



# BILLET D'ÉTAT

WEDNESDAY, 29<sup>th</sup> JUNE, 2022

XI  
2022

## LEGISLATIVE BUSINESS

### *Legislation laid before the States*

The Immigration (Bailiwick of Guernsey) (Amendment No. 2) Rules, 2022

The Charities etc. (Commencement and Transitional Provisions) (Guernsey and Alderney) Regulations, 2022

The Charities etc. (Amendment, Exemptions, Governance and Specified Amount) (Guernsey and Alderney) Regulations, 2022

### *Legislation for Approval*

1. Committee *for* Health & Social Care - The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022, P.2022/38

## OTHER BUSINESS

2. States' Assembly & Constitution Committee - Commissioner for Standards, P.2022/40
3. Policy & Resources Committee - Proposed Legislation for the Regulation of Notaries Public, P.2022/39
4. Policy & Resources Committee - Schedule for Future States' Business, P.2022/42

## APPENDIX REPORTS

Scrutiny Management Committee - Annual Report 2021

Committee *for* Economic Development - Channel Islands Financial

Ombudsman - Annual Report 2021

# BILLET D'ÉTAT

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## TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY the 29<sup>th</sup> JUNE, 2022 at 9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. McMAHON  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey

27<sup>th</sup> May, 2022

## **STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 27 of 2022

### **THE IMMIGRATION (BAILIWICK OF GUERNSEY) (AMENDMENT NO. 2) RULES, 2022**

In pursuance of sections section 3(2) of the Immigration Act 1971 as extended to the Bailiwick by the Immigration (Guernsey) Order, 1993<sup>1</sup>, The Immigration (Bailiwick of Guernsey) (Amendment No. 2) Rules, 2022, made by the Committee for Home Affairs on 11th April 2022, is laid before the States.

#### **EXPLANATORY NOTE**

These Rules amend the Immigration (Bailiwick of Guernsey) Rules, 2008 ("the principal Rules") to insert and give effect to a new Appendix Ukraine Scheme, and for the purposes of that appendix, a new Appendix Relationship with Partner. The amendments also remove references to the now-repealed section 7 of the Immigration Act 1988.

These Rules, other than the Ukraine Extension Scheme set out in Appendix Ukraine Scheme, will come into force on 11<sup>th</sup> April, 2022. The Ukraine Extension Scheme will come into force on the 3<sup>rd</sup> May, 2022.

No. 30 of 2022

### **THE CHARITIES ETC. (AMENDMENTS, EXEMPTIONS, GOVERNANCE AND SPECIFIED AMOUNT) (GUERNSEY AND ALDERNEY) REGULATIONS, 2022**

In pursuance of section 50 of the Charities etc. (Guernsey and Alderney) Ordinance, 2021, "The Charities etc. (Amendment, Exemptions, Governance and Specified Amount) (Guernsey and Alderney) Regulations, 2022", made by the Policy & Resources Committee on 26<sup>th</sup> April, 2022, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations bring into force the Charities etc. (Guernsey and Alderney) Ordinance, 2021, and the Charities etc. (Amendments, Exemptions, Governance and Specified Amount) (Guernsey and Alderney) Regulations, 2022, subject to some transitional and saving provisions.

These Regulations came into force on 29<sup>th</sup> April, 2022.

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<sup>1</sup> An Act of Parliament, 1971 c. 77. The 1971 Act has been amended.

No. 31 of 2022

**THE CHARITIES ETC. (COMMENCEMENT AND TRANSITIONAL PROVISIONS) (GUERNSEY  
AND ALDERNEY) REGULATIONS, 2022**

In pursuance of section 50 of the Charities etc. (Guernsey and Alderney) Ordinance, 2021, “The Charities etc. (Commencement and Transitional Provisions) (Guernsey and Alderney) Regulations, 2022”, made by the Policy & Resources Committee on 26<sup>th</sup> April, 2022, are laid before the States.

**EXPLANATORY NOTE**

These Regulations amend, and provide some exemptions from the requirements under, the Charities etc. (Guernsey and Alderney) Ordinance, 2021. They also set out requirements of good governance and risk mitigation applicable to charities and other non-profit organisations that are registered under the Ordinance, in order to promote transparency, integrity and public confidence in their administration and management. Finally, the Regulations specify the threshold for the reporting obligation under the Ordinance in respect of payments outside the Bailiwick.

These Regulations came into force on 29<sup>th</sup> April, 2022.

The full text of the legislation can be found at: <http://www.guernseylegalresources.gg>



**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE HUMAN TISSUE AND TRANSPLANTATION (BAILIWICK OF GUERNSEY) LAW, 2020  
(COMMENCEMENT) ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance commences the Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 on the 1<sup>st</sup> January 2023.



# **The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022**

**THE STATES**, in exercise of the powers conferred on them by sections 21 and 31 of the Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Commencement of the Law.**

1. The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 shall come into force on 1<sup>st</sup> January 2023.

## **Extent.**

2. This Ordinance has effect throughout the Bailiwick of Guernsey.

## **Citation.**

3. This Ordinance may be cited as the Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022.

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<sup>a</sup> Order in Council No. III of 2021.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**COMMISSIONER FOR STANDARDS**

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Commissioner for Standards' dated 6<sup>th</sup> May 2022, they are of the opinion:-

1. To rescind:-
  - a. resolution 1b, and
  - b. that part of resolution 3, insofar as it requires the Committee to return to the States with an Ordinance amending the Reform (Guernsey) Law, 1948

made by the States of Deliberation on 19<sup>th</sup> August 2020, following consideration of the policy letter entitled "Review of the Code of Conduct for Members of the States of Deliberation" (Billet d'État XVI of 2020, Article 10).

2. To agree that the position of Commissioner for Standards should be established by way of a Projet de Loi amending the Reform (Guernsey) Law, 1948 and providing for the matters referred to in the un-rescinded resolutions made by the States of Deliberation on 19<sup>th</sup> August 2020 and the matters set out in section 4 of the Policy Letter and to direct the preparation of legislation as may be necessary to give effect to this decision.
3. To insert the following sentence into section 41 of the 'Code for Members of the States of Deliberation' at the beginning of the second paragraph:

*"An appeal must be submitted within 10 working days of being provided with the Panel's report, with the reasons for the appeal being set out in writing".*

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**COMMISSIONER FOR STANDARDS**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

6<sup>th</sup> May 2022

Dear Sir

**1 Executive Summary**

- 1.1 In August 2020, the States of Deliberation resolved that the position of Commissioner for Standards should be established, further to a review of the Code of Conduct for Members of the States of Deliberation<sup>1</sup> being undertaken by the States' Assembly & Constitution Committee ("the Committee").
- 1.2 It was originally envisaged that the Commissioner for Standards would replace the States' Members' Conduct Panel and the Privileges Panel. However, the Committee has agreed the Privileges Panel should be retained to investigate allegations of abuse of privilege and therefore recommends rescission of the relevant resolution.
- 1.3 The Committee is working with the Privileges and Procedures Committee in Jersey to progress the appointment of a Commissioner for Standards to commence the role in both Islands on 1<sup>st</sup> March 2023.
- 1.4 In order to put the necessary legislation in place in advance of March 2023, the Committee is recommending a different approach to that suggested in the 2020 policy letter. It recommends that a statutory office of Commissioner for Standards is established by amending [The Reform \(Guernsey\) Law, 1948](#) by Projet de Loi with the intention to submit a draft Projet de Loi for consideration at the States Meeting to be held on 28<sup>th</sup> September 2022.
- 1.5 Section 5 of this policy letter sets out a proposed amendment to the Code which

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<sup>1</sup> [Review of the Code of Conduct for Members of the States of Deliberation: Billet d'État No XVI of 2020](#)

would introduce a timeframe for the submission of an appeal further to a Member being provided with the Investigation Panel's report. It also provides information on other future workstreams relating to the Code of Conduct.

## **2 Introduction**

2.1 Provisions for the States to adopt a Code of Conduct for People's Deputies are set out in [The Reform \(Guernsey\) Law, 1948](#) ("the Reform Law") under Article 20.F.

2.2 The Code of Conduct for Members of the States of Deliberation<sup>2</sup> ("the Code") was introduced by the States of Deliberation in September 2006 and the States' Members Conduct Panel established to investigate alleged breaches of the Code. Parts II and III of the Code set out the Panel's establishment and the procedure for complaints.

2.3 Part IV of the Code covers 'Absolute Privilege for States Proceedings' with reference to the relevant provision in the Reform Law, and Part V sets out the process for investigating allegations of abuse of privilege, providing that a Privileges Panel would be convened to investigate an alleged abuse of privilege.

2.4 A review of the Code was undertaken by a sub-committee appointed in March 2019 which resulted in propositions and a policy letter being submitted to the States of Deliberation in 2020 proposing changes to the Code. On 19<sup>th</sup> August 2020, the States resolved<sup>3</sup> as follows:

X. After consideration of the policy letter entitled "Review of the Code of Conduct for Members of the States of Deliberation" dated 25<sup>th</sup> February, 2020:-

1. To agree that the position of Commissioner for Standards should be established:

a) to investigate alleged breaches of the Code of Conduct for Members of the States of Deliberation, replacing the States Members' Conduct Panel; and

b) to investigate allegations of abuse of privilege, replacing the Privileges Panel.

2. To agree that the Commissioner for Standards should be made responsible for keeping the operation of the Code of Conduct and its associated

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<sup>2</sup> [Code of Conduct for Members of the States of Deliberation](#) at [www.gov.gg/memberscodeofconduct](http://www.gov.gg/memberscodeofconduct)

<sup>3</sup> [Billet d'État No XVI: Resolutions from 19<sup>th</sup> August 2020](#)

procedures under review and for making recommendations for change to the States' Assembly & Constitution Committee as necessary.

