

What happens when the Ombudsman makes his decision?

The Ombudsman will make a decision he believes to be legally just and fair, taking all the circumstances into consideration. He will then write to all parties concerned with his decision and any award of compensation, etc. He will explain his reasons for making the decision and set out timescales within which there must be compliance with any award.

What powers does the Ombudsman have?

Following an investigation, the Ombudsman can:-

- i) Recommend that the member or the member's trade association/professional body reconsider any complaint.
- ii) Formally criticise or reprimand or instruct that the member's trade association/professional body remove the member from its list of members.
- iii) Recommend that the member rectify the problem and/or pay compensation for loss, distress or inconvenience.
- iv) Decide that the circumstances of the case do not justify any further action on his part and dismiss the claim.

How much compensation could be awarded?

The Ombudsman can order payment of compensation for loss, distress, inconvenience, breach of contract or other related quality matters. There is no maximum or minimum to the amount of compensation that can be claimed or awarded. In previous years the lowest amount of compensation awarded was £100 and the highest award was £14,800. If compensation is sought this needs to be claimed on the 'Complaint Form' with an explanation as to how this figure was calculated. It is important to be realistic - remember that the Ombudsman will only consider what he feels are bone-fide claims.

Can an appeal be made against the Ombudsman's decision?

The Ombudsman's decision is final and legally binding in the same way as a judgement of a court. There is normally no right of appeal although, as with other Arbitrators and Ombudsmen, his decisions are subject to judicial review in appropriate cases.



The Ombudsman
Ronald Barham, LL.M, PhD, FCI Arb.

Dr. Barham is a Freeman of the City of London and an experienced Arbitrator who also sits as Chairman of a Statutory Tribunal. He was formerly in practice as a chartered surveyor and consulting engineer [formerly a Fellow of the Royal Institution of Chartered Surveyors and of the Rating & Valuation Association, the Chartered Institute of Building, the Architects & Surveyors Institute and the Construction Surveyors Institute as well as a Member of the International Real Estate Federation and the Society of Engineers, registered as a Professional Engineer (UK)]. He has experience as a consultant to, and director of, several industrial and commercial concerns. He is also a member of the arbitration panels of several professional and government bodies.

The Ombudsman is totally independent of the organisations which are members of the scheme and has full autonomy to provide a complaints and dispute resolution service.



The Quality Assurance Ombudsman

QA Ombudsman Chambers
Manchester Legal Centre
3rd Floor, 64 Bridge Street
Manchester
M3 3BN

Telephone & Facsimile
0870-901-5581



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HOW TO COMPLAIN TO THE OMBUDSMAN

- see also:- General Information Leaflet

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Complain to the Member Organisation or Member before you complain to the Ombudsman

It is a requirement of the Ombudsman Scheme that, normally, the complainant should first address any complaint directly to the member business concerned or its trade association or professional body (if it is a member). Your complaint should be dated, clear and in writing summarising:-

- *What the member did, with names (if possible) and dates.*
- *What you think they did wrong.*
- *What the effect was.*
- *What loss (if any) you have suffered.*
- *What you would like the member to do to put things right.*
- *By when you expect a response (be realistic).*

You should retain a copy of your complaint for your records - it may be needed in the future.

It is essential that the member is given every reasonable opportunity to address the complaint before complaining to the Ombudsman.

How long do I have to complain?

If you are dissatisfied with the outcome of your original complaint you should normally refer the complaint to the Ombudsman within 3 months of any reply from the member or the member's professional body/trade association. If no reply is received within a month, the time to complain to the Ombudsman would be extended to 4 months from the date of your original complaint letter.

If you miss the 3 or 4 months deadline, the Ombudsman will only consider your case if there are special reasons for doing so, i.e. circumstances outside your control that prevent you referring your case to the Ombudsman in time e.g. serious illness, etc.

Even where special reasons apply, if the delay between your original complaint and referring the case to the Ombudsman is more than 12 months, the Ombudsman will normally take the view that too much time has passed for him to be able to carry out a proper investigation.

How do I complain to the Ombudsman?

To complain to the Ombudsman you must obtain, complete and return a 'Complaint Form'. These forms are available from the Ombudsman's office (detailed overleaf) and should be submitted in duplicate.

The form asks you why you are not satisfied with the handling of your complaint, for background and for any other information that could be relevant. The Ombudsman may also request information from the member's trade association/professional body.

How will the Ombudsman deal with individual cases?

Once an application is received the Ombudsman will decide whether an investigation is necessary, whether he feels mediation is appropriate or whether to proceed directly to an arbitration.

If the Ombudsman decides not to accept a case he will write to you explaining the reasons for the decision. If the Ombudsman decides that an investigation is necessary, an Investigating Officer will be allocated to the case.

This Officer will submit a draft report to the Ombudsman after establishing the background to the complaint. This can/may be based on the material you submitted and/or independent experts' reports, copy contracts, statements and any other evidence which may be deemed relevant in obtaining details of how and why the dispute arose.

This report will be reviewed by the Ombudsman and a decision taken as to the most appropriate next action, which could be mediation or arbitration or a dismissal of the claim altogether.

What is the difference between Mediation and Arbitration?

Mediation

Mediation is a voluntary dispute resolution process in which a 'neutral person' helps the parties reach a negotiated settlement. The 'neutral person' could be an officer of the member's trade association or professional body or could be someone appointed by the Ombudsman to discuss the problems with both parties to try to reach an agreement without the need to progress to the more formal arbitration process. The mediation process is

designed to bring the matter to a speedy conclusion but may not provide a final and binding resolution of a dispute.

Arbitration

Arbitration is a more formal process and leads to a judicial decision by the Ombudsman based on the material submitted by the parties and, when applicable, the results of an investigation.

When the Ombudsman gets involved in determination / arbitration of disputes he is provided with extensive powers through the 'Procedural Rules'* of the scheme. His decision is final and legally enforceable under the provisions of the Arbitration Act, 1996. *(Copies of the Rules are available from the Ombudsman's office overleaf).

How much does it cost to use the Ombudsman Scheme?

The Ombudsman's services are provided free of charge to complainants. A complaint registration fee is payable on formal registration of a complaint for determination/ arbitration but the Ombudsman is empowered to order that this fee is refunded where the complaint is upheld. The registration fee has been introduced to reduce the number of spurious or non-legitimate claims being put before the Ombudsman and 'clogging up' the system. These reduce the time available for justifiable complaints to be reviewed.

How long will it take to come to a conclusion?

Some cases are complex and the investigation may be lengthy, whilst others are simple and are dealt with quickly. As a guide, the average complaint takes about six months to be resolved, from the time your completed complaint form is received at the Ombudsman's office.

Can someone else complain on my behalf?

Someone else can complain as long as written authorisation from the complainant is received at the Ombudsman's office. Anyone may act for the complainant, such as a member of the complainant's family, a friend, a solicitor or a volunteer from a body like the Citizens Advice Bureau.