



Ministry
of Justice

Claims Management Regulation
ANNUAL REPORT



CELEBRATING
YEARS

16/17

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Introduction from Head of Claims Management Regulation

“We will continue to deliver the best service we can under the current legislative framework, while working closely with the FCA and others to prepare for and deliver a successful transition.”



April 2017 marked 10 years since claims management companies (CMCs) and some other organisations providing claims management services were brought into a regulatory regime for the first time. While the nature of the challenges faced by the Regulator have evolved since regulation was introduced, the primary aims have always been simple – to provide better protection to those who chose to access CMC services or come into contact with their marketing, to root out and punish misconduct and to facilitate an environment in which CMCs can themselves take steps to drive up standards.

Over the years, we have expanded our frontline operations to identify and tackle non-compliant practices more quickly and more robustly. In 2016/17 we conducted significant levels of frontline regulatory activity. This included an extended audit programme, a more intensive range of investigations and formal sanctions drawn from our entire regulatory toolkit. We will continue to consider new methods within the current regulatory framework

of securing higher levels of compliance in the industry and for quicker options to remove those CMCs which abuse their regulated status.

We have acted swiftly, alongside the Solicitors Regulation Authority and the Ministry of Justice, to respond to the increase in holiday sickness claims reported by package tour operators – forming constructive relationships with the Association of British Travel Agents, and individual tour operators, to gain evidence about market practices and help find solutions. Collaboration is essential to tackling effectively the many issues arising in relation to the claims process, costs incentives, the handling of claims by law firms and generation of leads by both regulated and unregulated CMCs. Exercising effective due diligence in relation to the obtaining of claims leads remains a vital responsibility of all regulated CMCs and law firms and any failure to do so should bring with it appropriate consequences.

Although the claims management sector's turnover remained relatively stable in 2016/17, future policy and regulatory reforms are likely to have a significant impact on shape and form of the industry. The Financial Guidance and Claims Bill which was introduced into the House of Lords in June starts the legislative process of transferring responsibility for claims management regulation from the Ministry of Justice to the Financial Conduct Authority, and the establishment of a tougher regulatory framework than provided for under the Compensation Act 2006. The Claims Management Regulation Unit retains the responsibility to regulate the CMC sector, and we will continue to deliver the best service we can under the current legislative framework, while working closely with the Financial Conduct Authority and others to prepare for and deliver a successful transition.

Kevin Rousell

The year in numbers

01





£1.1
million

total fines issued

69



licences cancelled



196

warnings
issued

£726 million

total reported
industry turnover



8,217
new contacts

7

warrants executed to
enter premises and
seize evidence



369
audits
conducted

218,813



number of visits
to the CMR
homepage



1,388
number of CMCs

100+

media enquiries



About us

02

A teal circular graphic containing the white number '02'. The background of the page features a pattern of overlapping, semi-transparent teal shapes in various shades, creating a layered, abstract effect.

What we do

1. The Ministry of Justice (MoJ) has been responsible for directly regulating the activities of businesses providing claims management services since April 2007, under Part 2 of the Compensation Act 2006 ("The Act"). The Act defines claims management services as "advice or other services in relation to the making of a claim". Secondary legislation defines the scope of regulation including the regulated sectors and the regulated activities subject to the authorisation regime.
2. Any business providing regulated claims management services in England and Wales is, 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 Act are subject to a range of statutory conditions, including compliance with conduct rules geared firmly towards consumer information and safeguards. Businesses that do not comply with the conditions of authorisation (including the conduct rules) are subject to appropriate enforcement action.
3. Claims management regulation is delivered by the MoJ's Claims Management Regulation (CMR) Unit. The CMR Unit is responsible for managing the policy and delivery of the regulatory system, which includes handling applications, monitoring compliance, investigating malpractice and taking enforcement action. Duties also include approving statutory decisions made on behalf of the Secretary of State in respect

of authorisations, suspensions and cancellations, and managing policy, funding, communications, and stakeholder relations. MoJ has contracted Staffordshire County Council to provide our monitoring and compliance services. The CMR Unit is located in London and Burton-on-Trent, and operates on a self-funding basis with all regulatory costs recovered through regulation fees paid by Claims Management Companies (CMCs).

Our remit

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

Governance

6. The CMRU reports to the Secretary of State for Justice. Oversight is also provided by the CMR Board. The Board is advisory and made up of MoJ and Staffordshire County Council officials and two non-executive members. The non-executive appointments reflect internal governance arrangements that allow independent challenge and receipt of expert advice to enhance the delivery of regulation. The Board meets formally on a quarterly basis, with Board members also involved in other informal ad-hoc meetings during the year to discuss CMR related matters as needed.

CMR Board members



Carol Brady
Non-Executive Chair
of Board (from April 2017)



Kevin Rousell
Head of CMR Unit
(Previous Chair of Board
until March 2017)



Caroline Wayman
Non-executive
Board member



Trish Caldwell
Regulatory Services
Commissioner
(Staffordshire County Council)



Alison Wedge
Deputy Director
(Ministry of Justice)



Vicki McAusland
Deputy Head of CMR Unit
(from March 2017)



Sarah Mutton
Deputy Head of CMR Unit
(until February 2017)*

* Sarah Mutton is on maternity leave from March 2017.

Our performance and activities

03

“We have conducted more investigations into non-compliant CMCs than in any previous year.”



Key developments

1. We have conducted more investigations into non-compliant CMCs than in any previous year. This has resulted in a range of statutory enforcement actions, including imposing financial penalties and varying, or cancelling, the authorisation of those breaching the rules. In other cases, we have addressed rule breaches with non-

statutory action such as issuing a warning or receiving written undertakings from the CMC about future conduct. Some investigations have been successfully concluded with no enforcement action necessary.

2. Nuisance calls remains a compliance priority, and has been the subject of co-ordinated cross industry work with the Information Commissioners'

Office (ICO), Ofcom, other market regulators, consumer groups and communication service providers. This work resulted in more investigations, joint audits of CMCs and joint execution of warrants of call centre premises. This action has been accompanied by notable decreases in reports of and complaints about nuisance calls in the personal injury and Payment Protection Insurance (PPI) claim sectors during the year.

3. The increase of activity in the holiday sickness claims market has been a significant development. Relationships with key stakeholders in the market such as the Association of British Travel Agents (ABTA) and tour operators have been established to ensure we understand the market and supplement the intelligence we have obtained about CMC activity within it. We have issued specific guidance aimed at those involved in holiday sickness claims and continue to work closely with the Solicitors Regulation Authority (SRA), who regulate solicitors accepting these cases generated by CMCs. We have commenced a programme of audits of authorised CMCs operating in this market to ensure they are complying with conduct rules and we are committed to tackling any unauthorised activity.
4. We continue to enjoy close and successful working relationships with stakeholders across the industry. This includes the Financial Ombudsman Service, Financial Conduct Authority (FCA), financial services providers and representative bodies in the financial claims sector. In the personal injury sector, we work with the SRA, various police forces, other law enforcement agencies such as the National Crime Agency, the Insurance Fraud Bureau and tour operators. Information provided or received from such stakeholders helps us to identify enforcement targets. Where possible, we also share information with partner agencies where they are the more appropriate body to address any issues identified.
5. Our successful relationship management arrangements with larger CMCs has also been expanded. Under these arrangements, we engage more regularly to pro-actively address any issues, understand CMC operations and plans, and provide advice on any compliance risks identified. In January 2017, we hosted our second workshop for newly authorised businesses, supported by the Financial Ombudsman and the Legal Ombudsman (LeO), to highlight common compliance issues, claims handling and how to deal with complaints, to assist those CMCs in attendance to comply.
6. Publications, such as guidance and bulletins for CMCs, and updates on enforcement activities have been issued throughout the year. All guidance and information is accessible on the CMR part of the GOV.uk website. The authorised business register is the most accessed area of our website and has received over 4,700,000 page views this year, up 20% on the previous year.
7. We have assisted over 4,000 consumers who have enquired about or are unhappy with the service provided by a CMC. In most cases, we have signposted those consumers to the Legal Ombudsman Service, who consider complaints about CMCs. These consumer contacts can provide intelligence about the activities of CMCs and supports information we receive from the Legal Ombudsman about CMCs whose conduct is of potential concern.
8. In 2016/17 eight new appeals by CMCs against enforcement actions were lodged with the First Tier Tribunal. Of the appeals that were concluded during the same period, none have been upheld by the Tribunal. In reaching their decisions, the Tribunal has agreed with the decision taken by CMR. This has provided independent reassurance that our investigations and action taken has been deemed justified and appropriate.

Key activity figures

9. The following data provides a summary of CMR activity over a period covering financial years 2014/15 to 2016/17. These statistics show the trends and the significant volume of work and the range of the tasks that have been undertaken and completed. Quarterly updates on


CMR performance can be found on our enforcement web page at: www.gov.uk/government/collections/claims-management-regulator-enforcement-actions.

