to other bodies. For example, when consumers contact us about unsolicited calls and text messages, we have referred them to the ICO and/or Ofcom. We have also referred consumers to Action Fraud when it appears that they have been the victim of a scam.
4. The top issues raised by consumers during 2014/15 were:
  - **Poor customer service:** Some CMCs fail to keep clients up to date about the progress of their claim, or some clients experience difficulties making contact with their CMC.
  - **Level of fees charged at the conclusion of a PPI claim:** In many cases the consumer is unhappy with the fee, either because it is higher than they thought it would be and/or because they do not feel the CMC has done enough work to warrant the level of fee charged.
  - **Unsolicited calls and text messages marketing PPI or accident claims services:** Consumers have reported instances of high pressure selling and misleading marketing, in addition to the significant nuisance these forms of direct marketing can cause.

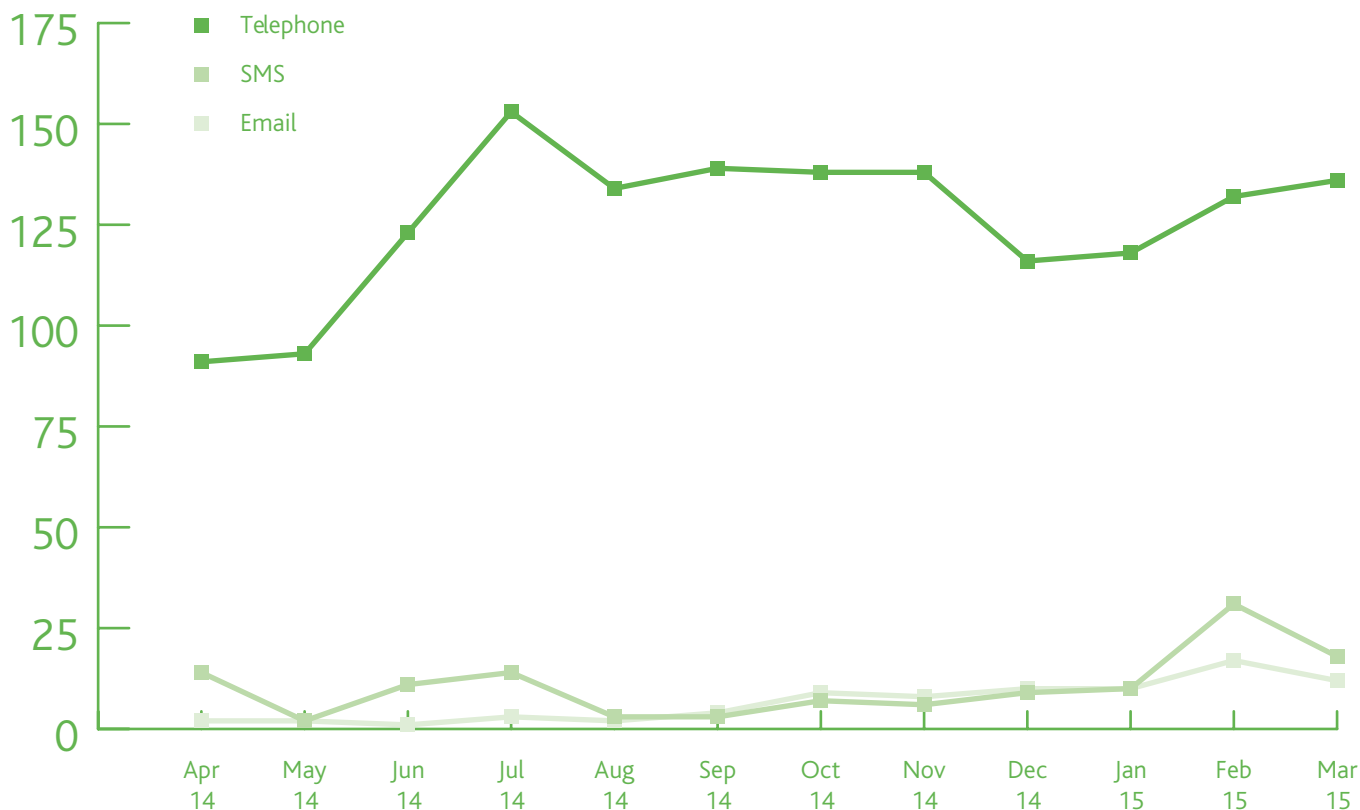
- **Charging upfront fees and subsequently providing a poor service:** Most of these complaints (75%) arise when a CMC has taken payment from a client over the telephone during a sales call and the client is later unable to obtain a refund or has difficulties exercising their cancellation rights. Other issues raised by consumers concern CMCs providing misleading information about the service, taking duplicate fees or failing to provide paperwork before the fee was taken. Upfront fees are now charged by relatively few CMCs and we have received fewer complaints this year about this issue than previous years.

#### **Contacts about nuisance calls and texts**

5. Contacts about unsolicited marketing are up by 19% on the previous year. The majority of concerns reported to us are related to live marketing calls (88%), with text messages making up 7% and emails 4% of concerns. As a marketing method, text messages and emails are perceived as less intrusive and easier to ignore, and therefore tend to generate fewer complaints than live calls. These reports often provide intelligence about potential misconduct such as high pressure sales or misleading marketing, which is used by our specialist marketing team to address non-compliant practices.