3. To direct the preparation of such legislation as may be necessary to give effect to the above decisions and paragraphs 3.6 to 3.8 of the policy letter.
  4. To agree the changes to the Code of Conduct for Members of the States of Deliberation, and other procedural recommendations, as detailed in the tables under paragraph 4.2 of the policy letter.
- 2.5 Paragraphs 3.6 to 3.8 of that policy letter envisaged a two-stage approach for the establishment of the office of Commissioner:
1. The Reform Law would be amended by Ordinance to formally empower a Commissioner for Standards to be established to investigate such allegations and complaints, and the constitution, powers and proceedings of the post.
  2. The role of the Commissioner would be underpinned by specific, stand-alone legislation which would include, but not be limited to the: appointment and administrative responsibilities of the Commissioner; Commissioner's powers and duties; powers to summons people to appear and to provide records; and offences for failing to appear/provide information requested; providing false information or being obstructive.
- 2.6 Paragraph 3.8 recommended that the Commissioner for Standards be appointed in line with the Ordinance, when introduced, and that stand-alone legislation be subsequently introduced, tailored to suit Guernsey's needs.

### **3 Progressing the workstream**

- 3.1 The Committee elected in October 2020 agreed that progressing the workstream to introduce a Commissioner for Standards was a high priority for this political term.
- 3.2 The Committee fully supports introducing a Commissioner for Standards to investigate alleged breaches of the Code. However, having reflected on the resolutions and considered arrangements in other jurisdictions, it proposes that Resolution 1b arising from the 2020 report should be rescinded.

#### **(a) Proposal to rescind Resolution 1b**

- 3.3 The previous Committee's report had primarily focused on Parts I to III of the Code. The Committee reconsidered resolution 1b which directed that the Commissioner for Standards should investigate allegations of abuse of privilege, replacing the Privileges Panel.

- 3.4 Under the Code, if a Member were to allege that another Member has abused privilege, the Member would request the Presiding Officer direct that the alleged abuse be referred to a Privileges Panel for consideration. Part V of the Code sets out the process of how an allegation would be considered initially by a First Instance Panel and, if a prima facie case has been made, that matter would then be referred to the Privileges Panel.
- 3.5 In Jersey, the Privileges and Procedures Committee investigate allegations of breach of privilege. In Westminster, the Committee of Privileges undertake inquiries. Commissioner for Standards in other jurisdictions do not investigate allegations of breaches of privilege. On reflection, and given the desire to align with the States of Jersey regarding the scope of the role, the Committee supports retaining the Privileges Panel to undertake any such investigation, and rescinding resolution 1b.
- 3.6 Since the introduction of the Code, there is no record of the Privileges Panel having been convened to investigate an alleged abuse of privilege. The Committee believes the topic of 'privilege' would benefit from review by the Committee, which should include consideration as to how any alleged breach should be investigated.
- 3.7 The Committee therefore proposes that the States should rescind resolution 1b and retain the Privileges Panel, as set out in Proposition 1.

**(b) Working with Jersey to appoint a Commissioner**

- 3.8 In November 2013, the States of Jersey agreed that a position of Commissioner for Standards should be established in Jersey. The [Commissioner for Standards \(Jersey\) Law, 2017](#) was adopted by Jersey in February 2017 and commenced on 24<sup>th</sup> July 2017. The appointed Commissioner for Standards began the role on 1<sup>st</sup> September 2017 for a five-year term.
- 3.9 The 2020 report from the Committee suggested that it would be appropriate to approach the Commissioner for Standards in Jersey regarding taking on the role and working with the States of Jersey regarding future appointments to the role. In late 2021, the President met with the President of the Privileges and Procedures Committee in Jersey and discussed Guernsey's plan to introduce the position and for the same person to hold the two roles in Jersey and Guernsey.
- 3.10 In February 2022, the Committee was informed that whilst the Jersey Commissioner was coming to the end of his five-year term in September, the Privileges and Procedures Committee had offered, and he had accepted, a six-month extension, until the end of February 2023. The Privileges and Procedures Committee expects its successor Committee (to be elected after the Jersey General Election in June 2022) will seek to recruit a new Commissioner, with that



recruitment exercise likely to start in September or October, with a view to the Commissioner taking up the position in March 2023.

- 3.11 The Committee has confirmed to the Privileges and Procedures Committee that it is still the intention for the Commissioner to cover both Islands. It is important to note that each Island will have its own legislation, and Codes of Conduct, and therefore there would be two separate roles to fill. In light of this, the two Islands will plan the recruitment of a Commissioner as a joint exercise in the autumn and the Committees' Officers will work together to develop the job description and other material which will be required for the recruitment campaign.
- 3.12 Given the intention for the two Islands to appoint the same Commissioner for a five-year term, it is logical for the appointment of the Commissioner in both Islands to be coterminous and for Guernsey to seek to appoint the Commissioner to begin their role on 1<sup>st</sup> March 2023.

**(c) Proposed change to the legislative approach**

- 3.13 The Committee consulted with the Law Officers of the Crown regarding the preparation of legislation to give effect to the resolutions agreed in August 2020.
- 3.14 As stated in the introduction, the original policy letter envisaged a two-stage approach to introducing legislation:
- (1) Amending the Reform Law by Ordinance to establish the position of Commissioner for Standards; and
  - (2) Stand-alone legislation being created setting out the full role and duties of the Commissioner.
- 3.15 The Reform Law sets out the constitution of the States of Deliberation and enables the States to decide its Rules of Procedure and to adopt a Code of Conduct. Article 20F, 'Code of Conduct', sets out what the Code of Conduct may make provision for. At present, Article 20F states that the Code can make provision for a Panel to be established to investigate allegations and complaints that a People's Deputy has failed to comply with the Code.
- 3.16 It is therefore necessary to amend the Reform Law to enable the establishment of an office of Commissioner for Standards instead of a Panel. When the 2020 policy letter was drafted, it was envisaged that the Reform Law would be amended to enable the establishment of such an office, and that the relevant substantive provisions in respect of the establishment of the office, the Commissioner's powers and duties, and so on, would be set out in a separate Ordinance made under those amended provisions.

- 3.17 However, further to consultation with the Law Officers of the Crown, it is recommended that rather than this two-stage process, the States amend the Reform Law by Projet de Loi both to amend the relevant provisions as required, and to insert the substantive new provisions underpinning the role of the Commissioner. The Committee considers that this approach is simpler as it will mean that the relevant provisions are all in one place (the Reform Law), which will be more convenient; and is more appropriate in light of the aim, set out above, to appoint the Commissioner to begin their role on 1<sup>st</sup> March 2023.
- 3.18 Given this proposed change of approach, and the proposal to rescind Resolution 1b, the Committee has returned to the States for approval prior to bringing forward the relevant legislation. If the States approve the propositions to this policy letter, it is intended that the Projet de Loi will be presented to the States' Meeting on Wednesday 28<sup>th</sup> September for consideration.

#### **(d) Financial implications**

- 3.19 There are no financial implications to the States of carrying the proposals into effect. As stated in the 2020 policy letter:

“Based on the experiences of the Jersey system, it is expected that the average annual cost of the Commissioner for Standards will be around £5,000 which can be absorbed within the existing budget of the Royal Court (which funds the expenditure of the States' Assembly & Constitution Committee). However, in the event of an exceptionally high number of referrals in an individual year, it may be necessary for an application to be made to the Policy & Resources Committee for one-off funding from the Budget Reserve.”

#### **4 Preparation of the legislation**

- 4.1 It is recommended that the Reform Law is amended to include provisions to enable the establishment of the office of Commissioner for Standards to investigate alleged breaches of the Code of Conduct for Members of the States of Deliberation and to make recommendations to the States' Assembly & Constitution Committee following any such investigation.
- 4.2 Given the intention to appoint the same Commissioner as Jersey, the similarity of the Codes adopted by the Islands and for ease of administration, it is proposed the legislation introduced should be similar to the [Commissioner for Standards \(Jersey\) Law, 2017](#). In addition to the matters mentioned in the summary below, the legislation will need to make such supplementary and incidental provision as is appropriate, including any amendments to other legislation. In view of the nature of the substantive provisions relating to the office of the Commissioner, it may be appropriate for those provisions to be set out in a Schedule to the Reform Law, and for provision to be made for that Schedule (or parts thereof) to

be susceptible to amendment by Ordinance (as other Schedules to the Reform Law are), to simplify the making of any future amendments.

**(a) Appointment and administration**

- 4.3 The legislation should establish the office of Commissioner for Standards and enable the Committee to appoint a person to the office of the Commissioner for Standards, further to notifying the States of its intention to make the appointment.
- 4.4 The post-holder will be disqualified from holding certain types of employment or office e.g. employment by the States or holding an office with a States body, whilst undertaking the role. Provisions will be included to enable a person to be appointed to carry out the duties of the office while the office is vacant or the holder of the office is unable to perform the functions of the office.
- 4.5 The persons appointed to the office of Commissioner shall hold the office on such terms and conditions as agreed between the person and the States' Assembly & Constitution Committee. The initial appointment will be for a fixed term of up to five years, which may be extended.
- 4.6 The legislation will make provision for the revocation of the appointment of a person to the office of Commissioner, and for the circumstances in which the office may become vacant e.g. resignation, convicted of an offence and ordered to be imprisoned etc.
- 4.7 It is intended that the Parliamentary Team will support the office of the Commissioner and the legislation must set out that the States ensures the Commissioner is provided with the resources they may reasonably require for the purpose of discharging the functions of the Commissioner.
- 4.8 As in Jersey, the legislation will provide that no civil or criminal proceedings may be instituted against the Commissioner for or in respect of any words spoken, written or published as a consequence of that person's role, and will afford appropriate legal protection to complainants and witnesses in an investigation.