ACTIVITIES	2014/15	2015/16	2016/17
Total authorised CMCs (at end March)	1,752	1,610	1,388
New applications for authorisation	304	186	107
Applications refused	2	7	7
Applications withdrawn	102	67	25
Authorisations surrendered	390	266	242
Authorisations suspended	0	4	1
Authorisations cancelled	105	66	69
Authorisations varied (with conditions)	0	2	2
Financial penalties	n/a*	4	7
Warnings	296	247	196
Audits	454	306	369
Visits	100	1,172	942

* The power to fine CMCs was introduced in December 2014

Progress against priorities

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




Nuisance calls and texts

Last year we increased our resources in this area and we have visited and audited more CMCs and commenced more investigations for suspected breaches of rules around direct marketing. This has resulted in 15 new investigations being opened, and the conclusion of several ongoing investigations from the previous year. We have worked in partnership with other regulators to take enforcement action against CMCs engaged in non-compliant marketing and continued to participate in multi-agency initiatives to tackle nuisance calls and texts.

We have imposed large financial penalties on 5 CMCs, cancelled the authorisation of 3 CMCs, audited 111 CMCs (this figure includes joint audits with other teams) and issued 40 warnings for direct marketing breaches.


We have continued to target non-compliant CMCs, particularly those misleading clients during marketing and especially focussed on those where clients have then been pressured into signing documentation during the sales call and paying an upfront fee. We work closely with the financial sector and other regulators to proactively address industry-wide issues and use intelligence to tackle specific malpractice on a risk-assessed basis.

We have audited 108 CMCs, and issued 27 warnings. We have issued financial penalties to 2 CMCs, cancelled the authorisation of 3 CMCs and imposed conditions on a further 2. We have also closely monitored activity in the growing mis-sold packaged bank account and short-term loan claims areas.



Financial claims


Personal injury claims



We have continued our intensive programme of audits to check CMCs are complying with the referral fee ban and other conduct rules. We continue to target CMCs telemarketing personal injury claims services to ensure they are not encouraging clients to make a claim where they did not suffer an injury or exaggerate symptoms where they have. We also continue to share intelligence and information with other law enforcement agencies and provide further support to them, where required, to detect and disrupt CMCs involved in fraud or other criminality.

We have carried out 878 visits, 202 audits, issued 50 warnings where rule breaches have been identified and executed a warrant at multiple premises of a personal injury CMC.

We have increased our capacity to identify, investigate and take enforcement action against unauthorised CMCs. We have warned and issued formal cautions to a number of unauthorised businesses and initiated the successful removal of dozens of websites advertising claims services of unauthorised businesses. We have successfully prosecuted a company and an individual for Compensation Act offences as well as progressed a number of complex investigations into unauthorised activity where those involved are also suspected of committing fraud.

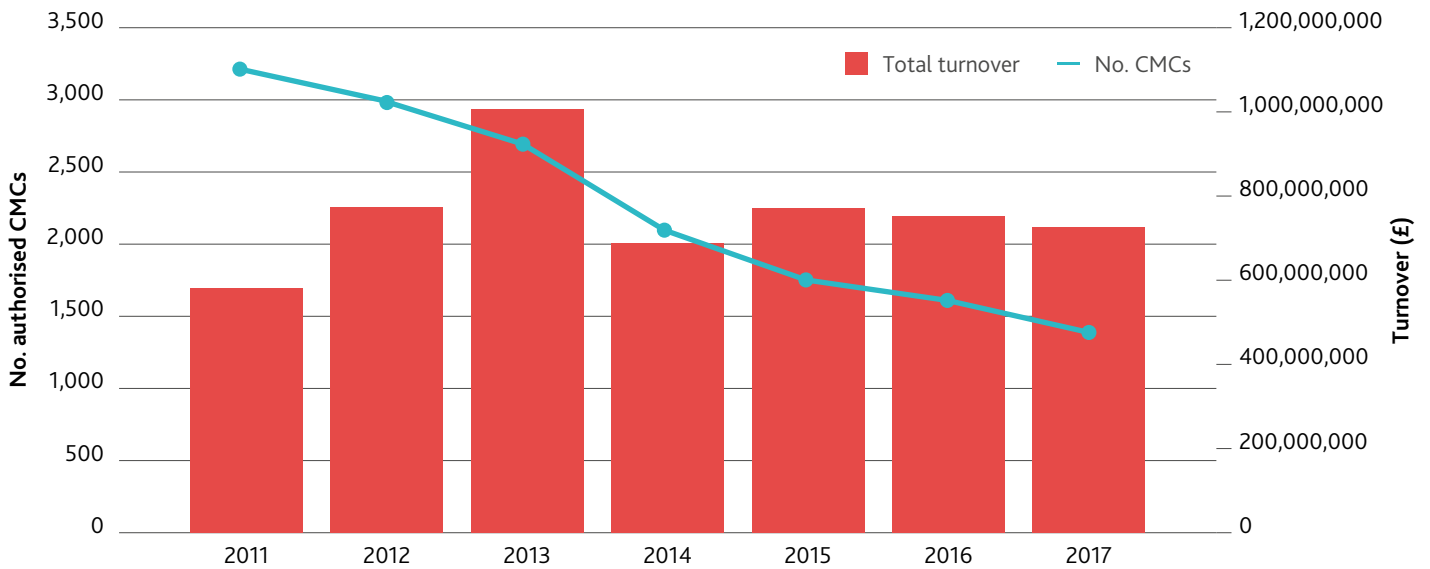


Unauthorised activity

Claims management landscape

04

“Applications from businesses intending to operate in the personal injury sector were down by 47% and applications to operate in the financial products and services sector were down by 43%.”

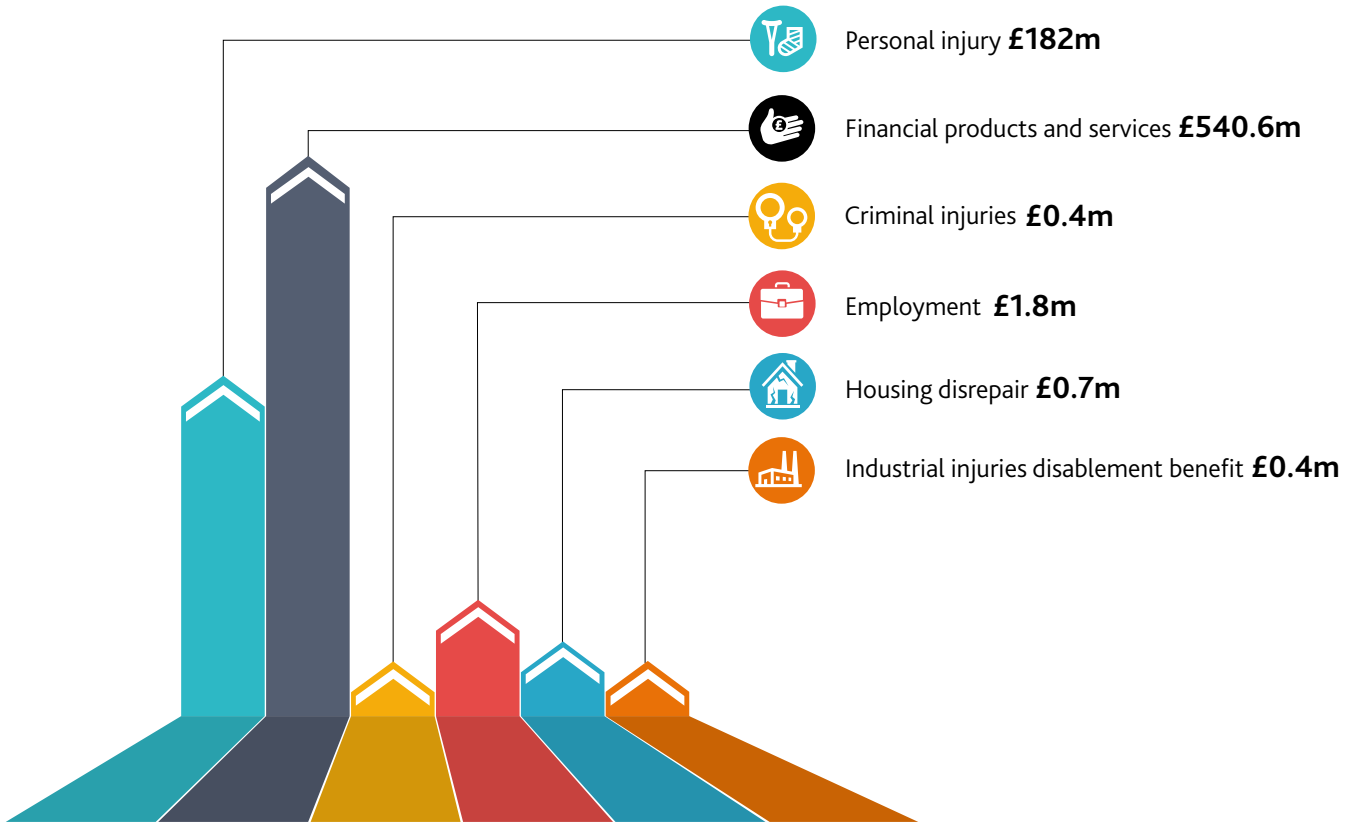


CMC turnover/activity







1. The number of authorised CMCs has reduced by 57% from 3,213 in 2011 to 1,388 in 2017. This steady decline has been accompanied by several regulatory reforms during that period and a continually changing claims market. The net reduction is due to both market exits and a further reduction in the number of new applications for authorisation. Despite this volatility, there remains a core of more established CMCs with more than 4 out of 5 CMCs having now been regulated for more than 3 years.
2. The total declared industry turnover for the 12 months to 30 November 2016 was £726million, a decrease of 3% on the previous year. Overall the top 25 highest grossing CMCs accounted for 56% of the total turnover declared by the industry.
3. Turnover in the financial claims sector increased slightly by 2% to £541 million despite a reported reduction in PPI redress (see FCA figures for the 12-month period to end November 2016¹). This small increase in CMC turnover is likely to be a result of growth in non-PPI claims areas during the same period.
4. Turnover for the personal injury sector decreased by 15% to £182 million. This is likely to be the result of ongoing challenges in the market following the 2013 reforms and reduction in the number of CMCs operating in the sector.