## Contacts about nuisance calls and texts



## Complaints handling: A new system

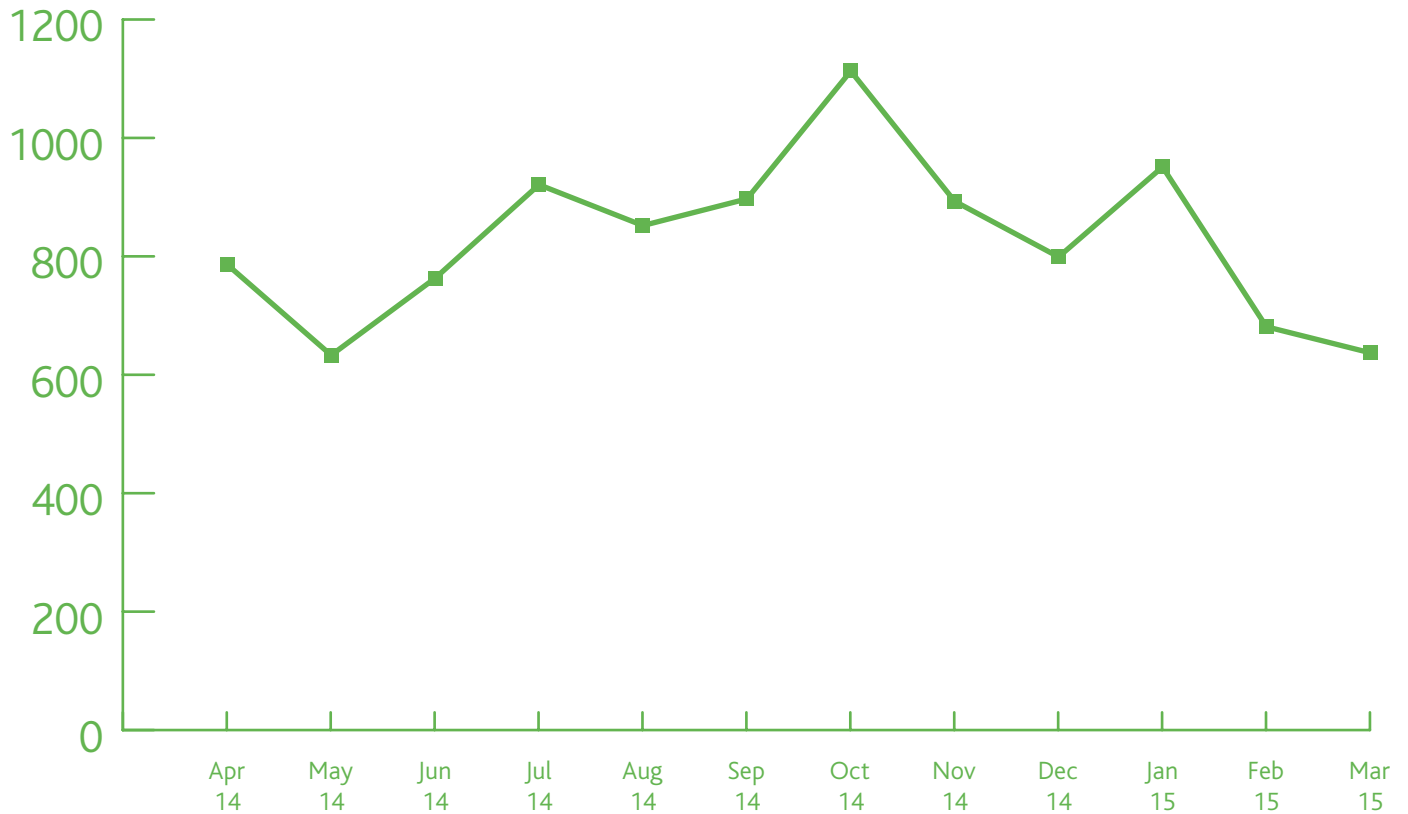
6. On 28 January 2015 the Legal Ombudsman took on the role of handling consumer complaints about poor service from CMCs after its jurisdiction was extended. We worked closely with the Legal Ombudsman to prepare consumers and the industry for the new system and to ensure that we continue to receive information and intelligence about the types of issues consumers are raising and which CMCs are being complained about. This information feeds into our own assessments and targeting of CMCs to enable us to focus our resources. It is therefore important that consumers can continue to report

any concerns about a CMC's conduct direct to us and we have created a page on our website<sup>1</sup> with a reporting form to enable this.

7. We have seen a reduction in consumer contacts and expect that trend to continue into next year as they begin to learn about the Legal Ombudsman's new role and contact them directly. In the meantime, we will continue to gather detailed information from consumers and to give advice and signpost consumers to the Legal Ombudsman or other organisations as appropriate. We have already begun to see a reduction of around 30% in the number of consumers contacting us, which has enabled us to reduce the resource in our contact centre and deploy more staff to focus on enforcement work.

<sup>1</sup> <https://www.gov.uk/complain-about-claims-company>

## Consumer contacts 2014/15



## Contacts from the financial services industry and others

8. This year we have further improved our intelligence and information exchanges with the major banks and lenders in regard to CMC malpractice. We meet regularly with representative bodies such as the British Bankers Association, Building Societies Association, Finance and Leasing Association, and UK Cards Association to share information. While our contact centre received 295 individual contacts from financial service providers during 2014/15, the majority of concerns from the financial sector are raised via regular malpractice and

business intelligence reports. This year we received 1,184 malpractice reports and 138 business intelligence reports. We also receive statistical information which gives us dynamic intelligence about the state of the financial claims market.

9. This data allows us to compare key statistics across CMCs' performance which highlights where there may be issues with some CMCs' processes. For example, the figures will highlight which CMCs have a higher rate of cases where they have presented claims for mis-sold PPI when their customer had not been sold PPI. This would suggest that they may not be making appropriate enquiries of their customer at the beginning of a

claim or carrying out sufficient investigations, and we are able to focus on this issue to determine whether they are in breach of the rules.

10. Conversely, we can also use this information to help us identify which CMCs are submitting claims of improved quality and have more robust procedures and processes in place. We consider this and other information (including, for instance, details of customer contacts and outcomes of our audits) to build as complete an intelligence picture as possible about the CMC. All of this information is considered when planning our future work and audit programme.
11. We also gather information from other regulators and complaint handlers. For example, we regularly meet with the ICO and Financial Ombudsman Service to share intelligence, target and investigate those CMCs which raise the most concerns/pose the greatest risk.

## Complaints handling by CMCs

12. Many of the consumer contacts we receive are due to a CMC's inadequate handling of their complaint. For example, some CMCs might fail to treat a complaint received by telephone as a 'complaint' for the purposes of their complaint handling procedure. We have continued to work towards making improvements in this area and take action against CMCs where we identify failings.
13. CMCs must now provide details of how clients can complain to the Legal Ombudsman if they are unhappy with the service provided. We expect to see CMCs make further improvements in their complaint handling processes as the effects of the new complaint handling regime become established.

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# Chapter 6: Enforcement

“We investigated 93 CMCs (including potentially unauthorised CMCs) and cancelled the authorisation of 105 CMCs. We also issued warnings to 296 CMCs, conducted audits of 454 and undertook visits to another 100.”