**(b) Powers and duties**

- 4.9 The functions of the Commissioner will be set out in the legislation and will include:
- investigating a complaint that the Code has been breached or initiating investigations if the Commissioner believes the Code may have been breached;

- reporting to the Committee on the outcome of any investigation stating their conclusions and recommending what action, if any, should be taken; and
  - giving advice – on their own initiative or if requested by the States’ Assembly & Constitution Committee – on any matter relating to standards of conduct of States’ Members, including proposals to change the Code.
- 4.10 The legislation will set out when the Commissioner shall not accept a complaint, including any complaint made anonymously; if in the Commissioner’s opinion, it is frivolous, vexatious or unsubstantiated; or from a person who is not a member of the States regarding words spoken by, or actions of, an elected Member during a States’ Meeting.
- 4.11 The legislation will enable the Commissioner, on receipt of a complaint, to decide whether there are grounds to investigate the complaint and either undertake an investigation or notify the complainant that no such grounds exist. The Commissioner shall determine the procedure and timing of any investigation.
- 4.12 The independence of the Commissioner will be protected by the legislation which will include provision that the Commissioner may not be directed on how any function of the office of Commissioner is to be carried out, including, in particular, whether or not to undertake an investigation.
- 4.13 The legislation will make provision for how the functions of the Commissioner will be discharged. In Jersey, the Commissioner is required to make and publish a statement<sup>4</sup> of the manner in which he or she proposes to discharge their functions under the Law and any other enactment. Consideration will be given as to whether a similar provision should be included for Guernsey.
- 4.14 The Commissioner will be required to prepare an annual report in respect of the activities of the office for the previous year and provide such a copy to the Committee to be laid before the States.

### **(c) Enforcement**

- 4.15 The Commissioner should have the power under the legislation to require a person to appear before the Commissioner and/or to provide records (i.e. any written document or information). The Commissioner should have the power to require a person to answer questions and to retain or copy records produced. The retention process and period for the holding of records will be set out in the legislation.
- 4.16 The legislation will need to create appropriate offences in common with other legislation creating broadly comparable statutory offices, such as (but not limited

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<sup>4</sup> [Jersey: Commissioner for Standards’ Statement](#)

to) –

- failing to appear before the Commissioner, to answer questions or to provide information
- knowingly or recklessly providing false record or information
- hindering or obstructing a person in the exercise of a function under the legislation.

## **5 Proposed revision to the Code and other matters**

- 5.1 If the States agree the propositions to this policy letter, and the proposed legislation which will return to the States, Part II of the Code, ‘States Members’ Conduct Panel’ and Part III, ‘Procedure for Complaints relating to Part I matters’, will be replaced with appropriate revisions reflecting the move from the States Members’ Conduct Panel to the Commissioner for Standards.
- 5.2 The Committee will bring a policy letter to the States to approve the relevant changes and for those changes to take effect when the Commissioner takes up the role.

### **(a) Proposed amendment to the Code**

- 5.3 The sub-committee appointed by the Committee to undertake the review of the Code in 2019 undertook a desktop review of the Code against the benchmarks developed by the Commonwealth Parliamentary Association (‘the CPA’) entitled [‘Recommended Benchmarks for Code of Conduct applying to Members of Parliament’](#), a document which draws on good practice across the CPA and seeks to assist parliaments in the design and revision of Codes of Conduct.
- 5.4 A number of recommendations to amend the Code, arising from this desktop review, were subsequently agreed by the States in August 2020. One change included introducing the right of appeal for Members against whom a complaint had been upheld, further to consideration of the following benchmark:

#### **5.2 Appeal or review**

The Code shall make provision that a Member against whom a complaint has been upheld, has rights to appeal or review.

- 5.5 Paragraph 5.14 - 19 of the sub-committee’s report (pages 14 and 15) set out the reasoning for the proposed changes to the Code, which took into account suggestions from the then Conduct Panel.
- 5.6 The sub-committee had proposed that the right of appeal by a Member against the decision of the Investigating Panel should be introduced and that, within 10 working days of being provided with the Conduct Panel’s report, the Member

could appeal via the Presiding Officer on specific grounds. However, this suggested timeframe was erroneously not included in the proposed amendment to the Code.

- 5.7 The Committee therefore recommends, as set out in Proposition 3, that paragraph 41 of the Code is updated as follows (changes highlighted in bold) to insert this timeframe whilst the Panel continue to operate:

*The Member has a right of appeal from the Investigation Panel via the Presiding Officer based on the following grounds:*

- *that the Panel's conclusions were based on significant factual inaccuracies which, had they been known, might have led to the Panel finding differently; and/or*
- *that there had been procedural irregularities that prejudiced the Member's right to a fair hearing.*

***An appeal must be submitted within 10 working days of being provided with the Panel's report, with the reasons for the appeal being set out in writing. A new Investigation Panel will be convened of members not involved in the initial investigation to consider the appeal, review the findings and recommendations of the original Investigation Panel, in light of the information provided by the Member, and produce a final report on the matter.***

#### **(b) Sanctions and penalties**

- 5.8 In the Committee's 2020 report, the Committee proposed the following:

<b>4. Review of sanctions available</b>
(a) The States' Assembly & Constitution Committee, together with the Commissioner for Standards (if the proposal is approved), should review the sanctions available in the 2020 to 2024 term. (para 5.22)
(b) The option of remedial action e.g. by way of a formal apology, should be available as an alternative to a caution. (para 8.41)

- 5.9 The option of a remedial action, by way of a formal apology, will be inserted into the provisions of the proposed Projet de Loi as an option which can be used in the case of minor breaches. The Committee remains committed to reviewing the sanctions available in consultation with the Commissioner for Standards and intends to progress this workstream further to their appointment in 2023.

### **(c) Review of Declarations of Interest requirements**

- 5.10 In January 2022, all States' Members were informed that the Committee would be undertaking a series of reviews in 2022 looking at specific areas of the Rules of Procedure of the States of Deliberation and their Committees. The review that will be undertaken in the fourth quarter of 2022 will focus on Members' interests considering the extant resolution to consider the definition of 'direct and special interest', reviewing what information is required to be provided by Members and looking at developments in other jurisdictions.
- 5.11 The Committee intends to consult with all Members towards the end of the year and report to the States of Deliberation with any proposed changes to the Rules in the first quarter of 2023.

### **(d) Liaison with the Alderney and Sark**

- 5.12 As well as liaison with the States Greffe in Jersey detailed in section 3b of this policy letter, there has been staff-level meetings between Committee staff and those in Sark and Alderney, regarding the potential for a Commissioner for Standards who will investigate alleged breaches of the Code of Conduct in those Islands, in essence a Commissioner who will investigate alleged breaches of the Codes of Conduct in each Island. This liaison will continue in 2022.

## **6 Compliance with Rule 4**

- 6.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 6.2 In accordance with Rule 4(1):
- a) The propositions contribute to the States' objectives and policy plans by progressing Resolution 1a made by the States of Deliberation on 19<sup>th</sup> August 2020, following consideration of the policy letter entitled "Review of the Code of Conduct for Members of the States of Deliberation" (Billet d'État XVI of 2020, Article 10).
  - b) In preparing the propositions, consultation has been undertaken with the Law Officers of the Crown.
  - c) The propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
  - d) There are no financial implications to the States of carrying the proposal into effect.

6.3 In accordance with Rule 4(2):

- a) The propositions relate to the Committee's duties and powers to advise the States and to develop and implement policies in relation to "matters concerning the propriety and conduct of States' members".
- b) The propositions have the unanimous support of the Committee.

Yours faithfully

Deputy C.P. Meerveld  
President

Deputy L.C. Queripel  
Vice-President

Deputy S.P. Fairclough  
Deputy J.A.B. Gollop  
Deputy L.J. McKenna



**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**COMMISSIONER FOR STANDARDS**

The President  
Policy & Resources Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

6<sup>th</sup> May 2022

Dear Sir,

**Preferred date for consideration by the States of Deliberation**

In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the States' Assembly & Constitution Committee requests that the propositions and policy letter entitled 'Commissioner for Standards' be considered at the States' meeting to be held on 29<sup>th</sup> June 2022.

Yours faithfully

Deputy C.P. Meerveld  
President

Deputy L.C. Queripel  
Vice-President

Deputy S.P. Fairclough  
Deputy J.A.B. Gollop  
Deputy L.J. McKenna

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

**PROPOSED LEGISLATION FOR THE REGULATION OF NOTARIES PUBLIC**

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Proposed Legislation for the Regulation of Notaries Public', dated 5<sup>th</sup> May 2022, they are of the opinion:-

1. To agree to enact legislation enabling the regulation of Notaries Public in the Bailiwick by the Master of the Faculties, as set out in section 2.6 of the Policy Letter;
2. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1)(c) of the Rules of Procedure of the States of Deliberation and their Committees.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

PROPOSED LEGISLATION FOR THE REGULATION OF NOTARIES PUBLIC

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

5<sup>th</sup> May 2022

Dear Sir

**1 Executive Summary**

- 1.1 The purpose of this Policy Letter is to recommend the enactment of primary legislation which would enable the formal, detailed regulation of Notaries Public in the Bailiwick by the appropriate regulatory body. The proposed legislation would confer powers for the making of rules concerning qualification, training, professional conduct and discipline.
- 1.2 The admission and regulation of Notaries Public in the Bailiwick, as in England & Wales, is one of the functions of the Faculty Office of the Archbishop of Canterbury. The judge who presides over the Faculty Office, the Master of the Faculties (“the Master”), is the approved regulator of the profession.
- 1.3 The Policy & Resources Committee (“the Committee”) is bringing forward these proposals in response to concerns raised by the Master that the level of regulation as applies to United Kingdom notaries is not currently replicated in Guernsey. Whilst it is understood that no complaints have been received from a member of the public in relation to the conduct of a notary in the Bailiwick, the expectations of modern regulation require a more sophisticated array of regulatory powers and the ability to exercise these with legal certainty. To address this, it is necessary for the States of Guernsey to make primary legislation to empower the Master to make the appropriate regulatory rules.
- 1.4 If Guernsey falls out of step with international standards of regulation, there is a risk that documents executed in the Bailiwick might no longer be readily accepted for official use in other jurisdictions and would instead be subject to a lengthy procedure to certify their authenticity. The rationale behind the

proposals is therefore to protect Guernsey's efficacy and attractiveness as an international finance centre and as a place to do business more generally. In this respect and noting the role of the Association of Guernsey Notaries (the "Association") in the development of the solution, it is important that these proposals are not regarded as simply adding unnecessary 'red tape'.

