

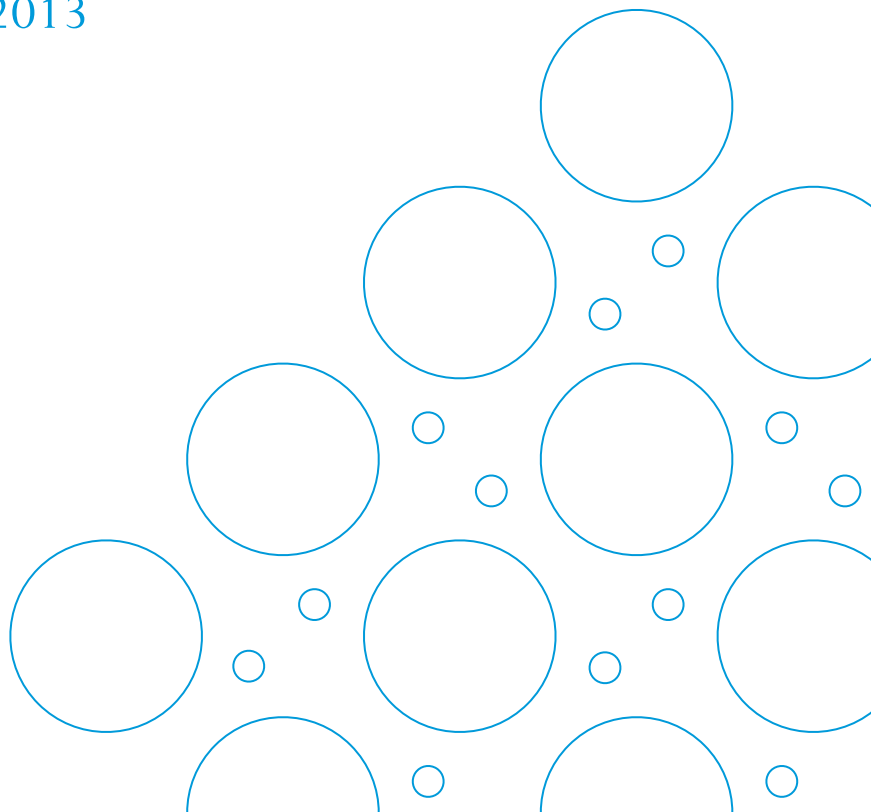


Ministry  
of Justice

Claims Management Regulation

# Guidance for claims management companies handling mis-sold PPI claims

Reissued September 2013





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# Introduction

As the mis-sold payment protection insurance (PPI) claims market has grown, so have our concerns about the practices of some claims management companies (CMCs). This document provides guidance on a number of common practices we have identified to assist CMCs with understanding and complying with the conditions of authorisation. Further advice will be provided in Claims Management Regulation Bulletins as new areas of concern are identified. CMCs must ensure that they comply with all guidance issued that is relevant to their business. The most recent bulletins are available on our website [www.justice.gov.uk/claims-regulation](http://www.justice.gov.uk/claims-regulation)

## Advertising and Marketing

### False/Misleading statements and testimonials

Client Specific Rule 2 of the 'Conduct of Authorised Persons Rules' (the "Rules") requires all advertising and marketing to comply with the relevant code, either the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing (the CAP code) or the UK Code of Broadcast Advertising (the BCAP code). This requires CMCs to hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation. If you do not hold documentary evidence to substantiate these types of claims then they must be removed.

Examples of claims that could be misleading and require substantiation include:

- We have helped over 65,000 people claim in excess of £155 million in compensation
- Statistics reveal only 4% of people ever claim on their PPI policies and that one in four of these claimants is refused
- Over £2 million claimed back in a month
- We have successfully claimed from over 700 banks
- The UK's leading financial claims company
- Payments in 8 weeks
- Every week we reclaim tens of thousands of pounds worth of PPI refunds back from banks
- Don't put it off, do it now as there is a time limit
- We have a team of professional financial advisers

**The CAP and BCAP Codes require anyone using testimonials or endorsements in their advertising or marketing to hold documentary evidence that it is genuine, that they have permission to use it and hold contact details for the person who gives it.**

## No Win, No Fee

The use of the expression 'no win, no fee' without qualification is permissible only if there is no charge in any circumstances.

It is not expected that CMCs should charge for any work undertaken for consumers within the 14 day cooling-off period since Client Specific Rule 15 of the Rules entitles consumers to a full refund within that period should they choose to cancel. CAP has issued a [Help Note](#) on how 'no win, no fee' statements should be qualified in such circumstances and CMCs are required to comply by virtue of Client Specific Rule 2 and Rule 7.