## Our approach

1. We take enforcement action to ensure consumer interests are protected and CMCs conduct themselves appropriately. This action can range from written advice and warnings - when the CMC has committed less serious breaches and is willing and able to comply - through to varying or cancelling the authorisation of a CMC where stronger action is required to address serious breaches. We are now also able to consider imposing financial penalties on CMCs that breach the rules.
2. This year we investigated 93 CMCs (including potentially unauthorised CMCs) and cancelled the authorisation of 105 CMCs. We also issued warnings to 296 CMCs, conducted audits of 454 and undertook visits to another 100.
3. We have increased the size of our enforcement team, and when the Legal Ombudsman began investigating consumer complaints in January, we also re-allocated the resource previously used for handling consumer contacts. We have been able to expand our compliance and enforcement unit to more than 100 staff. This increased resource has enabled us to target problem CMCs more effectively, carry out more audits and warn more CMCs.

## Tackling bad practice

4. Four key regulatory issues have driven our enforcement focus this year, with both personal injury and the financial products and services sectors again at the forefront. As well as tackling bad practice by authorised CMCs, we are also dealing with businesses providing claims services without the required authorisation. Much of our enforcement work is carried out in collaboration with other relevant regulators and representative bodies.

### Nuisance calls and texts

5. Tackling CMCs responsible for nuisance calls and texts remains a key priority. The receipt of such communications often causes distress to consumers and consequently receives a high level of media and public interest. While levels of direct marketing in relation to mis-sold PPI claims appears to be falling, marketing for accident claims remains a significant area of activity in the industry. More recently, we have seen the emergence of CMCs operating in claim areas such as noise-induced hearing loss (NIHL), and mis-sold packaged bank accounts.
6. We have increased the capacity of our specialist nuisance calls/marketing team again

this year in order to tackle the non-compliance highlighted by the intelligence we receive. The action taken by this team during 2014/15 is detailed in the table below:

ACTIVITIES	12 MONTHS TO 31 MARCH 2015
Audits	102
Warnings	30
Investigations	9

7. The reliance on consent obtained by third parties, combined with poor due diligence by CMCs, accounts for a high proportion of non-compliance regarding marketing. In order to address this, we made amendments to the conduct rules in October 2014, placing a stronger requirement on CMCs to ensure that any data and leads they receive from third parties is legally obtained and that claims are properly substantiated before being pursued. Personal data is collected for marketing purposes in various ways – some is entirely legitimate and some might be obtained in a clear breach of legislation. The main investigation challenge is identifying who is responsible for the unsolicited call or text and building up sufficient evidence of abuses to take enforcement action.
8. Joined up regulation is vital. We have continued to increase our partnership working with the ICO and Ofcom, the primary regulators for the direct marketing industry. In addition to sharing intelligence, we have taken part in joint visits and audits with the ICO, and have assisted the ICO with entry warrants relating to businesses responsible for the transmission of non-compliant marketing. Annex A sets out the full list of regulatory responsibilities in respect of direct marketing.
9. The Department for Culture Media and Sport

(DCMS) is leading on cross-government work and has made tackling nuisance calls across all sectors a priority. In March last year, DCMS launched a joint action plan involving all relevant regulators, including the ICO, Ofcom and the CMR Unit. Kevin Rousell (Head of CMR) was also part of a taskforce led by consumer group, Which? to review issues concerning consent and lead generation. The taskforce reported back to the government in December 2014 with 15 recommendations which are now under consideration.<sup>2</sup>

### Case study: Contacts using third party call centres

We audited a CMC and identified that it was accepting personal injury and PPI referrals from several overseas call centres. The CMC was unable to provide evidence that it had consent to contact consumers by telephone about making a personal injury claim and was therefore placing the solicitors they referred to in breach of the Solicitors Regulation Authority (SRA) Code of Conduct by making unsolicited approaches. We warned the CMC for accepting leads from unauthorised introducers and advised the CMC to ensure that any leads referred to solicitors were generated in compliance with the SRA Code of Conduct. The CMC subsequently abandoned using all overseas call centres and stopped marketing for personal injury claims.

### Mishandling financial services claims

10. We have continued to make progress in addressing the issues and problems caused by some CMCs in respect of their handling of complaints about financial products and services. Most activity still

<sup>2</sup> <http://www.which.co.uk/documents/pdf/nuisance-calls-task-force-recommendations-388317.pdf>

relates to mis-sold PPI claims although we saw increased interest in claims relating to mis-sold packaged bank accounts and investments.

11. We have further developed our risk assessment which identifies medium-to-high risk CMCs for monitoring and audit. The system takes into account customer contacts, intelligence from lenders, previous enforcement action, turnover and high risk factors such as upfront fee models. This enables us to focus our resource on the proportion of the sector that is likely to pose the most risk to consumers.
12. The dialogue and data we gather from the banks has improved significantly during the year. This provides us with crucial intelligence and analysis into which CMCs are likely to be mishandling claims. It gives us information that enables us to compare performance between CMCs and to identify where certain measures are below an acceptable level. We have also continued to work closely with the Financial Ombudsman Service and the Financial Conduct Authority to identify conduct issues and emerging claim areas.
13. At the beginning of the year we began to use relationship management with a number of large CMCs with a significant market share to actively address compliance issues directly with them. This allowed us to understand and give advice on the changes they proposed to make and pre-empt any problems. This work also helped us understand and react to changes in the wider financial claims market. It also helped us to achieve our objective of reducing consumer harm, and any adverse impacts on the claims system and on key stakeholders such as the Financial Ombudsman Service.
14. A direct outcome of this work is that we have been able to respond to the emerging mis-sold packaged bank account (PBA) and investments markets. Initiating our own market research and assessing intelligence provided by stakeholders, we were able to quickly identify the CMCs active in these growing claims areas. As a result we were able to schedule a number of audits of CMCs involved in this claim area on a risk-assessed basis during the second half of 2014 and into 2015. This enabled us to directly advise some CMCs and also remain abreast of potential problems in this emerging claim area and to develop a longer-term strategy.
15. Significant issues that have arisen and been addressed this year include:
  - failing to investigate or gather sufficient information from customers about alleged mis-sales and/or sending generic, non-specific letters of claim to lenders
  - failing to give potential clients reasonable time to consider pre-contract paperwork before seeking to enter into an agreement with them
  - issuing Financial Ombudsman Service paperwork to consumers to sign without the rest of the questionnaire attached, meaning that consumers were effectively signing a blank claim form
  - accepting leads from unauthorised introducers (third parties)
  - failing to handle complaints from customers properly.
16. The strengthening of the rules, particularly in respect of the requirement for CMCs to conduct themselves responsibly, has enabled us to directly address issues occurring at the very beginning of the claims process. This includes the work a CMC is expected to carry out to make appropriate enquiries about the existence of a potential claim before presenting it, and the way it is presented to a third party. This has

particularly helped us to address claims that appear to be made speculatively. Alongside the improved working arrangements seen between some CMCs and major banks, this has helped to continue to drive down the percentage of claims being brought where the customer had never had a PPI policy attached to the product.