- 1.5 The propositions relate to Priority 2 of the Government Work Plan as they seek to ensure compliance with an agreed international convention and also support the maintenance of trade in services.

## **2 Advice from Her Majesty's Procureur**

- 2.1 Her Majesty's Procureur ("HMP") has advised how these matters might be addressed, as set out below, and the Committee fully supports HMP's conclusions.

### **2.2 Background**

- 2.2.1 *A notary public ("notary") is a person authorised to perform certain formalities, including certification of deeds and other documents, the taking of affidavits and depositions and the administering of oaths.*

- 2.2.2 *Since 1533, notaries in England and Wales and in the Bailiwick of Guernsey ("the Bailiwick") have been appointed by the Master of the Faculties ("the Master"), a judicial officer of the Archbishop of Canterbury.*

- 2.2.3 *The jurisdiction of the Master to appoint notaries originally derived from the Ecclesiastical Licences Act 1533<sup>1</sup>; and section 4 of the Public Notaries Act 1843<sup>2</sup> empowered the Master to make rules for the admission and regulation of notaries. In England and Wales, the Master's statutory power to make rules for the regulation of the profession has been confirmed by the Courts and Legal Services Act 1990<sup>3</sup> and the Legal Services Act 2007<sup>4</sup> but notaries in the Bailiwick are still subject only to the limited provision in the 1533 and 1843 Acts.*

- 2.2.4 *In order to become qualified as a notary in the Bailiwick, an individual must have practised as an advocate in the Bailiwick for 5 years and passed an examination set by the Association of Guernsey Notaries ("the Association") with the concurrence of the Master. It is therefore the case that notaries in the Bailiwick are regulated by the Guernsey Bar in their capacity as advocates but not in their capacity as notaries.*

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<sup>1</sup> 1533 c 21

<sup>2</sup> 1843 c 90

<sup>3</sup> 1990 c 41

<sup>4</sup> 2007 c 29

## **2.3 Historical regulation of notaries in Guernsey**

2.3.1 *Historically, notaries in the Bailiwick have been regulated by the Master's inherent jurisdiction to the extent that should there be any complaints in respect of a notary's conduct the Master could revoke their faculty. Further, any complaints of the public could be made to the Association. However, the Association has no authority to discipline notaries or even to investigate any issues of conduct complained of by a client.*

2.3.2 *To date, it is understood, there have been no complaints made by members of the public to the Association or the Master in respect of work carried out by a Guernsey notary. However, clear statute-based regulation by the Master comparable to the rules made under the Courts and Legal Services Act 1990 for England and Wales would ensure that the public is protected against the risk of any dishonesty, negligence or deliberate misfeasance by a local notary.*

## **2.4 International recognition of Guernsey notarial acts**

2.4.1 *In order for notarial acts to be recognised internationally, they must be "legalised", previously a lengthy procedure involving certification by a government official of the country in which the document originated and transmission to the consular officer of the country of destination. However, a significant number of countries have contracted to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents ("the Convention"). The Convention essentially simplified the legalisation process by introducing apostilles which are recognised in the other contracting states.*

2.4.2 *The chain of authority in the Bailiwick for apostilles is as follows:*

- i. Article 6 of the Convention provides that "each Contracting State shall designate by reference to their official function, the authorities who are competent to issue the certificate referred to in the first paragraph of Article 3".*
- ii. Article 13 enables any member State to extend the Convention to any of the territories for the international relations of which it is responsible.*
- iii. The Convention was ratified by the United Kingdom on 21<sup>st</sup> August, 1964 and entered into force on 24 January, 1965. The Convention was extended to the Channel Islands at the same time. The Convention was subsequently registered in Guernsey on the 1<sup>st</sup> June, 1965.*
- iv. Authority was transferred from the UK Government to the Lieutenant-Governor and Government House has subsequently delegated responsibility for undertaking the legalisation process to HM Greffier.*

- v. *The Hague Convention website lists the Greffe as the current Designated Competent Authority for the Bailiwick under Article 6.*

## **2.5 Need for official regulation by the Master**

- 2.5.1 *There is a risk that the UK Government could withdraw the Article 13 extension from Guernsey, should the same level of regulation as applies to United Kingdom notaries not be replicated in Guernsey. A further risk is that another Member State might, despite the clear extension of the Convention to the Bailiwick and the designation of the Greffe as the Authority for these purposes, decide not to recognise our apostilles due to the lack of clear regulation and oversight by the Master.*
- 2.5.2 *Should the extension of the Convention to Guernsey be withdrawn, or should a Member State decide not to recognise Guernsey apostilles, there would be a serious detrimental effect on Guernsey as a financial centre. In the absence of a simple and efficient procedure for certifying the authenticity of notarial seals and signatures, documents executed in the Bailiwick will not readily be accepted for official use in other countries.*
- 2.5.3 *Aside from the Convention, the expectations of modern regulation now require that the Master have a more sophisticated array of powers and that they are exercised with legal certainty. If a breach were to occur, for example in the field of anti-money laundering, and the Master were not to have a modern regulatory “toolkit” for investigating, monitoring and intervening, the regulation of notaries on Guernsey could fall into disrepute.*

## **2.6 Future regulation of notaries in Guernsey**

- 2.6.1 *It is recommended, for the reasons given, that notaries in the Bailiwick should have formal, detailed regulation, as in England and Wales, including rules governing professional conduct, qualification, training and discipline.*
- 2.6.2 *On 1<sup>st</sup> March 2018 the former Master of Faculties, Charles George, issued the following interim rules to have effect in the Bailiwick:*
  - i. *The Notaries (Guernsey) Interim Qualification and Admission Rules 2018;*
  - ii. *Notaries (Guernsey) Interim Contingency Fund Rules 2018;*
  - iii. *Notaries (Guernsey) Interim Conduct and Discipline Rules 2018; and*
  - iv. *Notaries (Guernsey) Interim Practice Rules 2018.*
- 2.6.3 *The Interim Rules, which were made under the Master's inherent authority and the 1843 Act, were due to cease to have effect on 31<sup>st</sup> December 2020; however, the current Master, Morag Ellis QC, has extended the period of*

*validity of the Interim Rules pending the enactment of permanent provision as proposed in this letter.*

*2.6.4 In order for similar rules to be re-enacted in permanent form it is necessary for the States of Guernsey to approve primary legislation to empower the Master to make rules regulating the training, qualification and professional conduct of notaries in the Bailiwick.*

*2.6.5 The Law would expressly authorise the Master to make rules concerning training and qualification, regulating the practice, conduct and discipline of notaries, for the keeping of records and the proper handling of client monies and other matters. It would also give the Master (among other things) an express power to suspend, to fine and to recover the costs of investigations. It would apply to all notaries in the Bailiwick whether appointed before or after the commencement of the Law. Rules made under this power would be made after consultation with the Association.*

*2.6.6 The proposals are supported by the Association.*

### **3 Consultation**

3.1 The Policy & Resources Committee, as the senior committee which has historically had policy responsibility for the regulation of advocates and the Guernsey Bar<sup>5</sup>, has sponsored these policy proposals. However, because this matter is especially relevant to the efficient functioning of the financial, legal and professional services sectors, and having regard to the mandate of the Committee *for* Economic Development, which includes advising the States on matters including regulation in the economy and the reputation of the Island as a centre for commerce, the views of that committee were sought. The Committee *for* Economic Development has confirmed its support for the proposals.

3.2 Further, as the proposed primary legislation would be Bailiwick-wide, the Policy & Finance committees in Sark and Alderney have also been consulted. Both committees were content with the proposals.

3.3 The proposals set out in the advice from HMP reflect significant consultation undertaken by the Law Officers of the Crown with the Association and, through it, the Faculty Office. During an extended period of consultation in quarter 4 2021, the Association sought clarification from the Faculty Office on a number of matters. The proposals were subsequently endorsed by the Association at its Annual General Meeting in January 2022 and the Association has requested

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<sup>5</sup> [Billet d'Etat No. XIX of 2007](#)

continued involvement during the drafting of the legislation. As set out in paragraph 2.6.5, rules made by the Master under the powers conferred would be made after consultation with the Association.

#### **4 Compliance with Rule 4**

4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

4.2 In accordance with Rule 4(1):

- a) The propositions contribute to the States' objectives and policy plans by ensuring compliance with international standards and supporting the maintenance of trade in services, which are two established workstreams under Priority 2 of the Government Work Plan.
- b) In preparing the propositions, consultation has been undertaken with the Committee *for* Economic Development and with the Policy & Finance committees in Sark and Alderney.
- c) The propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- d) There are no financial implications to the States of carrying the proposal into effect.

4.3 In accordance with Rule 4(2):

- a) The propositions relate to the Committee's duties and powers to advise the States and to develop and implement policies and programmes relating to the execution of international agreements to which the Island is invited to acquiesce.
- b) The propositions have the unanimous support of the Committee.

Yours faithfully

P T R Ferbrache  
President

H J Soulsby  
Vice President



M A J Helyar  
J P Le Tocq  
D J Mahoney



Scrutiny Management  
Committee

# Scrutiny Management Committee



2021

Annual Report

States of Guernsey

Scrutiny Management Committee

[www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

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## **1. Introduction**

This Annual Report outlines the work of the Scrutiny Management Committee from the election of the new Committee in October 2020, through to the end of 2021. The report also provides the Committee with an opportunity to comment on the overarching parliamentary scrutiny framework in place during this period.

Good parliamentary scrutiny improves the effectiveness of government. A specialist Scrutiny committee can focus in detail on a specific issue and maintain a persistent line of questioning on a given topic. The Scrutiny Management Committee provides structured and co-ordinated scrutiny of policy and services, financial affairs and legislation.