1 <https://www.fca.org.uk/consumers/payment-protection-insurance/monthly-ppi-refunds-and-compensation>

2016/17 Total industry turnover



Total industry turnover since 2014/15

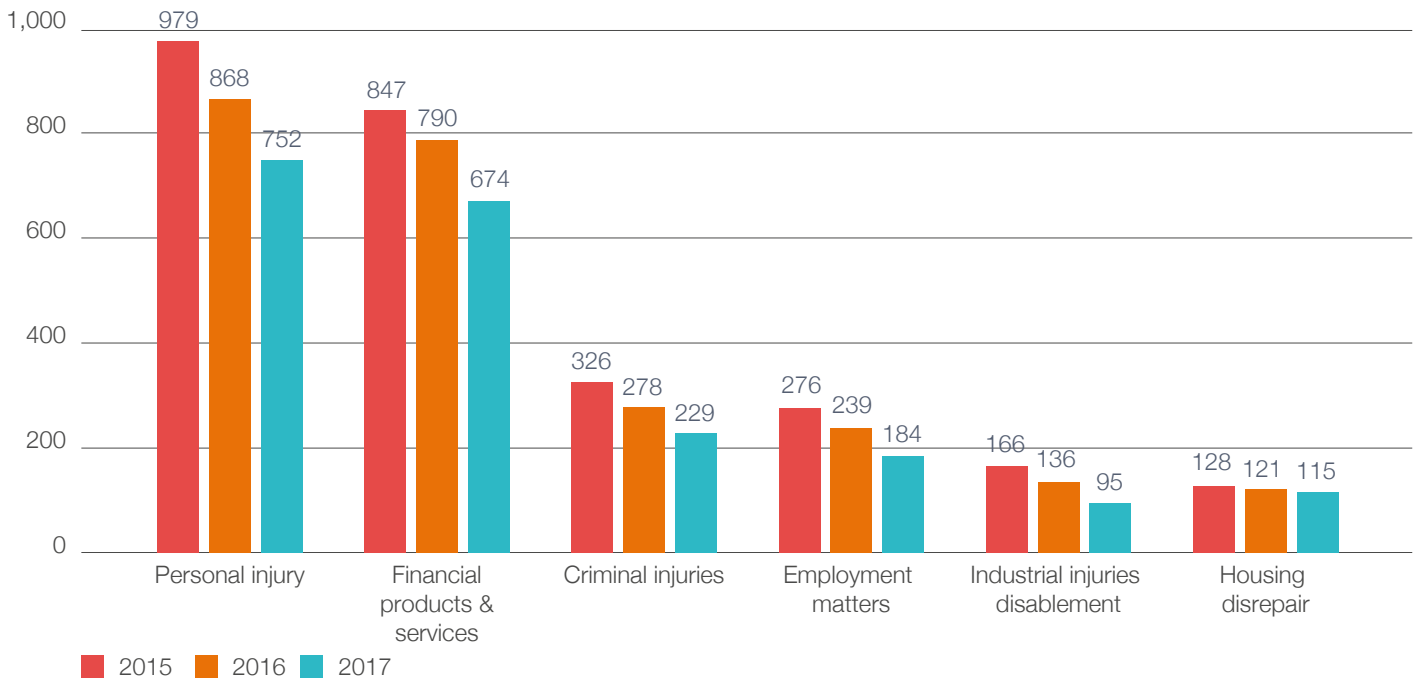
SECTOR	2014/15	2015/16	2016/17
 Personal injury	£309.7m	£214.6m	£182m
 Financial products and services	£458.2m	£532.1m	£540.6m
 Criminal injuries	£0.5m	£0.8m	£0.4m
 Employment	£2.7m	£2.1m	£1.8m
 Housing disrepair	£0.2m	£0.6m	£0.7m
 Industrial injuries disablement benefit	£0.3m	£1.2m	£0.4m
Total	£771.7m	£751.4m	£726m

Applications for authorisation

5. Applications for authorisation fell this year to an average of 9 applications per month (compared to 16 per month in 2015/16 and 25 in 2014/15). Applications from businesses intending to operate in the personal injury sector were down by 47% and applications to operate in the financial products and services sector were down by 43%.

6. A small number of businesses hold a dominant market share in the two main sectors (financial claims and personal injury). With many of the small to medium sized businesses also now well established in the market, the industry has stabilised and is maturing, despite an increase in the number of CMCs exiting the industry. Proposed and imminent reforms in both the financial claims and personal injury sectors are likely to be making it less attractive for new businesses to enter the industry due to the future uncertainty and difficulties in business planning.

Total authorised CMCs by sector



Overview of claims sectors

Personal injury

7. Although there are still more personal injury CMCs than any other claims management sector, with just over 750 regulated CMCs, this number fell by 13% from last year's figure of just over 850 CMCs. Personal injury sector income now accounts for 25% of the total industry turnover. An ongoing feature of the market is the general contraction since the implementation of the referral fee ban in April 2013, with an overall reduction of 68% from 2,316 authorised personal injury CMCs just prior to the referral fee ban.
8. The profile of the sector remains similar to previous years, with a handful of large CMCs operating nationally, each working with a panel of solicitors, retaining a dominant position at one end of the market and, a majority of small, locally operated CMCs working with a single solicitor at the other end of the scale. For many of these smaller CMCs, personal injury work is now subsidiary to other ancillary business activities, such as accident management, vehicle recovery, storage, repair and vehicle hire.

9. The market developed various business models designed to comply with the ban on referral fees after April 2013, meaning that a range of models are now commonplace with CMCs. We continue to carefully test business models during our audit programme and scrutinise proposed models at application to ensure that they will comply with the referral fee ban once operating. Where problems are identified, businesses are often able to make appropriate changes to their model by working with their solicitor.
10. Having seen the emergence and decline of noise induced hearing loss claims activity in the previous period, this year has seen significant growth in activity around holiday sickness claims. Only a handful of CMCs were active in this area pre-2016, and it has been necessary to shift resources to tackle the malpractice in this growing area and establish working relationships with key partners.

Financial products and services

11. The number of CMCs operating in the financial claims sector is down 15% from last year with PPI remaining the largest and most active area. The sector has also remained top heavy with 6 CMCs handling more than half of all PPI complaints and the 13 largest CMCs accounting for over 50% of total turnover. Numbers of new PPI enquiries and complaints being brought via CMCs remains high, with complaints being referred to the Financial Ombudsman also remaining high, despite a slight decline.
12. Activity in the mis-sold packaged bank account (PBA) market has stabilised. There are now a handful of CMCs which account for a significant proportion of PBA complaints being presented and, a modest number of smaller CMCs specialising in PBA cases (and not pursuing PPI complaints). PBA complaints brought to the Financial Ombudsman Service more than doubled in 2015-16, but complaints have declined by 54% in 2016-17 from 44,244 to 20,284².

² <http://www.financial-ombudsman.org.uk/publications/annual-review-2017/pdf/Datamoredepth-AR2016-17.pdf>

13. Complaints about mis-sold short-term (payday) loans have continued to increase during 2016-17. The Financial Ombudsman Service originally reported that the number of complaints it received about mis-sold payday loans had tripled during 2015-16. These types of claims have seen a 227% increase to 10,529 complaints³ in 2016-17, although the overall numbers remained relatively small compared to PBA and PPI complaints. A small number of CMCs are responsible for the significant market share in payday loans.
14. The financial claims sector is likely to be affected by policy reforms and decisions that have been announced during the year. In March 2017, the FCA confirmed that it will introduce a deadline for making new PPI complaints⁴ and anyone seeking compensation for mis-sold PPI will need to make their claim(s) before 29 August 2019. Alongside this, the FCA intends to run a two-year public awareness campaign, commencing in August 2017.
15. The FCA also issued final rules and guidance related to how firms should handle complaints in light of the Supreme Court judgment in *Plevin v Paragon Personal Finance Ltd (Plevin)*⁵. The Plevin decision means that consumers may have new grounds to complain about PPI regarding the amount of commission that the providers received for the sale, if the failure to disclose that commission made the relationship unfair.
16. There are four other regulated claims sectors – employment matters, criminal injuries compensation, industrial disablement benefit and housing disrepair. Typically relatively few CMCs actively operate in these sectors. However, in 2016-17 we have seen some growth in the housing disrepair market. This activity is often been part of wider claims activity around cavity wall insulation, solar panel installation and tenants becoming ill due to the poor maintenance of their property.