### Case study: Non-compliant marketing

Following complaints we received from consumers and banks about the practices of a CMC, we carried out an audit and found that it had purchased over 1 million leads from an unknown data supplier and had failed to undertake any due diligence during the purchase and use of the data. They also had inadequate processes in place to deal with the volume of claims they had. We warned the CMC - that they must act responsibly, maintain records, not mislead consumers and comply with marketing laws. The CMC co-operated and was brought to compliance.

17. A small number of CMCs continue to take fees from consumers before they commence work on pursuing PPI claims. While this model and practice itself is not a breach of the rules, other aspects of such activity often place them in breach. For example, these CMCs often tele-market their services and some consumers report that the calls they receive are unwanted and persistent. Some consumers believe they have been misled during the sales call and are not provided with pre-contract information in sufficient time before payment is taken. Consumers can also face difficulties when trying to cancel the agreement, to obtain a refund or to have complaints properly handled. We regard CMCs operating such practices

as high risk and closely monitor their activity. Malpractice in this area remains a priority for us and we will continue this focus to ensure these CMCs are compliant, or are subject to enforcement action where they are not.

18. The table below shows the action we have taken to address malpractice in the financial products and services sector during 2014/15:

ACTIVITIES	12 MONTHS TO 31 MARCH 2015
Authorisation suspended	0
Authorisation cancelled	41
Investigations commenced	13
Audits conducted	157
Warnings issued	53

### Enforcing ban on referral fees

19. We have continued our programme of monitoring personal injury CMCs to ensure that they are complying with the ban both on referral fees, and the offering of inducements to make a claim. In doing so, information gathered has been shared with the SRA, and the FCA. During the year we conducted 386 audits and other visits to small/medium sized businesses, as well as developing a relationship management arrangement with a number of the large marketing businesses.
20. We found that where CMCs were failing to comply with the referral fee ban, this was usually due to misunderstanding the requirements of the ban or the instructions they had received from solicitors rather than flagrant breaching of the ban. Following advice and/or enforcement action, their business models were re-assessed and in most cases the CMC became compliant.



21. In the small number of cases where CMCs have been found to be in breach of the ban, we have investigated and taken enforcement action, as appropriate to bring them into compliance. Those unable to comply with the ban have continued to exit the industry.
22. During the year 246 CMCs operating in the personal injury sector surrendered their authorisation – contributing to the trend that has seen this sector reduce in size by half since the introduction of the ban in 2013. We monitor those CMCs following their surrender of authorisation to ensure they are not continuing to handle personal injury cases without authorisation, and where we suspect they are acting unauthorised, we have commenced investigations and put a stop to their activities.
23. Despite the reduction in size of the personal injury sector, the market is now more stable as CMCs have identified a number of models that are viable and compliant and we are seeing new entrants to the industry as well as previously authorised CMCs returning.

#### **Criminal activity – personal injury fraud**

24. Partnership working with other enforcement agencies, notably the City of London Police's Insurance Fraud Enforcement Department (IFED) and HM Revenue and Customs, has continued to bring about successful disruption and prosecutions of criminal groups involved in "cash for crash" schemes and other fraudulent activities. We have information sharing agreements with the majority of police forces in England and Wales, and regularly assist in major operations involving organised crime groups by providing and/or giving evidence in court. This collaborative work has been instrumental in securing a conviction this year for a director of a CMC for making a fraudulent application to

the Regulator to be authorised to provide claims management services.

25. We have also contributed to the work of the government-led Insurance Fraud Taskforce<sup>3</sup>, which was established to look into the problem of fraudulent behaviour and to recommend solutions to decrease the level of insurance fraud. The work of the taskforce is intended to protect the interests of consumers and complement that of other agencies already working in this area, such as the Insurance Fraud Bureau and the IFED. The taskforce will produce a final report by the end of 2015.

#### **Tribunal appeals**

26. During 2014/2015 one appeal was made to the First-Tier Tribunal in respect of a statutory decision taken by the Claims Management Regulator under Regulation 46 which remains ongoing. Decisions taken by the Claims Management Regulator to refuse an application, to impose a financial penalty, to vary the conditions, suspend or cancel a CMC's authorisation can be appealed.

#### **Unauthorised activity**

27. It is a criminal offence to provide regulated claims management services without authorisation (unless exempt) or to claim to be authorised when not authorised. We currently receive around 50 reports a month of businesses providing regulated claims management services without authorisation – an increase of 25% from the preceding year. Every report is assessed to determine whether there is substantive evidence (rather than mere suspicion) of unauthorised

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<sup>3</sup> <https://www.gov.uk/government/groups/insurance-fraud-taskforce>

activity and if so, whether there are any aggravating or mitigating factors. This helps us to decide what action to take.

28. Reports of unauthorised activity come from a variety of sources including:
- audits of authorised CMCs where we identify they have received data/leads from unauthorised leads
  - financial services providers or other organisations on the defendant side of claims who find that the CMC does not appear on our authorised business register
  - contacts from consumers who wish to check if a CMC that has contacted them is authorised
  - monitoring new applicants and reviewing surrendered and cancelled CMCs to see if they are carrying out claims activity before or after authorisation
29. The specialist team set up last year has dealt with 523 enquiries and conducted 33 investigations. The reasons given for a business providing regulated claims management services without authorisation range from lack of knowledge about the criteria for authorisation through to knowingly carrying out unauthorised regulated claims management services. Our primary objective is to stop the business providing regulated claims management services and, depending upon the circumstances, encourage the business to take the necessary steps to comply which may involve seeking and obtaining authorisation. We have used a range of tools and sanctions to ensure compliance, including issuing a caution, injunction or prosecution.

### **Case study: Unauthorised trading**

A CMC that specialised in personal injury claims pretended to be an authorised business by using the licence number of another business. The owner of the licence number informed us about the misuse of their authorisation and an investigation followed. A significant number of claims had been referred to a panel of solicitors, and the business had applied for authorisation (proving that they had knowledge of the need to be authorised), but this process was not completed and the business was never authorised. Although a fictitious address had been used, multiple addresses were visited resulting in the examination of equipment and documents. We interviewed the individuals involved under caution and we are currently preparing the case for prosecution.