A key focus of the Committee during this term is to conduct as much of its business as practicable in the public domain and hence the Committee has looked to step up the number of public hearings it holds.

This Assembly has a significant number of Members who are new to elected office and to the role and function of Scrutiny within our unique consensus system of government. Therefore, one of the key starting points for this Scrutiny Management Committee has been to explain the role and purpose of the Committee and, perhaps equally importantly, what the Committee does not do. Ensuring a wider understanding of the purpose of parliamentary scrutiny within our unique consensus system is vital if government is to be effectively held to account. To this end in this new political term, the Scrutiny Management Committee has taken steps to include a significantly larger number of elected Members within the scrutiny process than previously, by using a wider selection of eligible Members of the Assembly to sit on its scrutiny panels. Financial scrutiny is undertaken by the Committee's Financial Scrutiny Panel (FSP). The Committee believes that scrutiny of government finances is a political task and duty; one that is highly valued and seen as an essential function of effective government across the world.

In addition, the Scrutiny Management Committee oversees the work of its Legislation Review Panel (LRP). The role of the LRP is to ensure that drafted legislation accords with the Resolutions agreed by the States Assembly. The LRP has raised many issues with various Committees regarding drafted legislation.

## **2. The role of the Scrutiny Management Committee**

The role of the Scrutiny Management Committee is to ensure all Committees are meeting the policy and financial objectives outlined by the States of Guernsey and that they are delivering their services effectively and efficiently.

This role is in addition and complementary to the collective parliamentary scrutiny process that is fulfilled by individual Members of the States Assembly. Scrutiny in Guernsey can only function effectively in its current form with the full cooperation of States' Members and the public sector. This requires recognition that the work of scrutinising policy, services, financial matters and draft legislation, is a vital function in our system of government.

The Scrutiny Management Committee's mandate also makes it clear that it is not intended to act as an Opposition would under an executive system of government. Nor should the Committee react to every single development or issue within the Government, or in Island life.

### **3. Membership**

The Scrutiny Management Committee Membership consists of a President, a Vice-President and one other States Member. There are also two Non-States Members whose appointment is recommended by the political members of the Committee and ratified by the States Assembly. The Non-States Members have voting rights on the Committee.

#### **Current Scrutiny Management Committee Members**

Deputy Yvonne Burford – President

Deputy Simon Fairclough – Vice-President

Deputy John Dyke – Member

Mr John Whittle – Non-States Member

Ms Grace Ruddy – Non-States Member

### **4. Work undertaken by the Scrutiny Management Committee in the report period**

In January 2021 the Scrutiny Management Committee undertook to complete the work started by the previous Committee regarding the suitability of the existing Code of Practice on Access to Public Information. The previous Committee had completed a comprehensive review of the Code and made several recommendations in its report which was released towards the end of the last political term. Following detailed consideration of the Review Report, in June 2021 the current Committee presented a policy letter to the States Assembly in order that the work of the previous Committee was not abandoned, in order to allow the newly elected Assembly to provide direction regarding some of the key recommendations contained in the report<sup>1</sup>.

States Members voted to update the existing Code in support of the majority recommendation of the Committee. The changes included the addition of an independent appeals mechanism<sup>2</sup> and renaming the Code, the 'Freedom of Information Code', in order to improve public understanding of its purpose.

The work to establish the new Freedom of Information Appeals Panel was completed by the end of 2021 in line with the Resolution deadline. The Appeals Panel is an independent sub-committee of the Scrutiny Management Committee with Secretariat support provided by its Office. It comprises five suitably qualified and knowledgeable persons, whose task is to adjudicate on appeals against a refusal to release requested information in accordance with one or more exemptions contained in the Code. Should an appeal be upheld by the Appeals Panel, the relevant Committee or Body will be requested to release the information.

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<sup>1</sup> [Billet d'Etat XIII Volume 3 - SMC Policy Letter - Freedom of Information - June 21](#)

<sup>2</sup> [Billet d'Etat No XIII - Resolutions](#)

The Appeals Panel provides an independent appeal process which is accessible to all and offers a fair and transparent determination of an appeal. It is important to note that the Appeals Panel does not possess the legal powers required to challenge a refusal to comply with its decision. Under this system, should the relevant Committee or Body fail to comply with the direction of the Appeals Panel, it would in effect be exercising a veto. The Scrutiny Management Committee will carefully monitor the number of such vetoes, if any.

## **5. Public Hearings**

In 2021, the Scrutiny Management Committee conducted public hearings with the Policy & Resources Committee and three of the Principal Committees. The Committee intends to increase the number of hearings held in 2022.

Public hearings are an important tool in ensuring effective Parliamentary scrutiny takes place and has significant advantages over States' debates and parliamentary questions posed in States' meetings. Questioning is of a type which allows a specific line of inquiry to be pursued for longer and in greater detail; both politicians and senior officers can be questioned; and there can be an inquisitorial approach to Committee Presidents with a level of challenge that is neither discourteous nor timid allowing additional information to be extracted about States' affairs than was known previously in the public domain.

In this political term the Scrutiny Management Committee has introduced several developments regarding the use of public hearings. Specifically, the Committee has looked to include a wider number of elected Members within the scrutiny process by using eligible Members of the Assembly in addition to Members of the Scrutiny Management Committee to sit on its scrutiny panels. The Committee believes that it is important that a wide range of elected Members can play a fuller role in formal parliamentary scrutiny. Members of the community have also been invited to sit on these panels. These actions help fulfil the Committee's mandated responsibility *"to promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States"*.

In January 2022 the Committee livestreamed two public hearings on YouTube. Initially this step was taken due to the impact of COVID-19 pandemic limitations on public attendance, however having considered feedback received, the Committee is committed to continuing with this approach wherever possible to make the hearings more accessible, to increase public and political awareness of key policy areas and to add to the level of transparency of government.

## **6. Government Work Plan Scrutiny Panel**

Following on from the States Assembly's decision in July to delegate financial authority for the entire Capital Portfolio workstream for this political term to the Policy & Resources Committee - a delegated authority in excess of half a billion pounds - the Scrutiny Management Committee decided that an additional Scrutiny response was needed. Therefore, a dedicated panel has been created in order to specifically scrutinise this change. The Government Work Plan Scrutiny Panel intends to hold between three and four public hearings a year with the Policy & Resources Committee on this crucial matter as well as seeking information by other methods.

## **7. Financial Scrutiny**

The Committee has formed a permanent Financial Scrutiny Panel which meets on a regular basis with additional financial input from Mrs Gill Morris. The Panel's role includes reviewing the annual Accounts and Budget of the States of Guernsey to determine any areas requiring further investigation. It also includes monitoring progress made by previous Public Accounts Committee, Scrutiny Committee and Scrutiny Management Committee investigations and recommendations to ensure that such recommendations have been properly considered. The Panel also reviews the significant number of reports produced by the Internal Audit service and seeks to identify, via this process, areas that may require additional scrutiny. This work by its very nature tends to be done outside of the public gaze but forms a vital element of ongoing financial scrutiny.

In any complex public service organisation, financial scrutiny is an essential part of the assurance process and should occur across the organisation as a fundamental task. There should be specific resources dedicated to the task of ensuring that taxes levied on the population and on local business is spent wisely and provides value for money in the delivery of essential services.

It is important that the States of Guernsey acknowledges and supports the legitimacy and independence of this role as an important contribution to overall financial management and assurance and a key part of the demonstrable accountability of public services to the general public.

At present, overall financial scrutiny in Guernsey is limited in comparison with similar jurisdictions and it is clear that the current approach applies less challenge and oversight than was applied under Guernsey's pre 2016 structure of government or in comparative jurisdictions. As an example, in Jersey the Comptroller and Auditor General provides their States with independent assurance that their public finances are being regulated, controlled, supervised and accounted for in accordance with the Law. No equivalent role exists within the Guernsey system.

The Scrutiny Management Committee considers, through its experience gained to date, that opportunities exist to strengthen financial scrutiny and it understands that this will be considered as part of the Reshaping Government priority in the Government Work Plan.

## **8. Legislative Scrutiny**

The Legislative Review Panel (LRP) has continued to review, approve and direct that legislation is transmitted to the States for consideration as appropriate. The Panel has reviewed forty-one pieces of legislation which are detailed in appendix 2.

The role of the LRP is to ensure that drafted legislation is in accordance with Resolutions agreed by the States Assembly. The Panel has raised several issues with various Committees regarding drafted legislation, in particular the Charities etc. (Guernsey and Alderney) Ordinance, 2020 and the Abortion (Guernsey) (Amendment) Law, 2021. Unlike other jurisdictions such as Jersey, the Isle of Man or in Westminster where the process for scrutinising proposed legislation is completed in several stages, the LRP is the only body checking proposed legislation before being presented in the States Assembly for approval, therefore, it plays a vital and important role.

## **Legislation Review Panel Membership**

Deputy John Dyke (Chair)

Deputy Simon Fairclough (Vice-Chair)

Deputy David De Lisle

Deputy John Gollop

Deputy Aidan Matthews

Non-States Member - Advocate Simon Howitt

Non-States Member - Advocate William Simpson

## **9. Public Engagement**

### **Public Hearings held during 2021**

April	The Policy & Resources Committee – Government Work Plan
June	Committee <i>for</i> Home Affairs – Government Work Plan
October	Committee <i>for</i> Health & Social Care – Government Work Plan
November	Committee <i>for</i> Economic Development – Government Work Plan

## **10. Member & Staff Personal Development**

Due to the constraints placed on all islanders due to the COVID-19 pandemic Members and Staff have been unable to travel off-island to attend meetings or conferences. However, a number of meetings and several learning activities with similar oversight function within other domains have taken place via Microsoft Teams which has proved invaluable during the lockdown periods and the restrictions regarding off-island travel.