Other regulated claims sectors

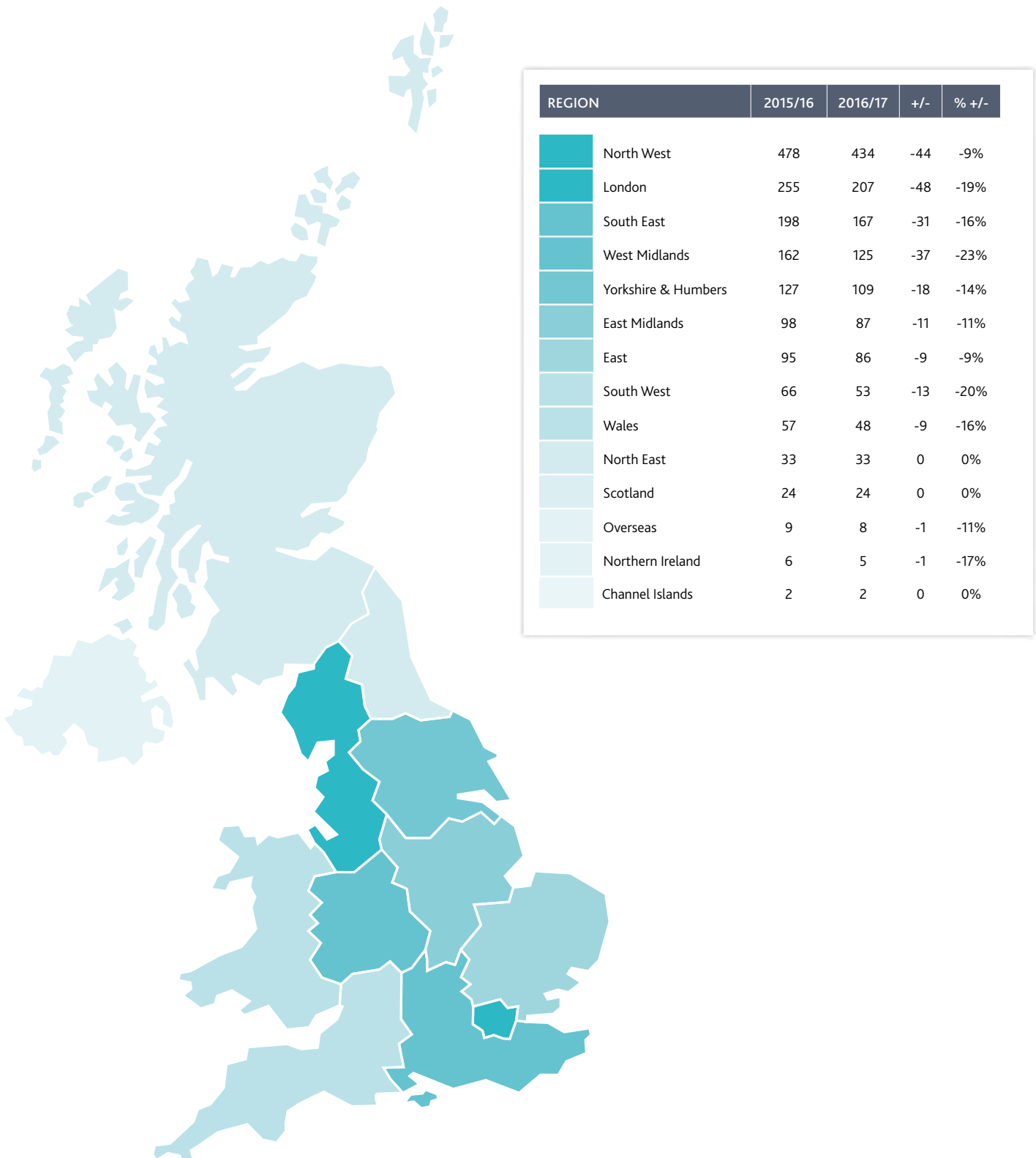
³ <http://www.financial-ombudsman.org.uk/publications/annual-review-2017/pdf/Datamoredepth-AR2016-17.pdf>

⁴ <https://www.fca.org.uk/news/press-releases/fca-finalise-plans-place-deadline-ppi-complaints>

⁵ <https://www.fca.org.uk/publications/policy-statements/ps17-3-payment-protection-insurance-complaints>

Geographical distribution of CMCs

17. The North West and London remain the most popular locations for CMCs, with little change from the previous review period.



Enforcement

05

“We cancelled the authorisation of 69 CMCs, suspended 1, varied the authorisation of 2 and imposed financial penalties on 7 CMCs”

Our approach

1. CMCs are required to comply with established conduct rules. Where CMCs fail to comply, action can be taken. For less serious breaches this action could be advice or warnings, requiring the CMC to take remedial action to comply. Where concerns are more serious and/or persistent, we will commence an investigation into the conduct of the CMC. Where evidence is found of breaches during the investigation, we have a range of statutory enforcement powers available to us. We may apply directions, or additional conditions of authorisation to address misconduct, suspend or even cancel the authorisation of a CMC. We also have the power to impose financial penalties on CMCs, where the amount imposed will relate to the turnover of the CMC and be proportionate to the nature and seriousness of the breach.
2. Financial penalties provide a flexible method of deterring misconduct by those who are directed to pay them. The principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches, and demonstrating generally the benefits of compliant behaviour.
3. It is a criminal offence for individuals or businesses to provide regulated claims management services without authorisation. We therefore investigate reports of unauthorised claims management activity and can prosecute those found to have committed offences. There are a range of steps we may take depending upon the circumstances,

including warning a business, issuing a caution or seeking an injunction. We can also execute warrants, issue notices requiring the production of documentation, or interview those suspected of unauthorised activity under caution in order to gather evidence.

4. During the year, we investigated 43 authorised CMCs and 32 businesses suspected of providing claims management services without authorisation. We issued 196 warnings to CMCs and advised hundreds more, often following the 369 audits we conducted and the 942 visits made. We cancelled the authorisation of 69 CMCs, suspended one, varied the authorisation of two others and imposed financial penalties on seven CMCs. Three CMCs signed written undertakings about their future conduct following an investigation.

Improving detection and investigation

5. We are continuing to build and use relationships with stakeholders to identify and tackle conduct within the market. Fostering effective relationships means we can access market information which helps us to identify trends as well as specific intelligence about CMC practices.
6. Where another agency is better placed to take action against a CMC, we will provide them with the relevant evidence via information sharing gateways and support their investigations to ensure the best possible outcome. In the last year this has included co-operating with police forces and the National Crime Agency in respect to investigations into organised crime gangs and with the Insolvency Service, investigating

the conduct of directors of CMCs that have been subject to enforcement action and subsequently gone into liquidation.

Promoting compliance and helping businesses

7. Before taking enforcement action against CMCs, we provide advice to help them understand what they need to do to comply. We provide bespoke advice to CMCs where it has been sought, where we have been notified of an issue or following audit. We also do this through our regulation bulletins and published guidance where there are changes to requirements, or common issues are identified, that need to be communicated to the whole CMC market. We continue to operate a business advice line so CMCs are able to contact us to obtain support and advice when they have a query.
8. In early 2017 we hosted our second workshop for recently authorised CMCs to provide information and advice about common compliance issues. We invited the Financial Ombudsman Service and Legal Ombudsman to present at the event and speak to the attendees about their roles in the claims process/market. Positive feedback was received about the workshop, and we are considering arranging further workshops in 2017/18 to include more established, as well as recently authorised, CMCs.
9. We continue to offer relationship management arrangements to facilitate closer engagement with CMCs and this has been expanded to around 25 of the largest CMCs in the industry. These CMCs are often well established and have been subject to several audits

over the years. The arrangements are designed to identify risks and address any compliance issues at an early stage with exchanges about complaints and reports we are receiving, and challenges the CMC may be experiencing. It also helps us understand and respond to wider developments within the claims market.

10. This level of engagement has facilitated open dialogue and a forum where regulatory and best practice advice can be given. Each arrangement is tailored to suit the needs of the CMC, typically involving regular telephone and face-to-face contact, as well as a designated named officer that CMCs can contact when support is needed. A number of these relationships have been ongoing for more than 3 years and we believe that they have been of mutual benefit to us and the CMC.



Compliance priorities

Nuisance marketing

11. CMCs find direct marketing an effective and economic method of seeking out potential claimants – despite the negative reputation such activity has gained with many consumers. Tackling direct marketing that isn't carried out in accordance with rules and the law must therefore remain a key priority for us. Marketing products or services by live or automated calls, SMS text messages, email or mail all constitute as direct marketing.
12. Direct marketing has been used by a handful of CMCs to mislead clients and pressure them into providing credit card details – so that an upfront payment can be taken – and to coerce consumers into making false claims or exaggerate genuine symptoms. We have tackled such serious cases by cancelling CMCs authorisations, removing them from the claims market altogether. The introduction of the power to issue financial penalties has proved to be an effective way of stopping unwanted marketing contacts, and to date we have issued fines totalling £2.1 million to those responsible for making unwanted calls.