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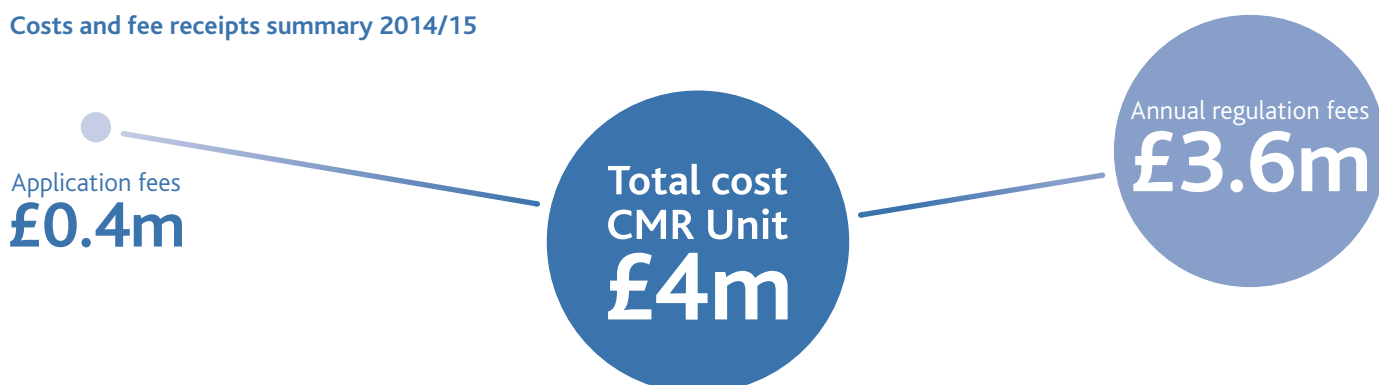
# Chapter 7: Funding regulation

“While the number of regulated CMCs has fallen, our compliance response needs to remain high to appropriately police the industry.”

## Costs and income

1. The CMR Unit is self-financed, with costs recovered from regulated CMCs paying application and authorisation fees. The fees are set in advance of the financial year they apply to and based on estimates of the number of CMCs trading, the level of turnover forecast, and the number expected to apply for authorisation offset by the number of estimated market exits.
2. The claims industry has undergone significant changes since its establishment in 2007, which makes the number of CMCs trading and level of business year on year difficult to predict, as it is subject to changes in the economy, emergent claims markets, and policy changes such as recent reforms to the personal injury claims market.
3. Fees for the 2014/15 regulation year increased to meet the costs of the CMR Unit, which has required greater resources to police the industry following increased mis-sold PPI claims and the referral fee ban in personal injury claims; to cover increased compliance and enforcement activities; enhanced governance arrangements; deliver a policy reform programme and investigate high levels of nuisance calls. While the number of regulated CMCs has fallen, our compliance response needs to remain high to appropriately police the industry. Full costs recovery was achieved in 2014/15.

### Costs and fee receipts summary 2014/15



## Determining fee levels

4. The fee levels paid by CMCs are reviewed and consulted on each year to ensure that they are proportionate and regulation is self financing. A consultation paper<sup>4</sup> published in November 2014 set out proposals for fee levels for 2015/16 that would:
  - Increase the application fee from £1,400 to £2,000.
  - Increase the annual regulation fee pay scales for CMCs with turnovers under £88,889.
  - Increase the fees based on percentage of turnover levied on CMC with turnovers over £88,889.
  - Either remove the fee caps for annual regulation fees and the financial products and services uplift (Option A), or retain the fees cap but increase it from £55,000 to £100,000 (Option B).
  - Maintain the existing financial products and services uplift at 0.145%.
5. The consultation paper was issued to all regulated CMCs, at that time a total of around 1,800 CMCs, and other interested parties across the various claims sectors. 41 responses were received, 35 of which were from regulated CMCs. Having considered the responses, the proposed increases were implemented with a variation of option B (caps retained but with a percentage levied graduated with level of income) with effect from April 2015.

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4 Consultation response: <https://www.gov.uk/government/consultations/proposed-regulation-fees-paid-by-claims-management-companies-2015-to-2016>

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# Chapter 8: Communications and partnerships

“General media interest in the claims management industry has been steady and consistent, with significant coverage across many media outlets.”

## Communications

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

### Targeted communications

2. We publish regular bulletins for CMCs, providing specialist advice and guidance on a range of issues. This year our bulletins covered topics such as mis-sold interest rate hedging products and PPI claims handling, direct marketing and advertising, lead generation, forthcoming reforms, new regulation fees, and transferring or ending client relationships.

### Conferences and seminars

3. We have attended and given presentations at a number of conferences and seminars over the past year, including addressing the following:
  - Insurance Fraud Bureau Intelligence Forum (March 2015)
  - Lexis Nexis Personal Injury Webinar (March 2015)

- 14th Financial Services Annual Complaints Management Forum (February 2015)
- Council of Mortgage Lenders Complaints Handling Forum: New issues and practical solutions (November 2014)
- Which? Nuisance Calls Taskforce consultation session co-hosted with the All Party Parliamentary Group on Nuisance Calls (October 2014)
- British Bankers Association (BBA) Complaints Seminar (April 2014)

### Web presence

4. Early in June 2014, our section of the Justice website was one of hundreds of government websites to move to the government's single site, GOV.UK. The move has allowed us to streamline and refresh our information and guidance as well as provide a responsive site that works across multiple devices. In its first year we received over 233,000 visits, made numerous updates and additions and published new guidance for CMCs on a wide range of matters such as changes to the conduct rules, the new complaints handling and financial penalty schemes, and new provisions around surrendering authorisation.
5. There has been much to get used to in terms of the different principles behind GOV.UK – for

example the cleaner look, the fact that GOV.UK is designed for search, and the need to design content in terms of user needs. Going forward, we will be looking to improve the layout and functionality of certain sections of our website, including our Authorised Business Register and enforcement pages, to more prominently show examples of the action we are taking against CMCs that breach the rules.

6. We will continue to work with others to ensure that our website has the functionality needed to support innovative government communications. We are already using analytics on our website to help us evaluate how people are using the site and to ensure we focus our website development on where it will give the greatest benefit to most users.

