

FCA Complaints and the Financial Ombudsman Service



We're specialists in providing practical, commercial advice to insurer clients with respect to customer Financial Conduct Authority (FCA) complaints, relating to insurance services, including those referred to the Financial Ombudsman Service (FOS).

Across a broad range of product lines, including household (buildings and contents), motor (including telematics, motorhomes/caravans), pet, landlord/property owners, commercial, sales and/or servicing issues, and data protection insurance, including Data Subject Access Requests (DSAR's), we stand out for our ability to convey technically sound legal advice in a practical, commercially-relevant format.

What we do

With many insurers looking to reduce their litigation spend, combined with a rise in the volume of customers pursuing complaints via the FOS, we understand the need to respond rapidly to any risk to your commercial reputation.

Based across the DWF offices (including Manchester and London) our FCA/FOS complaint specialists are part of one of the UK's largest Commercial Insurance legal business divisions. We provide practical, commercial legal advice to major insurer clients, specialising in advice relating to the handling of complaints from consumers, small businesses and other eligible complainants. Importantly, we are often instructed to assist our insurer clients in resolving long-running or complex, sensitive disputes. With the potential to result in significant reputational harm to our insurer clients, our clients trust us to resolve these issues - taking a commercial and pragmatic approach to ensuring complaints are handled appropriately and at proportionate costs.

Our areas of expertise include:

- Considering underwriting, claims and complaint files and providing advice on policy coverage/interpretation and liability having regard to both the legal position having regard to the applicable legislative framework and jurisdictional parameters and what is likely to be regarded as "fair and reasonable" by the FOS having regard to the circumstances and with regard to the financial award limits applicable to the FOS.
- Having regard to the publication by the FOS of complaints data, naming insurers with the highest volumes of complaints, we work closely with our insurer client's complaints handling staff to upskill them with the aim of increasing the volume of complaints

they resolve within the initial 8 week period before the complaint is referred to the FOS.

- Advising insurers in respect of Data Protection Act/GDPR issues and Data Subject Access Requests.
- Assisting insurers, for those complaints which do reach FOS stage, with the presentation and drafting of their response to complaints (which are then issued by the insurer) so as to drive up insurer's success rates in reducing the number of complaints that are upheld by the FOS and advise insurers on issues such as responding to FOS file requests particularly if their file includes commercially sensitive/privileged/confidential documentation.
- Identifying trends in the complaints being made and working with the insurer to improve procedures and systems with a view to reducing the number of complaints and thus dropping down the published 'complaints league tables' and misrepresentation in particular contexts or the FOS approach to delays or fraud.
- Updating our insurer clients in respect of FOS "hot topics" and the general approach the FOS are taking to key issues including, for example, policy interpretation, premiums/pricing issues, or non-disclosure.
- Advising insurers on FCA proposals that could significantly impact their business.
- Drafting guidance notes to assist our insurer clients when meeting with the FOS to discuss the content of proposed FOS guidance publications.
- Dealing with Judicial Review proceedings.

Examples of our work include:

- We recently updated insurer clients as to the implications of the FCA Consultation Paper CP18/3 "Consultation on SME access to the Financial Ombudsman Service"
- We provided a guidance note for our insurer client, in advance of a meeting with the FOS, to discuss their technical guidance note entitled "Buildings Insurance: Gradual Damage" (which made particular reference to rot exclusions).

Why DWF?

- We have over 25 years' experience working with insurer clients in-house complaints teams in relation to both claims and complaints against insurers and/or their personnel.
- We have a wealth of experience in assisting insurer clients to resolve complaints, particularly with the aim of avoiding the need for costly litigation.
- Experienced in dealing with FOS matters, we are regularly instructed to draft Final Decision Letters on behalf of insureds to their customers as the final stage of their complaints process.
- We also regularly draft robust submissions to the FOS on behalf of insurers and have a proven track record for our success rates.
- We also advise insurers in relation to how to respond to FOS file requests (particularly those, which seek confidential/privileged documents such as underwriting/ratings guides).
- Key to the above is ensuring complaints staff are adequately trained and therefore we work closely with various major insurers to raise awareness of key issues that might impact on their businesses. For example, we have delivered tailored training in respect of FCA hot topics, consultation papers, changes and their potential impact for insurers enabling them to create accurate forward-looking plans (including upskilling staff and liaising with other areas of the business, such as underwriting teams), ensuring commercial adaptability and sustainability.
- By identifying areas which are hot topics and/or likely to significantly impact on insurers' existing claims handling operations we are able to assist our clients in ensuring their complaints handling staff receive appropriate training to enable them to cope with the changing demands they face with the aim of ensuring the insurer's case is put both succinctly and robustly to the FOS with the aim of driving up success rates regarding complaints not upheld by the Adjudicators/Ombudsman.
- We understand the importance of MI, in helping our insurer clients to monitor (and where appropriate recover) costs, reduce litigation spend and to increase fraud detection. MI is captured throughout the claim, allowing us to monitor fields including volume of instruction, client spend and revenue generation. We also use published FOS complaints data to monitor our insurer clients' performance, in terms of FOS success rates, on a bi-annual basis.
- Access to prompt ad-hoc advice is important to our clients. We have built up a strong rapport with our insurer clients. They know they are able to contact us whenever the need arises, including during the weekends.
- We work closely with complaints handling staff, including holding face-to-face complaints clinics, at our clients' offices. These are designed to assist them in devising a strategy for resolving the more complex complaints and those, which are proving difficult to resolve.

Contacts



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