13. We regularly find that CMCs rely on assurances from third parties that consumers have sufficiently consented to receive their contact, and also that the consent is often too old or not clear. Such issues are more challenging when overseas call centres are involved or businesses take steps to conceal their identities. Action taken against those businesses that use such call centres has ensured that such activity is disrupted or stopped.
14. The ICO are the primary regulator for the data and direct marketing industry and we continue to play a part in cross-agency and industry work that has resulted in a reduction of nuisance calls during the year. We have worked very closely with the ICO and continue to participate in its "Operation Linden" stakeholder group that includes Ofcom, and other market regulators, consumer groups and communication service providers. The combined efforts, sometimes through joint audits of CMCs or execution of warrants of call centre premises, have correlated with a notable decrease in complaints about nuisance calls in both the PI and PPI sectors.

NUISANCE CALLS & TEXTS	2016/17	2015/16	2014/15	2013/14
Audits conducted	111	111	102	45
Investigations commenced	15	10	9	5
Financial penalties	5	3	N/A*	N/A*
Cancelled authorisations	3	1	0	0
Warnings issued	40	48	30	5

* The power to fine CMCs was introduced in December 2014

CASE STUDY – THIRD PARTY SENDING UNSOLICITED TEXTS

We received a call to one of our 'mystery shopping' lines from a CMC, which led to a series of requests for information to ascertain the origin of the data. The data had originally been purchased from a company that had received a monetary penalty notice from the ICO for transmitting unsolicited text messages. At a subsequent audit, we established that the text messages had been sent on behalf of a CMC. We commenced an investigation and were able to corroborate the existence of the agency arrangement during the period that the unsolicited text messages were sent. The CMC's authorisation was cancelled.

15. With proposed reforms, such as the deadline for PPI claims, we anticipate potential increases in direct marketing activity. However, we equally remain confident that our enforcement activity, close joint working with stakeholders, and future reforms such as directors' liability for making nuisance calls and making ICO guidance statutory, will continue to make an effective contribution to tackling nuisance marketing.

Financial claims

16. Complaints about mis-sold PPI continue to represent the vast majority of activity in the financial claims sector with around £27bn having been paid in redress since January 2011. Almost £3bn has been paid in redress during the last year, a third less than the previous 12-month period, and monthly redress has significantly reduced since May 2016. Although CMCs remain active in this area, significant reforms which will impact the market are to be introduced. While activity continues to be significant, it remains necessary for us to continue to prioritise and tackle malpractice in the market and advise CMCs wishing to operate compliantly.
17. Our relationships with the Financial Ombudsman Service, LeO, financial services providers and representative bodies remain key to helping us identify misconduct. Information provided by these organisations enables us to risk assess businesses and identify CMCs for potential audit and action. Information provided by financial services providers specifically is extremely useful in assisting us to recognise possible changes in the market and practices which may indicate a CMC is in breach of the rules. This information is then followed up directly with the CMC to establish the potential root cause of any issues, and in some cases, arrange audits to test the information.



FINANCIAL CLAIMS SECTOR	2016/17	2015/16	2014/15	2013/14
Audits conducted	108	133	157	112
Investigations commenced	14	9	13	35
Financial penalties	2	1	N/A*	N/A*
Cancellations	5	0	2	3
Warnings issued	27	49	53	144

* The power to fine CMCs was introduced in December 2014

18. This year, we have taken further action to tackle the remaining CMCs taking upfront fees from clients. Taking fees at the outset of a claim is not currently prohibited but this particular model has been favoured by CMCs that use high pressure sales tactics, mislead clients, occasionally taking payment without the client's authority and then making it difficult for the client to cancel the agreement, get a refund or make a complaint. We have investigated several of these CMCs again this year, and also a number of CMCs that accept cases generated by an introducer that takes an upfront fee. Following these investigations, CMCs have had their authorisation cancelled, varied and have been issued with financial penalties.

CASE STUDY – FAILING TO ALLOW CLIENTS TIME TO CONSIDER INFORMATION

We had previously audited a CMC and provided specific advice that they must allow clients a reasonable time to consider pre-contract information and terms and conditions prior to asking them to sign an agreement for claims services. Despite this we continued to receive complaints that this CMC was continuing this practice and taking an upfront fee during the sales call. Upon investigation and examining the timings of the supply of information and obtaining client signatures, most of the sample reviewed showed that the client had signed the documentation within an hour of receiving it. This corresponded with clients' reports that they had been pressured into completing the documentation quickly and misled during sales calls. The upfront fee should also have been refunded to clients in the event of an unsuccessful claim but this was not being administered routinely and clients were having to go to significant trouble to obtain refunds.

Despite continuing to progress other clients claims, due to the CMCs overall conduct and to protect future potential clients, we took the steps of cancelling the authorisation of the CMC, giving it a short period to shut the business down.

19. As well as CMCs active in the mis-sold packaged bank account and short-term loan claims market, we have audited a number of CMCs representing clients in more complex cases this year. There are a small but growing number of CMCs specialising in mis-sold investments, mortgages, Self-Invested Personal Pensions (SIPPS) and other pension products. These cases are often high value and sometimes pursued via the Financial Services Compensation Scheme in the situation where the adviser complained about is no longer operating. It is essential that these CMCs have good knowledge about these products and how they were mis-sold as there are often substantial sums at stake for clients. Fortunately, in most cases we are satisfied with the experience and knowledge of those handling the cases within the CMC.

with more than 100 CMCs exiting the market this year. Many mostly smaller CMCs decide to surrender their authorisation upon notice that we intend to conduct an audit, or shortly after an audit where compliance issues are identified.

21. We scrutinise the activities of CMCs operating call centres marketing personal injury claim services by telephone. As well as concerns around the data and how it is being used, we are particularly interested in what the agents are saying to clients during sales calls. This allows us to identify, and take action, in cases where consumers are being misled into believing that money has been set aside for them to claim and being given advice on what symptoms they should report to the solicitor and medical examiner when they have been involved in a road traffic accident.

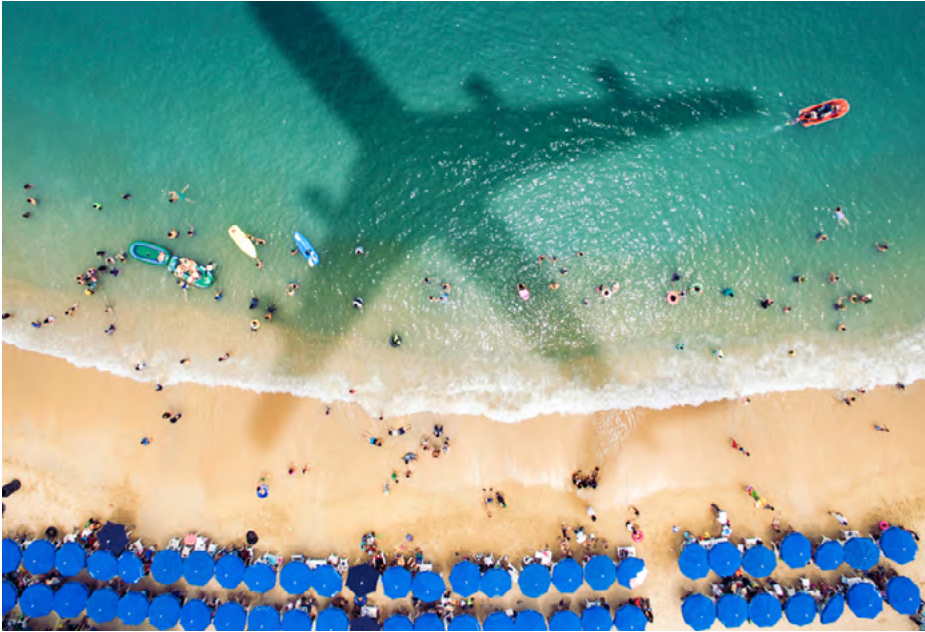
damages in the event of a successful claim. Sometimes the solicitor handling the claim will also receive a percentage of the damages. These agreements are regulated by specific legislation (the Damages Based Agreement Regulations 2013) and many of the CMCs that we have audited are failing to comply with all aspects of those regulations and/or our rules. Following our enquiries and subsequent advice and action, most of these CMCs have ceased using this model and have adapted their operations ensuring they fully comply with the referral fee ban.

Personal injury claims

20. The number of CMCs authorised in the personal injury sector has continued to decline as we continue auditing CMCs to ensure that they comply with the referral fee ban –

22. We have focused on a small number of CMCs that enter into a contract with its personal injury clients under a damages based agreement. This contract means that the CMC will receive a percentage of the client's

PERSONAL INJURY SECTOR	2016/17	2015/16
Audits conducted	202	165
Investigations commenced	6	1
Visits	509	1042
Warnings issued	40	53



Holiday sickness claims

23. A significant development this year has been the emergence of activity in the holiday sickness claims market. From a handful of CMCs actively involved in this claim area in 2015-16, there has been a substantial increase in the numbers of CMCs engaging in this area from mid-2016. Along with the increased activity has come information about misconduct, including reports of claims 'touts' operating at holiday resorts abroad approaching UK holidaymakers to encourage them to make a claim.
24. There have also been reports of the touts coaching potential clients, including advising them what to tell the solicitor and explaining they need to purchase medication while on holiday, keeping the receipt as evidence to support their claims that they have been sick. Some CMCs use call centres, making sales calls to the public enquiring if they have been on holiday

during the last 3 years. Allegations have been made that these call centre operatives are encouraging clients to say that they have become ill during their holiday due to food hygiene at their hotel in cases where this is not the truth.