## Working with other organisations

7. We have regular and constructive liaison meetings with a number of organisations which helps to facilitate the exchange of intelligence on CMC activities and support the action we are taking on priority areas of concern. These include the FCA, ICO, Ofcom, Solicitors Regulation Authority, Legal Ombudsman, Financial Ombudsman Service, Insurance Fraud Bureau, the British Bankers Association, Professional Financial Claims Association, consumer groups such as Which? and Citizens Advice and other interested organisations. We have continued to build on these relationships to help tackle problematic CMC practices, and where appropriate, assist some stakeholders, particularly in the financial services industry with managing their relationship with CMCs.

8. The majority of our stakeholders are members of our Regulatory Consultative Group (RCG), a group established from the beginning of regulation to ensure effective involvement of interested parties in the development and operation of the regime, which continues to meet throughout the year to review progress. A full list of RCG members is set out in **Annex B**.

## Media stories/coverage

9. General media interest in the claims management industry has been steady and consistent, with significant coverage across many media outlets – ranging from television, such as BBC Don't Get Done, Get Dom – to national press and more specialist interest in trade magazines and online.
10. In the main, the majority of coverage related to mis-sold PPI claims, along with stories regarding unsolicited marketing calls and texts and fraudulent personal injury insurance claims. This year there has also seen a notable increase in media interest concerning the enforcement action we take against rogue CMCs and our partners such as the ICO and Ofcom.
11. In 2014/15 the Ministry of Justice (Moj) external communications team received over 200 separate media enquiries relating to claims management. Most enquiries included questions on poor practice by some CMCs – particularly whether a specific firm was under investigation; they also included a high number of enquiries on nuisance calls and questions about the role of the CMR and our policy remit.
12. When dealing with media enquiries the Moj external communications team will often

assist by providing background briefings to guide media outlets about any enforcement action, while also taking necessary steps to ensure ongoing investigations are not compromised. This can aid accurate coverage, which highlights the work we are doing while maintaining absolute discretion around ongoing investigations.

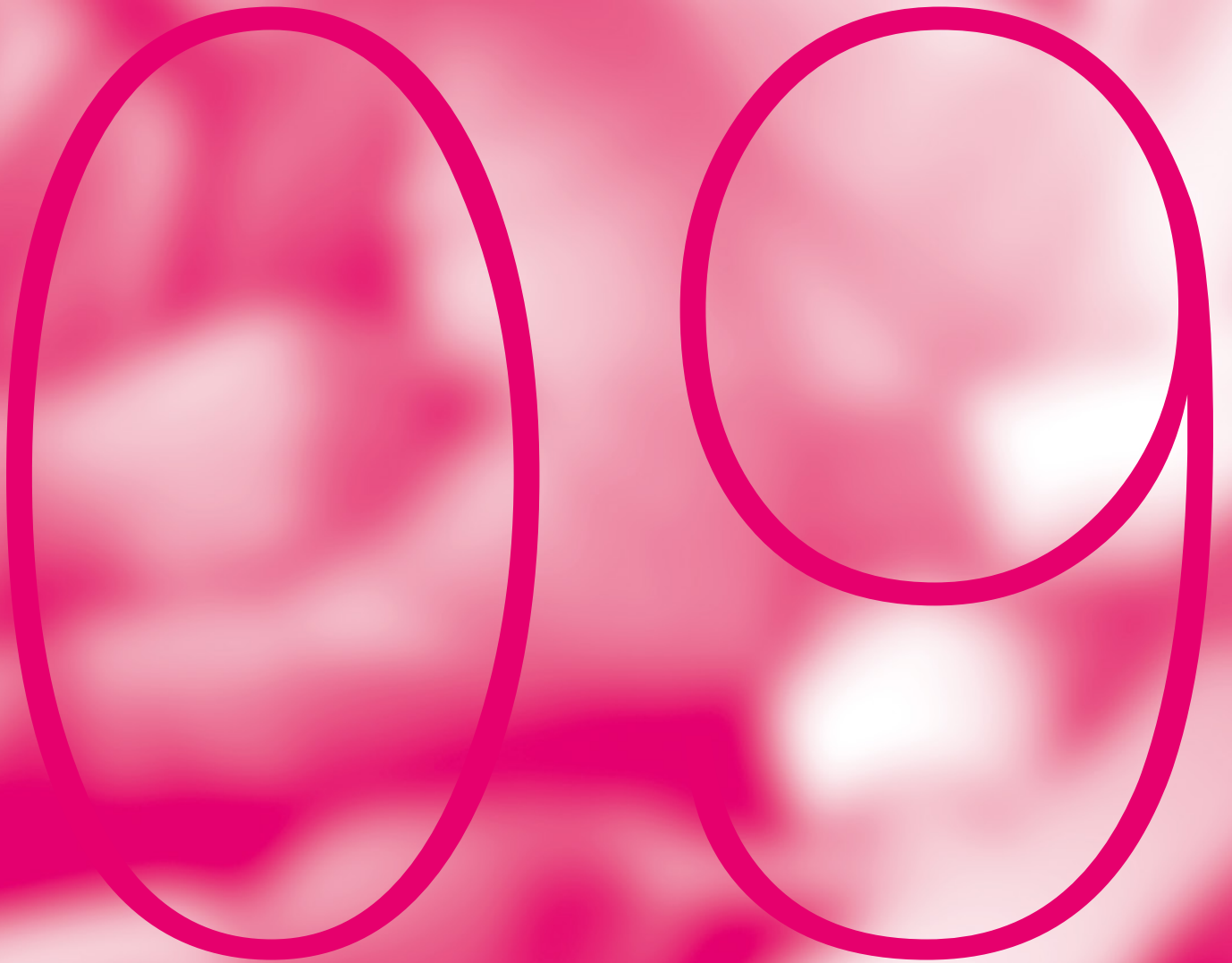
13. This year the external communications team made a number of announcements on CMR and worked closely with their counterparts in the Legal Ombudsman and the ICO on announcements including data farm raids, to ensure the role of the CMR Unit is understood and positively highlighted in the media.
14. This approach resulted in mostly favourable or neutral coverage of CMR in the media and has enabled the MoJ external communications team to effectively communicate the role of the CMR Unit, the main issues affecting the industry and the latest regulatory reforms. The key messages for 2014/15 focused on:
  - Communicating the new enforcement powers of the regulator to impose financial penalties on CMCs that break the rules
  - Raising awareness of the enforcement action taken against CMCs that breach the rules
  - Highlighting that the Legal Ombudsman began handling consumer complaints about CMCs from January 2015
  - Making clear that the CMR Unit has a zero tolerance to CMCs who break the rules
  - Ensuring consumers know they can pursue claims without using a CMC
  - Raising consumer awareness about the changing landscape of the claims management industry
  - Supporting the Department for Culture, Media and Sport's (DCMS) messaging around the implementation of the Nuisance

