

Complaints by Older People against Financial Institutions

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The Role of the Financial Services Ombudsman

- Statutory Officer, Investigates complaints against Financial Service Providers
- Independent and Impartial
- 2004 Act
- Guided but not bound by regulatory codes & law
- Can uphold complaints and award compensation
- Legally binding, appealable to the High Court
- Free Service to the Consumer

Complaint Types

Complaints about:

- *The provision of a financial service*
- *An offer to provide such a service*
- *Failure to provide a particular financial service that has been requested*

Complaints outside jurisdiction

If the conduct complained of:

- Is or has been the subject of legal proceedings before a court or tribunal
- Occurred more than six years before the complaint is made
- Is within the jurisdiction of the Pensions Ombudsman

Complaint Trends since Office was established



Investigating Complaints...

- Written submissions of both parties
- Documentary evidence
- Oral Hearings

Investigating Complaints...

- Complaints upheld / not upheld by specific reference to legislation, 2004 Act
- Also consider relevant legislation and codes of practice / conduct, e.g. Consumer Protection Code

Consumer Protection Code

- Financial Regulator
- In force since August 2006
- General Principles
- Common Rules

General Principles

- ...act honestly fairly and professionally...
- ...act with due skill, care and diligence...
- ...not recklessly, negligently or deliberately mislead a customer as to the real or perceived advantages or disadvantages of any product or service...
- ...make full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer...
- ...does not exert undue pressure or undue influence on a customer...

Knowing the Consumer and Suitability Requirements

- Chapter 2, Consumer Protection Code
- Must gather and record sufficient information to allow a recommendation which is appropriate
- Must ensure suitability of product
- Must detail 'Reasons Why' product is suitable

Cases involving Older Adults

- Ombudsman highlights particular areas of concern in Annual Reports / Case Studies / Media
- Issue of inappropriate investments sold to older adults - raised from 2005 onwards

Example 1

- 83 year old woman invested €30k in 5 yr bond – woman died before it matured
- Bond difficult to encash in first 5 years (withdrawal penalties etc.)
- Product was unsuitable considering woman's age and circumstances
- Company did not discharge its duty of care to the older adult – complaint upheld.
- Deceased's estate was awarded €38k.

Example 2

- A couple in their 80s allegedly mis-sold a €300,000 investment in a 6 year bond
- Bond was capital protected
- Early encashment penalties during first 6 years
- Investigation considered all submissions and SUITABILITY of product....
- Complaint upheld