## **11. Conclusion**

Inevitably, and especially when there is a significant turnover of States Deputies at an election, it takes time for a newly formed States Committee to get up to speed. The Scrutiny Management Committee has a broad programme of work scheduled for 2022, and together with its regular public hearings, this will see the pace of work accelerate. This will feature ongoing scrutiny of the significantly enhanced role and responsibility granted to the Policy & Resources Committee by the States Assembly in this political term.

The Scrutiny Management Committee will also engage with the Policy & Resources Committee and its subgroup in respect of the Reshaping of Government priority, in order to inform actions relating to the overall parliamentary scrutiny function.



## **Appendix 1 - Legislation Reviewed in 2021**

The Legislation Review Panel (Legislation Review Panel) has reviewed, approved and directed the following legislation be transmitted to the States for consideration. The Panel also reviewed emergency legislation to be transmitted to the Policy & Resources Committee for enactment under provisions of Article 66A (1) of the Reform (Guernsey) Law, 1948.

### **January**

1. Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance, 2021
2. Social Insurance (States Pension) (Amendment) (Guernsey) Ordinance, 2021
3. Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021

### **February**

1. Income Tax (Charitable Donations) (Guernsey) (Amendment) Ordinance, 2021
2. Copyright (Bailiwick of Guernsey) (Amendment) Ordinance, 2021
3. Land Planning and Development (Visitor Accommodation) (Amendment etc.) Ordinance, 2021
4. Charities etc. (Guernsey and Alderney) Ordinance, 2020

### **March**

1. Land Planning and Development (Emergency Procedures) Ordinance, 2021 - to follow
2. Ordinance to be made by the Policy & Resources Committee
3. Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021
4. Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021
5. Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021
6. Ordinance to be made by the Policy & Resources Committee
7. Gambling (Channel Island Lottery) (Bailiwick of Guernsey) (Amendment) Ordinance, 2021

### **April**

1. Income Tax (Guernsey) (Amendment) Ordinance, 2021
2. Long-term Care Insurance (Guernsey) (Rates) (Amendment) Ordinance, 2021
3. Public Functions (Transfer and Performance) (Bailiwick of Guernsey) (Amendment) Law, 2021

### **May**

1. Income Tax (Guernsey) (Amendment) Ordinance, 2021

2. Health and Safety at Work (Equality Provisions) Ordinance 2021
3. Public Thoroughfares (Guernsey) (Amendment) Law, 2021
4. Abortion (Guernsey) (Amendment) Law, 2021
5. Machinery of Government (Transfer of Functions) Ordinance, 2021

## **June**

1. Court of Appeal (Guernsey) (Amendment) Law, 2021
2. Insurance Business (Bailiwick of Guernsey) (Amendment) Ordinance, 2021
3. Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) (Amendment) Ordinance, 2021
4. Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) (Commencement) Ordinance, 2021
5. Protection of Investors (Bailiwick of Guernsey) (Commencement) Ordinance, 2021
6. Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) (Commencement) Ordinance, 2021
7. Banking Supervision (Bailiwick of Guernsey) (Commencement) Ordinance, 2021

## **August**

1. Housing (Standards and Regulation) (Enabling Provisions) (Guernsey) Law, 2021
2. Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law (Amendment) Ordinance, 2021

## **September**

1. Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2021
2. Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2021

## **November**

1. Guernsey Revenue Service Tribunal Ordinance, 2021
2. Health Service Benefit (Amendment and Commencement) Ordinance, 2021
3. Severe Disability Benefit and Carer's Allowance (No. 2) Ordinance, 2021
4. Income Support (Implementation) (Amendment) (No. 3) Ordinance, 2021
5. Family Allowances (Guernsey) (Amendment etc.) Ordinance, 2021
6. Pilotage (Amendment) Ordinance, 2022
7. Land Planning and Development (Visitor Accommodation) (Amendment) Ordinance, 2022

8. Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022

## **Appendix 2 - Scrutiny Management Committee Mandate**

Constituted as a committee of the States with effect from the 1st of May 2016 by resolutions of the States of the 9th of July, 2015 and the 27th of November, 2015.

- **Constitution**

A President who shall be a member of the States: provided that the President of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of any of the six Principal Committees; and two members who shall be members of the States: provided that a member of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of more than one of the six Principal Committees; and two voting members who shall not be members of the States and who shall be elected by the States.

- **Duties & Powers**

To lead and co-ordinate the scrutiny of committees of the States and those organisations which are in receipt of public funds, or which have been established by legislation, by reviewing and examining legislation, policies, services and the use of monies and other resources.

As far as is reasonably practicable, to appoint scrutiny panels (whether task and finish or standing panels) to carry out the work of reviewing and scrutinising committees' policies and services and their management of monies and other resources entrusted to them: provided that neither the President nor the members of the Policy & Resources Committee shall serve on such scrutiny panels and also provided that the Committee retains the power, if it so wishes, to carry out any review itself rather than through an appointed panel and also provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Committee and any panels it has appointed, including the content of any report issued under its name.

To appoint a Legislation Review Panel to carry out the functions of legislative scrutiny in Article 66 of the Reform Law and also to recommend any changes to legislation from which it believes the Island may benefit: provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Legislation Review Panel; and to constitute the Legislation Review Panel as follows: a President who shall be a member of the Scrutiny Management Committee and also a member of the States, a minimum of four other States' members, a minimum of two non-voting members who shall not be members of the States, and any number of additional and occasional non-voting members as the Scrutiny Management Committee sees fit for the purposes of review of any item of legislation or any other matter: provided that such additional and occasional non-voting members may or may not be members of the States and also provided that neither the President nor the members of the Policy & Resources Committee shall serve on the Legislation Review Panel.

To scrutinise any matter contained in a policy letter which has been referred to the Committee by resolution of the States in accordance with any terms set out in the resolution and to submit to the

States its findings thereon within a period of time set out in the resolution, which findings, together with the original matter, shall be laid before the States.

To promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States.

When determining the subject of its reviews and examinations, to pay particular attention to the performance of committees in contributing to States' objectives and policy plans and to matters which are of substantial importance or of significant public interest.

To recognise that the carrying out of scrutiny in public where possible is likely to contribute positively to public perceptions of scrutiny.

To submit a report to the States annually which reviews the work of the Committee and its panels over the previous 12 months, and which sets out the Committee's objectives and, to the extent that it is possible while retaining a flexible and responsive approach to scrutiny, an indicative programme of work over the next 12 months.

To represent the work of scrutiny in the States, and publicly to promote and champion the value of scrutiny.

To advise the States if and when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Scrutiny Management Committee and which conferred functions on the former Legislation Select Committee, Public Accounts Committee and Scrutiny Committee.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the State.

# ANNUAL REPORT 2021



Channel Islands  
**Financial  
Ombudsman**

Fairness of outcome and  
fairness of process...

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SUBMISSION LETTER  
**CHANNEL ISLANDS  
FINANCIAL OMBUDSMAN**

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President  
Committee for Economic Development  
States of Guernsey  
Market Building  
P O Box 451  
Fountain Street  
St Peter Port  
Guernsey  
GY1 3GX

Senator Lyndon Farnham  
Deputy Chief Minister and  
Minister for Economic Development, Tourism Sport & Culture  
Government of Jersey  
19-21 Broad Street  
St Helier  
Jersey  
JE2 3RR

Dear Minister and President

As you know, the Channel Islands Financial Ombudsman is the joint operation of the Office of the Financial Services Ombudsman established by law in the Bailiwick of Guernsey and the Office of the Financial Services Ombudsman established by law in Jersey.

On behalf of the directors, I am pleased to submit the report and accounts for 2021. These take the form of a shared report accompanied by shared accounts in accordance with the memorandum of understanding between you.

The report and accounts are submitted under section 1(c) of Schedule 2 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and article 1(c) of Schedule 2 of the Financial Services Ombudsman (Jersey) Law 2014.

Yours sincerely




David Thomas  
Chairman



## HEADLINES

# CHANNEL ISLANDS FINANCIAL OMBUDSMAN

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-  Completed sixth full year of operation
-  In 2021, 415 complaints were received, up 1% from 409 the previous year
-  46% of complaints received were outside of CIFO's statutory mandate, up from 38% in the previous year
-  A notable number of enquiries and complaints related to home emergency insurance claims, for example boiler repair insurance
-  A notable number of complaints related to payment fraud
-  269 case files were opened, an increase of 20% from the previous year
-  360 case files were resolved, over double the amount from the previous year
-  77% of case files (277) were successfully resolved through informal mediation rather than a formal binding Ombudsman decision, up from 74% (124) in the previous year
-  45% of case files were resolved in favour of complainants, down from 57% in the previous year
-  CIFO awarded a total of £701,610 compensation in 2021, with an average of £4,585 compensation per case that warranted a monetary award
-  CIFO performed an extensive open recruitment process for the appointment of two new directors who joined CIFO's board in early 2022
-  In 2021, CIFO agreed three additional 'Memoranda of Understanding' with other relevant agencies (data protection and deposit compensation) to help ensure that we work effectively and collaboratively in the performance of our respective mandates

## MESSAGE FROM THE CHAIRMAN

David Thomas



The Channel Islands Financial Ombudsman (CIFO) is the joint operation of the independent financial ombudsman bodies established by law in Jersey and the Bailiwick of Guernsey. This is CIFO's report for the calendar year 2021.

The board of directors provides oversight and protects CIFO's independence. Through its ombudsmen and staff, CIFO resolves complaints against financial service providers (FSPs) – informally, fairly, and impartially. This helps to underpin public confidence, locally and internationally, in financial services provided in and from the Channel Islands.

CIFO also publishes regular data and impartial information on issues highlighted by cases it has handled. This is intended to help prevent potential causes of future complaints, by informing public and regulatory policy and by encouraging continuous improvement in the sector.

The challenges of the Covid pandemic, including periodic restrictions on staff coming into the office, continued to affect us through 2021. But CIFO once again demonstrated the resilience it had shown in 2020 and improved its efficiency.

