Dispute resolution: Complaints

Chapter 3

Complaint handling procedures of the Financial Ombudsman Service



3.5 Resolution of complaints by the **Ombudsman**

- 3.5.1 R The Ombudsman will attempt to resolve complaints at the earliest possible stage and by whatever means appear to him to be most appropriate, including mediation or investigation.
- G 3.5.2 The Ombudsman may inform the complainant that it might be appropriate to complain against some other respondent.
- 3.5.3 Where two or more complaints from one complainant relate to connected circumstances, the *Ombudsman* may investigate them together, but will issue separate provisional assessments and determinations in respect of each respondent.
- 3.5.4 If the *Ombudsman* decides that an investigation is necessary, he will then:
 - (1) ensure both parties have been given an opportunity of making representations;
 - (2) send both parties a provisional assessment, setting out his reasons and a time limit within which either party must respond; and
 - (3) if either party indicates disagreement with the provisional assessment within that time limit, proceed to determination.

Hearings

- 3.5.5 R If the *Ombudsman* considers that the *complaint* can be fairly determined without convening a hearing, he will determine the complaint. If not, he will invite the parties to take part in a hearing. A hearing may be held by any means which the Ombudsman considers appropriate in the circumstances, including by telephone. No hearing will be held after the Ombudsman has determined the *complaint*.
- 3.5.6 A party who wishes to request a hearing must do so in writing, setting out:
 - (1) the issues he wishes to raise; and
 - (2) (if appropriate) any reasons why he considers the hearing should be in private;

DISP 3/2

DISP 3 : Complaint handling procedures of the Financial . Ombudsman Service

so that the Ombudsman may consider whether:

- (3) the issues are material;
- (4) a hearing should take place; and
- (5) any hearing should be held in public or private.
- G 3.5.7 In deciding whether there should be a hearing and, if so, whether it should be in public or private, the Ombudsman will have regard to the provisions of the European Convention on Human Rights.

Evidence

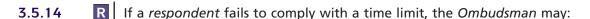
- 3.5.8 The *Ombudsman* may give directions as to:
 - (1) the issues on which evidence is required;
 - (2) the extent to which evidence should be oral or written; and

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- (3) the way in which evidence should be presented.
- 3.5.9 R The Ombudsman may:
 - (1) exclude evidence that would otherwise be admissible in a court or include evidence that would not be admissible in a court;
 - (2) accept information in confidence (so that only an edited version, summary or description is disclosed to the other party) where he considers it appropriate;
 - (3) reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested; and
 - (4) treat the complaint as withdrawn and cease to consider the merits if a complainant fails to supply requested information.
- 3.5.10 G Evidence which the Ombudsman may accept in confidence includes confidential evidence about third parties and security information.
- 3.5.11 G The *Ombudsman* has the power to require a party to provide evidence. Failure to comply with the request can be dealt with by the court.
- 3.5.12 G The Ombudsman may take into account evidence from third parties, including (but not limited to) the FCA, other regulators, experts in industry matters and experts in consumer matters.

Procedural time limits

3.5.13 The Ombudsman may fix (and extend) time limits for any aspect of the consideration of a complaint by the Financial Ombudsman Service.



- (1) proceed with consideration of the complaint; and
- (2) include provision for any material distress or material inconvenience caused by that failure in any award which he decides to make.
- 3.5.15 If a complainant fails to comply with a time limit, the *Ombudsman* may:
 - (1) proceed with consideration of the complaint; or
 - (2) treat the complaint as withdrawn and cease to consider the merits.

DISP 3/4

Ombudsman