25. There was a marked upturn of marketing related to holiday sickness claims in the press, on radio, online and via social media as activity increased towards the end of 2016. In response, a dedicated team was established to tackle issues in the holiday sickness claims market and commenced a programme of audits of CMCs operating in this area. We also established relationships with key stakeholders including the SRA, individual tour operators and their representative body ABTA, as well as claimant and defendant solicitors, along with some of the more reputable CMCs that are well established in the market.

26. We identified and tackled unauthorised CMC activity in this area, and dealt with misleading marketing, ensuring data being used by call centres had been legitimately sourced and that CMCs were complying with the referral fee ban. Our compliance and enforcement activity is continuing and holiday sickness claims will be a key priority area for us in 2017/18.



Criminal/fraudulent activity related to personal injury claims

27. An important part of our work in this area is to work with and support other law enforcement agencies, tackling and disrupting criminal activity where there is CMC involvement. This includes providing intelligence and sharing information where appropriate. Where required, we will attend operational activities accompanying the respective law enforcement agency and provide technical support if necessary.
28. We have worked closely with regional police forces on individual operations and during the year have provided intelligence, support or statements in respect to investigations or prosecutions brought by them. For example, we worked with the IFB and Kent Police to assist with the prosecution of a 'crash for cash' fraudster who was connected to a gang responsible for over 315 claims for personal injury. This individual was convicted of Conspiracy to Defraud and received a sentence of 7 years. We also worked with Cheshire

Police to investigate unauthorised trading and to share intelligence, and attended West Midlands Police Intelligence forums with a view to disrupting Organised Crime Groups involving CMCs.

29. We actively engage and work with the following national organisations:
- City of London Police's Insurance Fraud Enforcement Department
 - National Crime Agency (Civil Recovery Team)
 - Government Agency Intelligence Network
 - Solicitors Regulation Authority
 - Insurance Fraud Bureau
 - HM Revenue and Customs
 - Information Commissioner's Office

Unauthorised activity

30. We have investigated over 600 notifications of unauthorised trading this year. Although many notifications contain insufficient information for us to progress, where there is evidence of potential unauthorised activity, further action is taken. In over 400 cases, we issued advice, warnings or liaised with the internet service provider in relation to websites of

unauthorised business to ensure they are disabled.

31. Where businesses have ignored warnings, or where the activity is serious or there are aggravating factors (for example if the business was previously authorised but surrendered their authorisation and continued), we commence formal investigations. We commenced 17 such investigations into businesses suspected of carrying out unauthorised claims management activities last year.
32. We have also visited the premises of hundreds of previously authorised businesses to satisfy ourselves that they are no longer active in claims management. During audits of authorised CMCs, we have also identified unauthorised introducers referring leads to the authorised CMC. In these circumstances, we take enforcement action against both businesses.
33. We have executed warrants with the support of local police on several occasions this year, allowing us to enter premises where we believe unauthorised activity to be taking place. The warrants are granted upon application to the Magistrates' Court, and the police assist us to secure the premise and deal with any breaches of the peace, while we seize documents and equipment which we believe may contain evidence of unauthorised activity. The premises entered ranged from large call centres to residential addresses. We have also conducted interviews under Police and Criminal Evidence Act (PACE) legislation of individuals suspected to have been involved in unauthorised activity. Cautions were issued to 3 individuals and we secured the successful prosecution of a business that was

ordered to pay a fine of £2,500 plus £720 costs, with the director ordered to pay a fine of £5,000, a victim surcharge of £250 and £720 in costs.

34. We are leading a number of ongoing operations involving various offences and multiple defendants. One operation has involved the seizure of 800,000 sales calls recordings made by a call centre suspected of carrying out unauthorised activity. These calls amounted to more than 4,000 hours of conversations. It has been necessary to listen to and transcribe a sample in preparing the case, in which hundreds of victims have been identified. We interviewed more than 20 suspects as part of the investigation.

CASE STUDY – UNAUTHORISED TRADING

We received information from various sources about an unauthorised personal injury call centre operating in the outer London area. We applied to the local Magistrates’ Court who granted us a warrant that upon execution found several businesses operating from the premises, including the target business. We seized documents and equipment that showed that the business had been referring personal injury cases to a solicitor and had received over £0.5 million in fees for the cases.

The unauthorised business had sought to deceive other solicitors by using the name and authorisation number of another business and had even forged certificates of authorisation to show to solicitors to demonstrate that it was authorised. We are currently in the process of commencing proceedings in the case.

35. One of the most challenging elements of dealing with unauthorised activity is the involvement of overseas call centres – usually calling UK residents about making accident claims or PPI complaints. Such activity can pose a challenge due to progressive advancements in technology which can make it difficult to identify or challenge the source due to its location. Despite the difficulties posed, we will take appropriate action against any authorised CMC identified as using leads generated by non-compliant marketing practices.

Tribunal appeals

36. In 2016/17 eight new appeals by CMCs against enforcement action were lodged with the First Tier Tribunal. Of the appeals that were concluded during the same period, none have been upheld by the Tribunal. In reaching their decisions, the Tribunal has agreed with the decision taken by CMR. This has provided independent reassurance that our investigations and action taken has been deemed justified and appropriate. An outline summary of some of those cases is set out below to provide some details and background to the appeals and Tribunal decisions.

Cold calling for claims that are passed to a solicitor

37. The appeal concerned a decision to impose a financial penalty based on the activities of a CMC that was cold calling for noise-induced hearing loss claims. In their judgment, the tribunal judge confirmed that they were satisfied that the Claims Management Regulator’s understanding of the relevant regulatory requirements for CMCs in respect of Privacy and

Electronic Communications (EC Directive) Regulations 2003 and the Solicitors Regulatory Authority (SRA) Code of Practice, was correct.

“The upshot of all this is that an authorised person will be in breach of the conditions of authorisation if the person –

a. calls a person who has been on the TPS register for more than 28 days and who has not opted-in to be called by the authorised person on the line dialled; and

b. calls a person (whether on the TPS register or not) who has not solicited an approach to be made to that person by the solicitors for whom the authorised person is, in effect, treated as working.”

Volume of complaints

38. The argument put forward by the CMC was that the volume of calls made were of such a low percentage that this should not have resulted in enforcement action. The Tribunal agreed with CMR that a large volume of calls does not require a large number of complaints, and instead the issues covered by the complaints should be considered.

“We agree with the respondent that the appellant can draw no material assistance from the fact that the number of complaints amounted to only a small fraction (0.008%) of the total number of calls made. The number of complaints needs to be looked at in its own terms. Each represents a person who has gone to the trouble of making a complaint, having been called by the appellant in breach of the PECR Regulations.

It is far more likely than not that a substantially greater number of persons did not complain. The logic of the appellant’s stance is that, the larger the number of calls made by

the authorised person's business, the larger the number of complaints that the regulatory regime (and, ultimately, the public) must, in effect, tolerate. We are not satisfied that there is anything in the legislation, rules, codes or guidance that supports such a position."

Scoring for "nature" and "seriousness"

39. A number of appeals have sought to argue that the Claims Management Regulator had incorrectly determined the amount of the financial penalty imposed. The Financial Penalty Guidance Scheme was produced to assist CMCs in understanding how a decision is made in respect of identifying the nature and seriousness of the breach. The Tribunal stated that it agrees with our process of following this scheme.

"On the basis of our findings of fact, we are satisfied that the respondent's ascertainment of the penalty was fully compliant with the December 2014 Guidance. The scores and conclusions reached by the respondent, as set out in the table in paragraph 10 above, have not been shown by the appellant to be wrong..."

40. In this appeal the Tribunal agreed with the consideration that recklessness can be considered due to the type of activity undertaken or the failure to act on advice or warnings given by the Regulator. The Tribunal also agreed that seriousness could be based on the volume of complaints that had been received about the activities of a CMC.

"The Tribunal fully agrees with the respondent that the appropriate score under "nature" should be 3. We have held that the behaviour of

the appellant at the relevant times falls to be categorised as reckless. It is plain, for the reasons we have given, that the appellant failed to put in place appropriate measures, despite compliance advice and warnings.

The respondent scored the level of seriousness as 4 (medium). The guidance states that breaches falling into this category are likely to have affected "a number of consumers or other organisations" and there is likely to be potential for even further, more widespread detriment if action is not taken.

Judged on its own, the number of persons concerned was, in real terms, significant.

Hundreds of people a month were being driven to complain. The overwhelming likelihood is that a far greater number was subjected to calls, notwithstanding their presence on the TPS register. The evidence also plainly shows that any referrals made by the appellant to solicitors are more likely than not to have placed those solicitors in breach of the SRA's Code of Conduct. The size of the relevant turnover (some £2.4 million) is, we find, indicative of the number of persons likely to have been involved in such unsolicited approaches.

Accordingly, irrespective of the issue of potential for further breaches, the respondent was justified to impose a score of 4 for seriousness."

Funding regulation



Costs and income

1. The CMR Unit is self-financed, with costs met by regulated CMCs paying application and annual authorisation fees. The annual fees are set in advance of the financial year they apply to and are based on estimates of the number of CMCs trading, the level of turnover forecast, and the number expected to apply for authorisation offset by the number of estimated market exits. Fee levels for the 2016/17 regulation year were left unchanged from the previous year.
2. We also collect fees for the Legal Ombudsman which handles service complaints about CMCs. The fees payable by CMCs for complaint handling are set out in the schedule of the Legal Services Act 2007 (Claims Management Complaints) (Fees) Regulations 2014 and have been amended by the Legal Services Act 2007 (Claims Management Complaints) (Fees) (Amendment) Regulations 2017.