Calls Taskforce's recommendation to lower the threshold at which the ICO can prosecute companies which are causing alarm or distress

15. Examples of claims management regulation coverage include:
  - Legal Futures (October 2014) – "Ignorance of new rules is no defence", Ministry tells CMCs
  - Legal Futures (November 2014) – Big CMCs face £40,000 hit as government names day for new complaints regime
  - Daily Mail (December 2014) – Crackdown on the 'cash for crash' vultures
  - FT Adviser (January 2015) – Second prong of CMC clampdown launched
  - Guardian (February 2015) – Companies behind nuisance calls and texts to be fined up to £500,000
  - Daily Mail (March 2015) – Harley Street firm traced to Torremolinos pub (Head of CMR, Kevin Rousell's quote was prominent in this piece)
  - Lexology (March 2015) – The changing face of claims management regulation
  - Sunday Times (April 15) – New rules to curb 'cold-call kings'

## Parliamentary interest

16. The practices of CMCs and related claims management issues have continued to attract parliamentary interest over the past year with 21 letters from MPs, 7 written parliamentary questions, and 3 oral parliamentary questions – all in the House of Commons. A range of subjects were covered – most commonly unsolicited calls and texts marketing claims services, the poor practices of CMCs handling mis-sold PPI claims, and fraudulent personal injury claims.



# Chapter 9: Regulatory reforms

“The power to impose financial penalties on non-compliant CMCs has given us additional tools to address poor conduct and act in the best interests of both consumers and businesses.”

## Changes to the conduct rules

1. In October 2014, we introduced key changes to the Conduct of Authorised Persons Rules to strengthen existing action to raise standards and help tackle more effectively the poor practices of some CMCs when presenting financial claims, in particular mis-sold PPI. High volumes of badly compiled claims have caused delays to genuine applications being resolved.
2. Under the changes, CMCs have a duty to make sure the claims they are submitting have a realistic chance of success, as well as ensuring full evidence is provided to back up any allegations. Firms will also have to carry out thorough audits of how data they use has been gathered, so they can no longer turn a blind eye to whether leads have been found by illegal marketing texts and calls.
3. We have strengthened existing conduct requirements by specifying more clearly that CMCs must:
  - carry out investigations to establish the existence and/or merits of a claim
  - be able to substantiate claims they are making
  - not make claims recklessly, falsely or in a way intended to mislead
4. We produced comprehensive guidance to clearly set out our expectations, and to assist businesses with complying with the new rules. These rule changes will enhance regulatory transparency and strengthen our approach to enforcement.
  - ensure that the data/leads they receive from introducers/agents through telemarketing have been legally obtained and are compliant with the rules
5. Following public consultation, in December 2014 we reinforced our enforcement tools with a new power to impose financial penalties on CMCs that break the rules. The level of penalty takes into account of a business' turnover – a practice which is consistent with other regulators.
6. The penalty levels are within the range of:
  - £0 - £100,000 for regulated CMCs with a turnover of less than 500,000; and
  - 0% - 20% of turnover for regulated CMCs with a turnover of £500,000 or more.

## Power to impose financial penalties

7. The new power is broad ranging, capable of use against persistent minor rule breaches through to the most severe of breaches where widespread detriment has been caused. Activities that may attract a financial penalty will include submitting speculative claims, gathering data without due diligence, misleading marketing, failing to respond to a complaint within the given timeframe, and failing to refund clients in time when they choose to cancel a contract.
8. The power to impose financial penalties on non-compliant CMCs has given us additional tools to address poor conduct and act in the best interests of both consumers and businesses, bringing us in line with similar regulatory authorities such as the FCA, SRA, and ICO, amongst others.
9. costs incurred by the Legal Ombudsman in handling these complaints are met by CMCs.
11. Amendments were also made to the Complaints Handling Rules 2006 (now the Complaints Handling Rules 2015) to create new obligations for CMCs when handling complaints, including making reference to the Legal Ombudsman and notifying clients of their right to complain as well as creating a new obligation to have consideration for the Legal Ombudsman's Scheme Rules.
12. As the Legal Ombudsman now has the power to investigate complaints about CMCs, order compensation or other suitable redress where poor service is found, we are now refocusing our resources improving standards and taking action against CMCs that consistently break the rules.

## Complaints handling by the Legal Ombudsman

9. On 28 January 2015 the Legal Ombudsman began to consider complaints about CMCs after its jurisdiction was extended. Under the previous complaints handling regime, the CMR Unit had a limited remit to handle consumers' complaints about poor service from a CMC. Access to the Ombudsman scheme has provided a new avenue for redress for those who have received a poor service.
10. Under changes to the Compensation (Claims Management Services) Regulations 2006, we removed the ability for the Claims Management Regulator to order redress as this is now a function of the Legal Ombudsman and we created the power for the Regulator and the Legal Ombudsman to share information. The

## Better regulation: BIS regulatory reform

13. The Better Regulation Delivery Office based within the Department of Business, Innovation and Skills (BIS) works to improve the consistency of non-economic regulators across the UK - an endeavour that the CMR Unit fully supports.
14. We worked with BIS during the formulation of the Regulators' Code, which came into statutory force on 6 April 2014, and made sure that the CMR Unit's procedures were fully compliant with the new code. We have also worked with BIS on their recent fact-finding consultation on data-sharing between non-economic regulators, and anticipate further guidance from both BIS and the ICO later in 2015.

15. More recently we have worked with BIS on the 'Growth Duty' measure in the Deregulation Act 2015 which will authorise regulators to have regard to economic growth while exercising their regulatory functions. We have also engaged with the 'Small Business Appeals Champion' measure in the Small Business, Enterprise and Employment Act 2015 which will see appointees of Ministers complete an annual review of the complaints and appeals processes, formal and informal, of all non-economic regulators.
16. The Better Regulation priorities of the CMR Unit over 2015-16 will be the implementation of both the Growth Duty and the Small Business Appeals Champion measures, and continued support and engagement with BIS as they develop their data-sharing strategies for non-economic regulators.