Staff continued to effectively serve the parties to complaints and resolve cases. The board continued to effectively conduct its responsibilities for governance and oversight. Active engagement with CIFO's stakeholders – whose support we gratefully acknowledge – continued, virtually and in-person.

Efficiency was demonstrated by CIFO resolving more than double the number of cases compared to the previous year. As a result, the team reduced to a minimum the number of cases awaiting attention that had built up in preceding years as we sought the right balance of resourcing to meet proven workload.

The founding board of CIFO had four members. John Curran's term of office ended in January 2022. CIFO benefitted greatly from his practical experience of, and commitment to, pan-island cooperation. My own term of office, and those of Debbie Guillou and John Mills, will come to an end in January 2023.

This is the last CIFO annual report that I will introduce, so a brief reflection may be appropriate. International good practice demonstrates that an effective financial ombudsman scheme depends on six key principles:

- Independence: visibly objective, impartial, and unbiased
- Effectiveness: consistent redress in all appropriate sectors of financial services
- Accessibility: well-known, easy to use and free for consumers
- Fairness: processes and decisions visibly fair and equitable
- Efficiency: good quality of service and value for money
- Openness: clear, and open to scrutiny, about its work and the lessons that can be drawn from it

The 2014 legislation in Jersey and Guernsey, under which CIFO was established, successfully built on lessons from independent financial ombudsman schemes elsewhere. But CIFO faces the unique complexities of covering two separate jurisdictions and in receiving more than half its complaints from international customers.

Setting up CIFO from scratch in 2015, an early task was to recruit the Principal Ombudsman. We were fortunate to attract Douglas Melville from Canada, already an experienced ombudsman and then chairman of the International Network of Financial Ombudsmen.

We welcome the support that we have received from both governments and stakeholders, who recognise the value of effective and accessible dispute resolution and actively support CIFO in the performance of its role. Since CIFO opened for business in November 2015 it has become a mature institution that is respected, both in the Channel Islands and internationally.

None of this could have been achieved without the hard work, wisdom and energy of my current and past board colleagues, the Principal Ombudsman and all of CIFO's staff. I am deeply grateful to them for all they have achieved. The Principal Ombudsman and his team have consistently responded to challenges, embraced change, and effectively performed their roles whatever the difficulties.

From January 2022, we welcomed two new directors: Antony Townsend and Robert Girard. Both of them have already demonstrated their value to the organisation. Two more new directors will be appointed during 2022, to serve from January 2023 – and one of the directors will be appointed as chair to succeed me.

As the founding directors pass the baton to a new board, we are confident that they will find ways to improve upon what has been built to date – in order to effectively meet the ever-changing needs of the dynamic financial sector in the Channel Islands and its customers. We wish them, the Principal Ombudsman and all the team every success.

## MESSAGE FROM THE PRINCIPAL OMBUDSMAN & CHIEF EXECUTIVE

*Douglas Melville*




In our 2020 Annual Report last year, CIFO included a five-year retrospective on the period since CIFO commenced operation in 2015. There was much to share about our first five years. We highlighted the effort of CIFO's staff, management, and board of directors, as well as all of our stakeholders, to lay the foundation for a sustainable financial dispute resolution service in the Channel Islands. What was also clear from that retrospective is that there is no final destination for this journey we embarked on in 2015. Just as the financial sector in the Channel Islands and the global economy are dynamic, so must our mandate and office be to respond to unforeseeable challenges like surges in complaint volumes, market turmoil, and global pandemics that restrict how we work. If there is a word I have heard used more often since the onset of the Covid pandemic than any time before, it is resilience. As we look back on our second consecutive year of operation under the shadow of a global health emergency, resilience has taken on a more tangible meaning for our team.

Perhaps counterintuitively, CIFO had its most productive year to-date in 2021, coinciding with CIFO's busiest quarter ever for receipt of new in-mandate complaints (Q4 2021). Despite the continued operational challenges of alternating between home and office-based work in line with local government recommendations, CIFO resolved

over twice as many case files in 2021 as in 2020. This has resulted in reducing to a minimum the number of cases awaiting attention that had accumulated over the years since CIFO's creation when gradual increases in case handling capacity chased complaint volumes referred to our office.

I attribute this welcome result in 2021 to several factors. One key factor was the willingness of financial service providers in the Channel Islands, and their customers, to work with our team at the early mediation stage to reach agreement on what would be a fair and reasonable resolution of each complaint. Having a high proportion of case files resolve through early mediation is far more efficient and generally enables faster resolution for the parties, avoiding the need for our team to prepare detailed written provisional and/or final Ombudsman decisions. The second key factor was the appointment of several highly experienced part-time ombudsman professionals by CIFO's board of directors to wield the statutory decision-making authority under our laws in Guernsey and Jersey. Their collective skills, sector knowledge, and decades of financial dispute resolution experience with the UK Financial Ombudsman Service (UK FOS) and predecessor financial sub-sector ombudsman schemes in the UK has been transformational for CIFO, adding significant flexible capacity to meet our needs. I am mindful that the pilot project to engage such experienced contractors arose from our 2019 consultations with industry stakeholders on ideas to address the high volume of complaints referred to CIFO, particularly from the banking sector. Both of these factors illustrate the resilience referred to above. Such willingness to adapt and consider new ideas and approaches to meet the shared challenge is a hallmark of a learning organisation that is willing to confront challenges, embrace change, adapt as necessary, and yes, learn continuously.

Having demonstrated our ability to respond to such challenges, we look forward to focusing on refining our workflow and tightly managing the time taken at each stage to drive down the time it takes to achieve resolution for complaints referred to our office. This will test our core team in Jersey, including the new additions to our team that will join us in 2022, as well



as our part-time ombudsmen. It will also require the cooperation of industry stakeholders to provide CIFO with timely responses to our requests for their files and to queries that arise during our investigation of complaints. Improving the timeliness of the overall complaint handling process will benefit everyone as it is always easier to resolve a dispute when the information is easily accessible, and the personal recollections are fresh.

Our complaint handling work will doubtless be affected by the introduction of pensions regulation in Jersey in 2022. Through a mix of engagement with trust and pension experts, staff seminars, and formal legal training, CIFO has been actively developing its level of expertise in pension complaint issues to effectively resolve not only the pension complaints already within CIFO's mandate, but also those complaints likely to be added to our mandate from 2022 onward about occupational pension plans and the island's large public sector pension plans. Again, our office will adapt and learn.

Our work to leverage technology to continue to engage effectively with all our stakeholders kept us in touch when in-person meetings were not permitted. Even when in-person meetings became possible again, virtual meetings were still preferred in some cases given public health and cost considerations. The success of our second consecutive virtual annual stakeholder meeting in July 2021, which blended video presentations from CIFO's board and management with a live question and answer session, was a welcome surprise. We reached many more stakeholders than our previous in-person meetings in Guernsey and Jersey could have reasonably hoped to achieve. Our first major refresh of our website since inception in 2015 was also done in recognition that accessibility, transparency and effective communication through remote means had taken on increasing importance.

One of the other important tasks CIFO undertook in 2021 was to run the search process to identify new directors for CIFO's board (the combined governance bodies of the Office of the Financial Services Ombudsman (Jersey) and the Office of the Financial Services Ombudsman (Guernsey)), which we refer to as the two OFSOs.

One of CIFO's four founding directors, John Curran, reached the end of his term in January 2022. The others, including our founding chair, will reach the end of their terms in January 2023. A broad search attracted a large number of interested applicants from across the Channel Islands, the UK, Ireland and beyond. Two appointments have already been made with two more expected before the end of 2022.

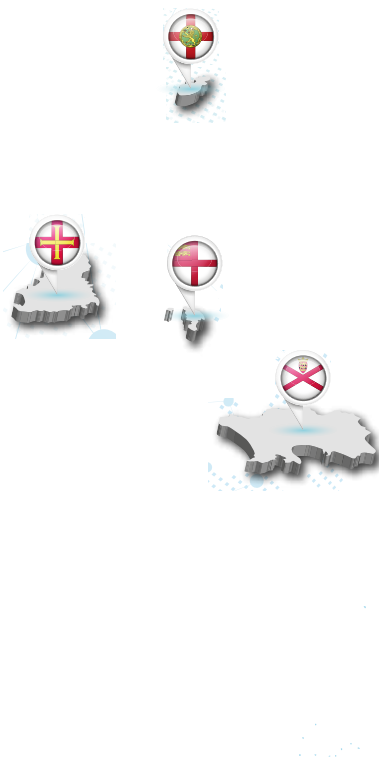
CIFO staff and management join the board of directors in thanking John Curran for his thoughtful guidance and support as one of CIFO's founding directors. His previous experience with pan-island entities gave him a particularly insightful perspective on CIFO's unique role and challenges. His support of this office and its people during CIFO's establishment and the first six years of its operation were greatly appreciated. We wish him well.

As for most workplaces, it has not been an easy past two years for our team. It is good to be back in our office working together, supporting each other, and sharing the perspectives that help us calibrate our views on fair outcomes for the difficult situations that come to us for resolution. I thank them all for their contributions. I am immensely proud of our team's performance in 2021, our demonstrated resilience and ability to stay focused on the important public interest mandate we perform each day for the collective benefit of financial consumers, the financial sector, and the reputations of the international financial centres of Jersey and the Bailiwick of Guernsey.

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## YEAR IN REVIEW 2021

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### BUSINESS OPERATIONS

#### *Covid impact persisted*

In some ways, 2021 looked and felt much like 2020 to our team and the various stakeholders we work with on a daily basis as the Covid pandemic continued. The sustained government-imposed restrictions and resulting economic impacts remained familiar factors to contend with in 2021. However, many of the markets served from the international financial centres in the Channel Islands had already acclimatised to the challenges of operating in new ways leveraging videoconferencing technology and operating from remote locations. Many, if not most financial service providers (FSPs) in the Channel Islands still had many of their teams working from home. CIFO was no different as the welcome return to the office earlier in the year was followed with a renewed call to work from home as infection rates surged during the year. Finally, the mid-August return to the office saw our team able to resume normal operations and benefit from the informal and collegial contact that helps us to calibrate our perspectives on complex cases and ensure that our collective view of what constitutes fair and reasonable outcomes to financial customer complaints remained consistent across the team and across all the various financial sub-sectors active in the Channel Islands.