Determining fee levels

3. The consultation paper published on 18 November 2016 set out the CMR Unit's proposals for the levels of regulation fees to be paid by CMCs for authorisation for the 2017/18 regulatory year, with a recommendation that fee levels should remain unchanged. The proposed fee levels are designed to recover the full costs of running the regulatory regime, to support the necessary enforcement and compliance programmes, and build on the ongoing work to maintain and improve regulation. We considered responses to the November consultation alongside all the factors that contribute to the current and future size of the industry and published a response on 9 February 2017, announcing that fee levels would remain unchanged for 2017/18.
4. The fee levels for 2017/18 are as follows:
 - The application fee will remain at £2,000
 - The annual regulation fee pay scales for CMCs with turnovers under £88,889 will remain unchanged
 - The percentages of annual turnover levied on CMCs with turnovers over the flat fee threshold of £88,889 will remain at 0.90% of annual turnover up to £1 million; 0.80% of annual turnover up to £5 million; and 0.75% of annual turnover over £5 million
 - The fees caps for both annual regulation and the financial products and services uplift will remain at £150,000
 - The existing financial products and services uplift levied on annual turnover from regulated activities in that sector will remain at 0.145%

GROSS COSTS AND FEE RECEIPTS SUMMARY 2016/17	£
Gross costs	
CMR Unit	6.8m
Fees income	
Application fees	0.2m
Annual regulation fees	6.6m
Total	6.8m

Communications and partnerships

07

“Our website received 218,813 visits via Gov.uk from consumers, stakeholders and businesses in search of advice, guidance and recent enforcement actions taken against non-compliant CMCs.”

Communications

1. We have made full use of a range of communication channels to inform, assist and exchange views with the wide variety of organisations interested in our work. Effective and regular communication with businesses, consumers, stakeholders and the media remains an important element of articulating our aims, role and achievements.
2. During the year this included publicising our commitment to cracking down on non-compliant CMCs through quarterly updates on enforcement actions, and press notices announcing large fines. We also continued to publish regular online bulletins for CMCs, providing specialist advice and guidance on a range of issues, covering topics such as advertising and marketing, holiday sickness claims and handling financial claims.
3. Our website received 218,813 visits via Gov.uk from consumers, stakeholders and businesses in search of advice, guidance and recent enforcement actions taken against non-compliant CMCs. In 2016/17 our contact centre received 8,217 new telephone and written contacts from businesses, organisations, and members of the public and 17 letters from Parliamentarians. A range of subjects were covered – most commonly the poor practices of some CMCs operating in the financial claims sector, unsolicited calls and texts marketing, and queries relating to the proposal to cap the fees that CMCs can charge consumers. We also handled 12 Parliamentary Questions from MPs in relation to tackling fraudulent activity in the claims market, reducing the cost for consumers making financial claims, and banning nuisance calls and texts.

Working with other organisations

Stakeholder events

4. Over the past year, we have hosted workshops for CMCs, and attended and given presentations at seminars and conferences for stakeholders. These include:
 - Insurance Times Fraud Charter (various dates in 2016/17)
 - Lloyds Market Association Anti-Fraud Forum (April 2016)
 - Association of British Insurers Motor Conference (October 2016)
 - Infoline 16th Annual Complaints Management Conference (March 2017)
5. Feedback from these events confirms that our stakeholders welcome the opportunity to ask questions and hear first-hand how we are performing. This includes highlighting what we need to do more and our plans for meeting the changing needs of the market as new business practices emerge, consumer expectations increase and compliance problems evolve.

Consultative groups

6. The majority of our stakeholders are members of our Regulatory Consultative Group (RCG), a group established from the beginning of claims management regulation to ensure effective involvement of interested parties in the development and operation of the regime, which continues to meet regularly to review progress. In 2016/17 there were 30 organisations signed up to the group including the Association of British Insurers (ABI), British Banking Association (BBA), UK Cards Association, Professional Financial Claims Association (PFCA), Legal Ombudsman, Citizens Advice and

Advertising Standards Authority (a full list of RCG members is set out in Annex B).

7. We have a number of consultative forums for businesses, individuals, and representative bodies which meet regularly to deal with a wide range of strategic and operational issues. These forums continue to enable us to gauge stakeholders' perceptions of CMR and track improvements over time. This insight is also helping to inform our future engagement and assist us with our day-to-day work.
8. We have regular and constructive liaison meetings with organisations which help to facilitate the exchange of intelligence on CMC activities and support the action we are taking on as priority areas of concern. These include the ICO, Ofcom, Financial Ombudsman, FCA, BBA, Legal Ombudsman, SRA, IFB, Citizens Advice, and other interested organisations. We continue to build on these relationships to help tackle problematic CMC practices, and where appropriate, assist some stakeholders, particularly in the financial services industry with managing their relationships with CMCs.
9. During 2016/17 we held a joint workshop with the Legal Ombudsman and the Financial Ombudsman Service for new CMCs in the industry, focusing on compliance with regulation rules (CMR Unit), how to deal with complaints (LeO) and what is expected from CMCs in relation to claims handling (Financial Ombudsman).

Media stories and coverage

10. There continues to be significant media interest in the claims management industry. Stories on mis-sold PPI claims, unsolicited marketing calls and fraudulent personal injury claims have dominated coverage. This has included the emergence of holiday sickness fraudulent claims stories which have attracted considerable interest across broadcast, online and print media (e.g. ITV Good Morning Britain, Mail on Sunday and the Times).
11. As well as promoting the work of the CMR Unit through announcements and seizing proactive opportunities, the Ministry of Justice's External Communications Team responded to over 100 media enquiries, dealing effectively with several live issues in the media. This included timely press releases and issuing reactive statements to ensure that coverage was accurate, and carried the regulator's key messages on protecting consumers and clamping down on CMC misconduct. For example, announcing the investigation of two firms who made thousands of nuisance calls and exploited hundreds of vulnerable people (*'Moj unit in crackdown on rogue claims companies'* May, 2016).
12. Notable claims industry stories in the press this year include:
- *'WHIP-CASH Merry-go-round compensation culture is adding £93 a year to car insurance premiums'* (The Sun, Sep 2016)
 - *'Exposed: Cowboy firms are coaching British tourists to make dodgy claims for sickness compensation... and they tout for business in an AMBULANCE'* (Daily Mail, Sep 2016)
 - *'Caught on camera, the holiday bug cowboy urging tourists to lie for cash: Travel firm uses 'spies' to rumble rogue company over bogus sick claims as experts warn rise in practice could cost the industry millions'* (Mail on Sunday, Nov 2016)
 - *SOAP STAR 'SCANDAL' Hollyoaks star Nikki Sanderson's businessman boyfriend in Government probe over his PPI compo firm* (The Sun, Jan 2017)
 - *Victory for the Mail as watchdog finally tackles holiday bug cowboys who urge tourists to lie about being ill* (Mail Online, Feb 2017)
 - *'PPI director gets nine-year ban for misleading clients'* (Financial Times, March 2017)
13. The External Communications Team have also worked closely with their counterparts at the LeO and the ICO on stories that include data farm raids, financial penalties and the latest regulatory reforms.

Regulatory reform



“Part 2 of the Financial Guidance and Claims Bill will deliver this commitment, subject to Parliamentary approval, by transferring regulatory responsibility for CMCs to the Financial Conduct Authority (FCA)”

Transfer of regulation to the FCA: Financial Guidance and Claims Bill

1. At Budget 2016 the government committed to establish a tougher regulatory regime for CMCs. This announcement was well received with wide ranging support from Parliamentarians, consumer groups, insurers, financial services firms and the legal sector. Part 2 of the Financial Guidance and Claims Bill will deliver this commitment, subject to Parliamentary approval, by transferring regulatory responsibility for CMCs to the Financial Conduct Authority (FCA). This is intended to tackle a range of conduct issues within the market, ensuring a tougher regulatory framework and increased accountability of senior managers.
2. The Government remains committed to capping the fees CMCs can charge consumers that wish to use their services in relation to PPI and other financial claims. The Bill, recently introduced into the House of Lords, provides for a duty on the FCA to make rules in this respect when responsibility for regulation of CMCs is transferred. We are considering further the nature of any fee capping provisions to be introduced into the current regulatory regime in the interim, taking into account the helpful and comprehensive range of responses to the consultation. Further announcements will be made in due course.

3. The Bill also aligns the process for dealing with complaints about CMCs with other businesses regulated by the FCA, by transferring complaint-handling responsibility from the Legal Ombudsman to the Financial Ombudsman Service. The Bill will provide for the FCA to regulate CMCs in England and Wales only. The combination of these measures will help ensure that consumers are protected against malpractice and can continue to access high-quality claims management services.