# The Financial Ombudsman Service

## Advising clients of the Ombudsman Scheme

*It is essential that where advice is given you advise the client unambiguously of the Ombudsman scheme. Where the scheme falls within the Ombudsman's province you must not suggest that a claimant will have a more favourable outcome if he uses the service of the CMC. The definition of favourable outcome includes, but is not restricted to, statements relating to the speed that the claim can be completed, and an increased monetary settlement.*

Client Specific Rule 1(e) of the Rules means that you must tell your client about the Ombudsman scheme. This information should be provided in writing as well as during tele-marketing calls. A number of CMCs claim to have special arrangements with financial institutions for quick settlements. Whether this is the case or not, you are reminded that you may not suggest that claimants will have a more favourable outcome if they use your service.

## Complaints where no PPI sale exists

*Submitting claims to the Ombudsman or lenders where there is no element of PPI results in valuable time, money and resources being used up in pursuing these complaints unnecessarily. Therefore it is essential that you undertake all reasonable checks before submitting claims in these circumstances.*

Guidance issued by the Ombudsman to CMCs states:

“We understand that due to the amount of time that may have passed since the sale, consumers’ recollections about the policy complained about may be limited in some cases. It is essential; however, that when making a complaint you provide the business with as much information as possible to help it identify the policy complained about and give you a full and proper response. This includes giving information that will help the business to locate the consumer on its systems (for example: full name, date of birth, address at the time of the sale) and details of the policy they are complaining about (for example: the date of the sale and any account numbers that may be relevant).”

The Ombudsman wrote an [open letter to CMCs in September 2013](#) setting out its expectations of CMCs who bring complaints.

Any CMC found to be submitting large numbers of claims where there is no PPI will be subject to investigation and appropriate enforcement action. The Ombudsman maintains an [online PPI resource](#) which provides useful updates on the handling of PPI claims.

## Transparency of Fees

*You must ensure that your fee structure is clear, transparent, fair and not misleading. The service you provide must be one that meets the needs of your clients and where advice has been given you must only pursue a claim where it is in the interests of your clients to do so.*

### Fees that are a percentage of ‘cash in hand’ compensation

An analysis of complaints received show considerable consumer confusion about fees charged because it is unclear how they have been calculated. Some CMCs simply charge a percentage of ‘cash in hand’ compensation, and this is usually clear.

### Fees that include other benefits

Some CMCs also charge fees on these amounts that are not paid ‘cash in hand’. This is a common cause of confusion if that arrangement is not made clear to the consumer from the outset. This can be complicated by terms and conditions that use a variety of terminology for them, such as ‘benefit’, ‘service charges’, ‘any other charges’ and ‘legal costs’, sometimes in the same document. This lack of uniformity has the potential to confuse consumers and renders it difficult for them to make an informed choice.

Where a loan has already been repaid in full the fees are usually clear. However, where it has not, consumers can be surprised to find that their compensation is not just 'cash in hand' but can take the form of:

- a reduction in the amount outstanding on their loan;
- a reduction in future instalments on their loan; or
- a reduction in their arrears.

This can lead to consumers challenging the amount of compensation they receive. CMCs are advised to provide additional examples to cover different forms of compensation awards, to avoid giving misleading price indications and to comply with Client Specific Rule 11(e).

Examples could include something along the following lines:

| <b>Example A:</b><br>All compensation is "cash in hand"      |              | <b>Example B:</b><br>Compensation includes "cash in hand" award with loan and future instalment reduction |             | <b>Example C:</b><br>Compensation is used to offset arrears consumer has on credit card or loan |             |
|--|--------------|---|-------------|---|-------------|
| Total compensation:  | £3000        | Total compensation:   | £3000       | Total compensation:   | £3000       |
| Of which cash:   | £3000        | Of which cash is:   | £1000       | Of which cash is:   | £0          |
|  |              | Loan reduction:   | £2000       | Set off arrears:  | £3000       |
| Fee charged @ 25%  | £750         | Fee charged @ 25%   | £750        | Fee charged @ 25%   | £750        |
| VAT@ 20%   | £150         | VAT@ 20%  | £150        | VAT@ 20%  | £150        |
| Total Fee  | £900         | Total Fee   | £900        | Total Fee   | £900        |
| <b>Consumer receives</b>                                     | <b>£2100</b> | <b>Consumer receives</b>  | <b>£100</b> | <b>Consumer pays</b>  | <b>£900</b> |
| (and no reduction in loan as it is already paid off in full) |              | (and a reduction of £2000 in future loan instalments)   |             | (and a reduction of arrears of £3000 in their outstanding loan)                                 |             |

## Fees that exceed the 'cash in hand' consumers receive (as in Example C above)

Where consumers are in arrears, with or without the knowledge of the CMC, charging fees for compensation that is not 'cash in hand' can result in the fees charged being greater than the 'cash in hand' compensation awarded. This can put consumers in a difficult financial situation, and without these circumstances being made clear to consumers at the outset, the service could fail to meet the consumer's needs contrary to Client Specific Rule 1(b). In most cases some advice has been given, so this would also breach the requirement to only pursue a claim where it is in the interests of a client to do so, which is in contravention of Client Specific Rule 1(f).