## Strengthening CMR governance

17. We have developed new governance arrangements to introduce a greater element of external challenge to the CMR Unit's operation and to help ensure further reforms are effective, improvement is continuous and perceptions of regulation are strengthened.
18. As part of this reform we established a new Board, and appointed Caroline Wayman and Carol Brady as two non-executive members to the CMR Board to undertake senior governance roles. They have relevant experience and knowledge of the claims management industry, of regulation and business improvement. As experts in their field, they constructively challenge and bring fresh insights to our existing management structure.

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# Chapter 10:

## Compliance priorities for 2015/16

We carry out an annual intelligence led strategic assessment of the claims management market and how it is changing to inform the development of our operational strategic priorities. Our priorities for 2014/15 are as follows:

### 1. Nuisance calls and unsolicited marketing

- Work closely with lead regulators in this area (the ICO and Ofcom), identify the sources of unsolicited marketing and take action to address rule breaches, and consider action needed to address potential new areas such as marketing through social networks/media.
- Fully contribute to the Government's action plan on nuisance calls and the Which? taskforce on marketing calls.

### 2. Financial products and services claims

- Tackle issues arising from the handling of financial claims by CMCs including failing to investigate the merits of claims before submitting them to the financial services providers and prematurely or unnecessarily presenting cases to the Financial Ombudsman Service.
- Maintain an overview of the PPI claims market to enable an effective response to any new developments with emerging issues or areas of malpractice.

### 3. Personal injury claims

- Monitor the personal injury market to ensure that CMCs' relationships and practices comply with the ban and take enforcement action where appropriate.

### 4. Unauthorised activity

- Tackle unauthorised trading and identify priority targets on a risk assessed basis.
- Continue to focus on personal injury CMCs who have exited the regulatory environment due to the introduction of the referral fee ban to ensure that they do not continue to operate.

# Annex A: Diagram of how nuisance calls and texts are regulated

## Privacy and Electronic Communications (EC Directive) 2003

### Information Commissioner's Office (ICO)

Enforces:

- Unsolicited direct marketing live calls
- Marketing recorded message calls
- SMS text messages for the purpose of direct marketing
- Emails (including spam) for the purpose of direct marketing

## Communications Act 2003

### Ofcom

Enforces:

- Abandoned calls
- Silent calls

Complaints data passed to the ICO



Complaints data passed to the ICO and Ofcom



### Telephone Preference Service (TPS) (contracted out by Ofcom)

No enforcement responsibility

Responsible for maintaining TPS Register (re unsolicited live direct marketing calls)

### Claims Management Regulator (Ministry of Justice)

Responsible for ensuring those CMCs which contact consumers to offer claims services, particularly in relation to financial mis-selling and injury claims do so legally and in compliance with the specific conduct requirements imposed on them

## What is allowed?

**Live calls** – Unless a consumer has signed up to the Telephone Preference Service (TPS) there is nothing to prevent a company making a marketing call to them. Once on TPS consumers can only be phoned if they have provided consent. This consent can be given inadvertently, e.g. by not unchecking a box when making a purchase online. If a consumer asks not to be phoned again by a company then they should not be.

**Recorded calls** – All calls, whether made from UK or by UK companies operating outside the UK, require consumer consent.

**Texts** – Consumers need to have consented to receive text messages, unless the consumer has an existing relationship with the company who may then advertise additional products to them via text. This only covers personal numbers, not business numbers.

**Emails** – As with texts, consumers need to have consented for emails to be sent, unless the consumer has an existing relationship with the company who may then advertise additional products to them via email. Again this covers only personal addresses, not business addresses.

# Annex B: Claims Management Regulatory Consultative Group – 2014/15

Advisory, Conciliation and Arbitration Service (ACAS)  
[www.acas.org.uk](http://www.acas.org.uk)

Advertising Standards Authority (ASA)  
[www.asa.org.uk](http://www.asa.org.uk)

Association of British Insurers (ABI)  
[www.abi.org.uk](http://www.abi.org.uk)

Association of Mortgage Intermediaries (AMI)  
[www.a-m-i.org.uk](http://www.a-m-i.org.uk)

Association of Personal Injury Lawyers (APIL)  
[www.apil.org.uk](http://www.apil.org.uk)

Association of Professional Financial Advisors (APFA)  
[www.apfa.net](http://www.apfa.net)

Association of Regulated Claims Management  
Companies [www.arcmc.org.uk](http://www.arcmc.org.uk)

British Bankers Association (BBA)  
[www.bba.org.uk](http://www.bba.org.uk)

British Insurance Brokers Association (BIBA)  
[www.biba.org.uk](http://www.biba.org.uk)

Building Societies Association (BSA)  
[www.bsa.org.uk](http://www.bsa.org.uk)

Citizens Advice Bureau (CAB)  
[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Claims Standards Council (CSC)

Council of Mortgage Lenders (CML)  
[www.cml.org.uk](http://www.cml.org.uk)

Direct Marketing Association Ltd (DMA)  
[www.dma.org.uk](http://www.dma.org.uk)

Employment Appeal Tribunal  
[www.employmentappeals.gov.uk](http://www.employmentappeals.gov.uk)

Financial and Leasing Association (FLA)  
[www.fla.org.uk](http://www.fla.org.uk)

Financial Conduct Authority (FCA)  
[www.fca.org.uk](http://www.fca.org.uk)

Financial Ombudsman Service (FOS)  
[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

Financial Services Compensation Scheme (FSCS)  
[www.fscs.org.uk](http://www.fscs.org.uk)

Law Society  
[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

Legal Ombudsman  
[www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Motor Accident Solicitors Society (MASS)  
[www.mass.org.uk](http://www.mass.org.uk)

Ofcom  
[www.ofcom.org.uk](http://www.ofcom.org.uk)

Professional Financial Claims Association (PFCA)  
[www.pfca.org.uk](http://www.pfca.org.uk)

Solicitors Regulation Authority (SRA)  
[www.sra.org.uk](http://www.sra.org.uk)

UK Cards Association  
[www.theukcardsassociation.org.uk](http://www.theukcardsassociation.org.uk)

Trade Union Congress (TUC)  
[www.tuc.org.uk](http://www.tuc.org.uk)

Which?  
[www.which.co.uk](http://www.which.co.uk)

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