Better Regulation Programme

The Business Impact Target

4. The Small Business, Enterprise and Employment (SBEE) Act 2015 required the government of the day to publish a Business Impact Target (BIT) in respect of Qualifying Regulatory Provisions (QRPs) that came into force or ceased to be in force during the relevant Parliamentary period. The CMR Unit is in scope of the BIT and has complied fully with its requirements, liaising on a regular basis with the Better Regulation Executive.
5. The CMR Unit identified five QRPs, which at the date of writing were in the process of being validated by the Regulatory Policy Committee to produce the final CMR Unit BIT score for this reporting period. Details can be found in the CMR BIT assurance statement published on 9 June 2017 at: www.gov.uk/government/publications/claims-management-regulation-business-impact-target-assurance-statement

6. A summary of the CMR Unit's "Non-Qualifying Regulatory Provisions" that have come into force, ceased to be in force or are changed during the relevant reporting period is also in the process of being validated by the Regulatory Policy Committee and can be viewed at: www.gov.uk/government/publications/claims-management-regulation-business-impact-target-assurance-statement

The Better Enforcement Programme

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

Compliance priorities for 2017/2018

09



We conduct an intelligence led strategic assessment of the claims management market each year which informs our compliance priorities. Our priorities for 2017/18 are as follows:

Nuisance calls and texts

- Ensure CMCs in the data supply chain conduct sufficient due diligence to satisfy themselves that data they receive and/or use has been obtained legally and compliantly. Due diligence must include checks to ensure that those introducing the data are also authorised (if they are required to be), that the consumer has provided valid consent to receive the call regarding claims management services and that this consent is not too old so as to invalidate it.
- Robustly respond to any changes and increases in non-compliant direct marketing as a result of significant reforms to be implemented during 2017/18.
- Work closely with key stakeholders and regulators to contribute to the cross-government response to the nuisance calls issue and identify sources of unsolicited marketing and/or CMCs receiving leads from these sources.

Financial claims

- Continue to insist CMCs conduct sufficient customer fact finds before submitting enquiries and gather sufficient information to present a specific and non-generic complaint to the relevant financial services provider.
- Maintain close scrutiny of CMCs that take upfront fees for PPI cases to ensure content of sales calls is not misleading, and that clients aren't pressured into signing paperwork and provide payment details without having enough time to consider information before making a decision.
- Closely monitor activity ahead of and following implementation of significant reforms and ensure any malpractice is tackled quickly and robustly.
 - Maintain an overview of the financial claims sector to address any issues in growth claims areas such as pension products, mortgage related claims and other complex areas.

Personal injury claims

- Closely monitor developments in the holiday sickness claims sector, to tackle non-compliant marketing, CMCs encouraging clients to exaggerate symptoms or make fraudulent claims, unauthorised activity and other serious misconduct.
- Monitor the wider sector to ensure that any arrangements fully comply with the referral fee ban and take enforcement action where appropriate.
- Identify CMCs marketing by telephone and ensure that sales staff are not misleading, and do not place pressure upon consumers to make a claim where they do not want to or encourage them to exaggerate injuries.
- Continue to work closely with fellow regulators and law enforcement agencies to combat fraud being committed in the personal injury sector.

Unauthorised activity

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



Glossary

ABI – Association of British Insurers

BBA – British Bankers Association

CMC – Claims management company

CMR – Claims Management Regulation

DCMS – Department for Culture, Media and Sport

HMT – Her Majesty's Treasury

FCA – Financial Conduct Authority

ICO – Information Commissioner's Office

IFB – Insurance Fraud Bureau

IFT – Insurance Fraud Taskforce

LeO – Legal Ombudsman

Moj – Ministry of Justice

PFCA – Professional Financial Claims Association

PPI – Payment Protection Insurance

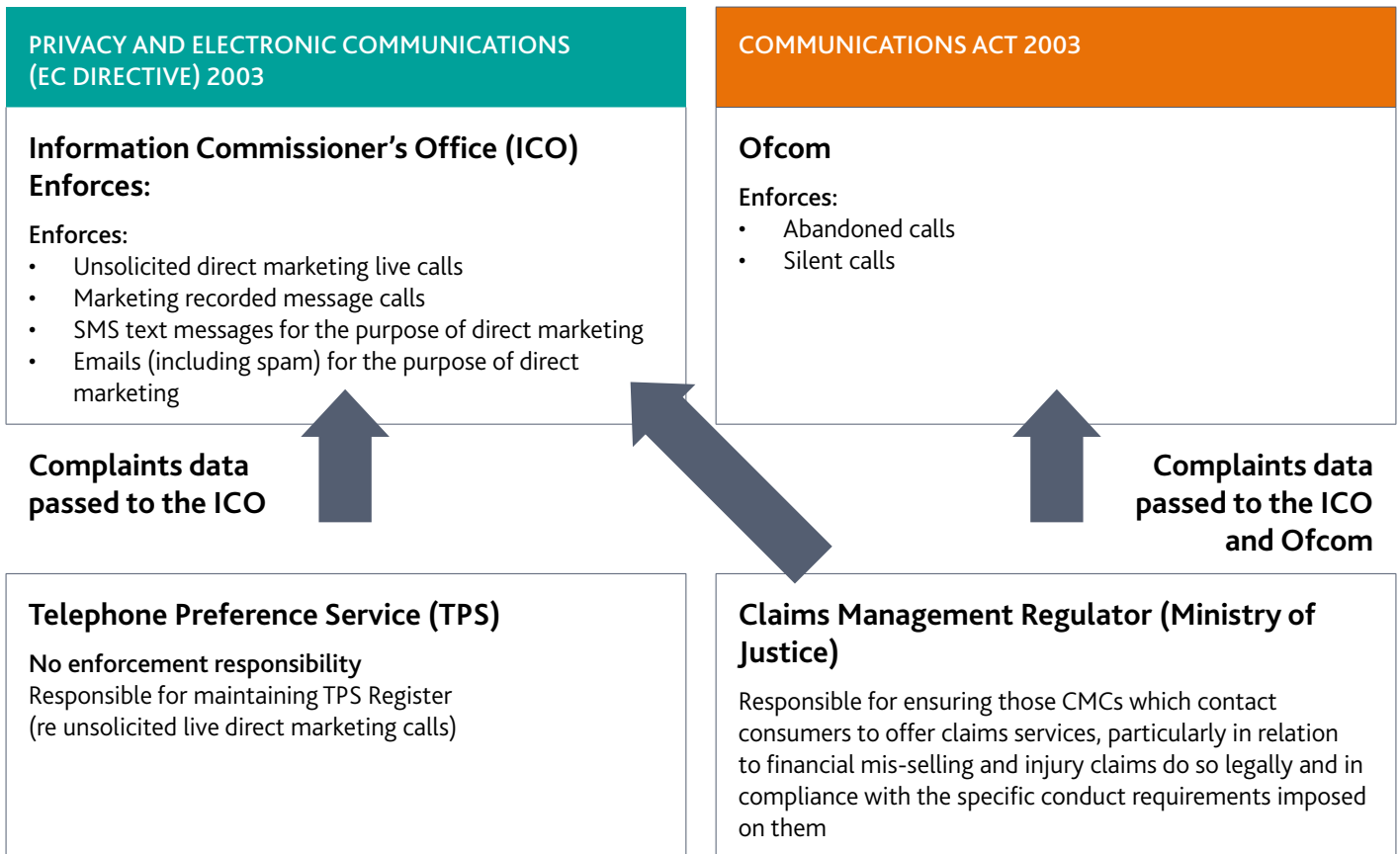
RCG – Regulatory Consultative Group

SRA – Solicitors Regulation Authority

TPS – Telephone Preference Service

Annex A

Diagram of how nuisance calls and texts are regulated



What is allowed?

Live calls – Unless a consumer has signed up to the TPS there is nothing to prevent a company making a marketing call to them. Once on the 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. CMCs are banned from introducing claims, or details of potential claims to solicitors, if these have been obtained using an unsolicited approach by telephone or in person.

Recorded calls – All calls, whether made from the 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 – 2016/17

Advisory, Conciliation and Arbitration Service (ACAS)

Advertising Standards Authority (ASA)

Association of British Insurers (ABI)

Association of Mortgage Intermediaries (AMI)

Association of Personal Injury Lawyers (APIL)

Association of Professional Financial Advisors (APFA)

Association of Regulated Claims Management Companies

British Bankers Association (BBA)

British Insurance Brokers Association (BIBA)

Building Societies Association (BSA)

Citizens Advice Bureau (CAB)

Consumer Finance Association (CFA)

Council of Mortgage Lenders (CML)

Direct Marketing Association Ltd (DMA)

Employment Tribunal

Financial and Leasing Association (FLA)

Financial Conduct Authority (FCA)

Financial Ombudsman Service (FOS)

Financial Services Compensation Scheme (FSCS)

Information Commissioner's Office (ICO)

Legal Ombudsman (LeO)

Motor Accident Solicitors Society (MASS)

Ofcom

Professional Financial Claims Association (PFCA)

Solicitors Regulation Authority (SRA)

Trade Union Congress (TUC)

Which?

Annex C

The Regulator's Code

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

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

CMR supports this principle by:

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

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

CMR supports this principle by:

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

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

Regulators should base their regulatory activities on risk

CMR supports this principle by:

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

Regulators should share information about compliance and risk

CMR supports this principle by:

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

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

CMR supports this principle by:

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

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

CMR supports this principle by:

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

Contact information

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