## Consumer questionnaires for PPI

The Ombudsman expects a consumer questionnaire to be completed with a declaration signed by the consumer as part of their PPI claims process. CMCs must not only ensure the questionnaire is completed, but must also ensure the financial services provider receives a copy and is given sufficient opportunity to respond **before** a complaint is made to the Ombudsman.

The forms, along with guidance about their use, are available from the Ombudsman website at: [www.financialombudsman.org.uk](http://www.financialombudsman.org.uk).



# Contact us

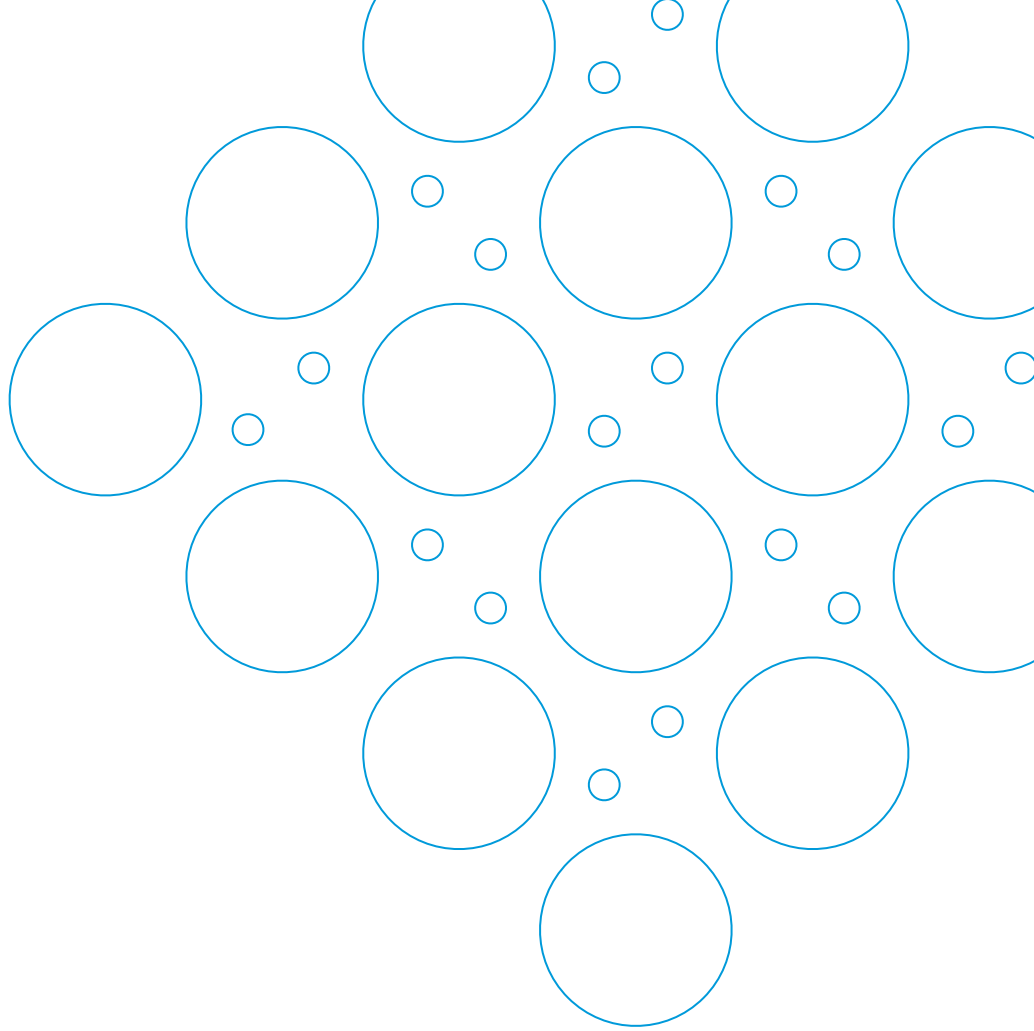
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