For those FSPs that continued to have their staff members work remotely, this has caused some to struggle to provide their files to CIFO on a timely basis for our review. As public health-related restrictions ease in 2022, we anticipate more FSP staff will return to their offices and this challenge will ease.

Throughout 2021 we were able to maintain effective contact with all stakeholders and continue to operate at a level that even exceeded our own historic norms. This is a testament to the resiliency that developed when sudden change was forced upon offices like ours by the Covid pandemic and the resulting government restrictions. It also demonstrates the value of taking a flexible approach to resourcing our office with the required skills and experience.

#### *Complaint volumes*

2021 complaint volumes were virtually the same as in 2020 with 415 new complaints received (up 1% from 2020) but in-mandate case files opened for investigation were 269, up 20% from 2020. Q4 of 2021 was the busiest quarter since CIFO's inception for new case files. This increased case file load had been anticipated and, despite the persistent operational challenges posed by Covid, steps taken to increase our case handling capacity resulted in 360 case files resolved, more than double the volume of the previous year. As a result, the number of case files awaiting resolution was significantly reduced. A detailed overview of the 2021 year from a statistical perspective, including the products, complaint issues, and FSPs involved, is provided elsewhere in this annual report.

2021 is our second year providing summary complaint statistics on an FSP-named basis. No comments were received in 2021 after the first publication of the 2020 data table in May of 2021 and the launch of public access to 2018-2020 FSP-named summary complaints data through online search on [CIFO's website](#).

### ***Staffing and training***

During 2021, there were a couple of departures from the core case handler team in Jersey which necessitated increased reliance on the part-time experienced ombudsmen appointed by CIFO's board of directors to exercise the statutory decision-making authority granted under our Guernsey and Jersey legislation. An additional part-time ombudsman, Mandy Maycock was appointed in August of 2021 joining the existing group of part-time ombudsmen comprising David Millington, Clare Mortimer, and Mike Ingram. All four bring many years of financial complaint handling experience with the UK Financial Ombudsman Service (UK FOS). Searches were conducted in late 2021 for Jersey-based case handlers which will result in several new appointments to our team in the first half of 2022.

Staff training was necessarily conducted online for much of the 2021 year with several team members participating in online training courses in dispute resolution skills. Other training included use of information technology for tracking workload and performance. Two training sessions with a local Channel Islands industry expert in pensions and trusts were held to brief the CIFO team on key elements of this complex business area that is increasingly where CIFO is encountering complex customer complaints.

### ***Service complaints***

An ombudsman decision on the merits of a case is final, subject only to judicial review. But, as explained on [our website](#) a party who is concerned that the standard of service provided by CIFO did not meet with their expectations (for example, because of delay) may submit a service complaint to the Principal Ombudsman. If the party is unhappy with the Principal Ombudsman's response, they can raise the issue with the chair of the board. Data on service complaints (3 in 2021, all of which were escalated to the chair) are reported to the board to ensure transparency and facilitate board oversight from a service quality assurance perspective.

## **STAKEHOLDER OUTREACH**

### ***Online outreach activities***

With all the new online videoconferencing skills learned in 2020, maintaining active stakeholder engagement through remote technology platforms has become the new normal and was leveraged to good effect in 2021. The ease of on-demand videoconferencing and the ability to have effective multi-party broadcasts followed by remote live question and answer sessions has changed our approach to ensuring that CIFO can effectively reach its stakeholders across the Channel Islands and beyond. This has enabled even more people to engage with our office than before when the time and expense involved in having in-person meetings previously meant that fewer stakeholders would attend our outreach events. Now that face-to-face meetings are resuming, CIFO's board and management



will be considering how to leverage the best of both modes of engagement (in-person and remote) going forward, confident that we can continue to engage with our stakeholders regardless of whatever future challenges arise that may limit face-to-face interaction.

CIFO met regularly throughout the year with community bodies on both islands, governments, and regulators. Our annual stakeholder meeting in July enabled representatives of CIFO's board and management to present on the previous year's activities and to answer questions from stakeholders in a live online Q&A session.

Throughout 2021, several online meetings were also held with industry stakeholders, including several to discuss CIFO's approach to authorised push payment fraud complaints and efforts to improve the timeliness of the overall customer complaint handling process of which FSPs and CIFO are both a part.

### ***Newsletters***

CIFO continued to raise important issues alongside the regular publication of our quarterly statistics. In January of 2021, CIFO issued a newsletter with guidance to local Channel Islands microenterprises about business interruption insurance coverage. This was done in anticipation of cases arising from Covid-related claims and in response to the significant attention the issue was attracting in the media. Later in the year, we addressed a newsletter item to industry stakeholders on the potential for confusion when FSPs continued to engage with complainants as their complaint came to CIFO for review. Such informal guidance helps to keep stakeholders informed of issues that arise through our work. It reflects our commitment to be transparent and improve the efficiency and effectiveness of the end-to-end complaint handling process.

### ***Website refresh***

To supplement our active outreach activities, we also took the opportunity in 2021 to review our website which had not seen a significant refresh since we commenced operation in late 2015. We updated the content, amended the online forms and changed the website format to make it easier to navigate. We note that more complainants come to our office having already looked at our published decisions and case studies to see how their own situation aligns to previous reviews conducted by our office. CIFO also updated its comprehensive general approach to compensation of losses and published guidance for FSPs on the provision of complaint file documentation.

### ***New memoranda of understanding (MoUs)***

Behind the scenes of our day-to-day complaint resolution activity, we continually seek to enhance our interaction with other agencies whose own areas of responsibility can support CIFO, or benefit from the insights arising from CIFO's complaint handling. In some cases, issues arising in complaints reviewed by CIFO suggest possible breaches of law or regulation overseen by other bodies. Data protection is a common issue where referral of the complainant to the appropriate data protection authority enables a





review of the FSP's adherence to data protection regulations while CIFO considers issues of appropriate redress due to the economic loss or distress and inconvenience caused to the customer. Many of these interactions are already the subject of memoranda of understanding. During 2021, CIFO entered into additional MoUs with:

- The Office of the Data Protection Authority (Guernsey)
- The Guernsey Banking Deposit Compensation Scheme
- The Jersey Data Protection Authority

All three of these new MoUs can be found on [CIFO's website](#).

## **FUNDING**

### ***Levies and case fees***

2021 was a relatively uneventful year from a funding perspective. The levy and case fee structures of CIFO's funding model remained unchanged with the levies being the same for like types of Jersey and Guernsey FSPs, calculated in the same way as in 2020 to raise the amounts needed to cover CIFO's approved 2021 operating budget. The increased amount to be raised by levies in 2021 over 2020 was in line with inflation as calculated by Jersey RPI.

### ***Collection of unpaid levy***

Again in 2021, CIFO had difficulty in obtaining payment of the levy from one particular FSP (the same one as in the previous year) and had to resort to Petty Debts Court in early 2022 to enforce payment. In this case, unlike the case resolved in 2021 where the FSP settled at the last minute, this case proceeded to the Magistrate's Court where CIFO was granted judgment. Enforcement of the court judgment will proceed through the Jersey Viscount's Office. In

this way, CIFO ensures a fair funding environment for all FSPs by ensuring that each pay their share of CIFO's operating costs as required by law.

### ***Expense management***

As in 2020, the two challenging expense areas remain the escalating cost of staff health insurance cover and director and officer liability insurance. Both of these expense items have been growing annually at rates that are multiples of Jersey RPI. As CIFO's budget is, to a large extent, staff-related costs, the increasingly intense war for talent in Jersey is also putting significant upward pressure on salaries and benefits in specialised areas which are comparable to several CIFO staff roles (e.g., compliance, legal, and finance). This has become evident in CIFO's recent recruitment searches for Jersey-based positions.

### **BUSINESS RISKS**

At every meeting of CIFO's board of directors, the board reviews with management the status of the organisation from the perspective of financial risk (sufficiency of resources to meet current and projected obligations), operational risk (ability to effectively handle current and anticipated complaint volumes and complexities), and stakeholder relations risk (covering the governments, regulators, industry sectors, and consumer and public groups across the Channel Islands).

During 2021, CIFO's board of directors also continued its regular practice of in-depth review of various aspects of CIFO's operation from a risk perspective. This year the board conducted the following reviews:

- The integrity of CIFO's systems infrastructure and cybersecurity.
- CIFO's accounting policy for case-related expenses in the context of CIFO's workload analysis.
- Quality control measures in place for decisions made at various stages in CIFO's complaint resolution process.
- Service complaints involving CIFO's performance of its role.
- Possible legislative changes to CIFO's enabling legislation or other laws that impact CIFO's statutory mandate for recommendation to both governments.

During 2021, a decision was taken to supplement the regular board agenda items and in-depth reviews with a comprehensive risk assessment methodology and dashboard developed to provide a continual perspective for directors on the risks affecting CIFO. The identified risks are rated for both inherent and residual risk and noting risk mitigation measures in place. The dashboard is updated and reviewed quarterly. The risk categories reviewed include:

- Operational risk
- Liquidity risk
- Conduct risk
- Outsourcing risk

As at the close of 2021, the four greatest risks facing CIFO as identified by management, the implications of each, and the mitigation in place to address each of them are:

1. Insufficient case handling resources (quantity, skills, experience) to meet requirements. This could undermine CIFO's ability to maintain decision quality, meet complaint volumes, and maintain credibility with stakeholders. Controls include the regular board review of internal complaint handling statistics.
  - a. Mitigation: Availability of experienced financial ombudsman resources on contract as required.
  - b. Mitigation: On-going staff training in essential skills and subject matter areas.
  - c. Mitigation: Regular contact with key industry stakeholders regarding their internal complaints experience (early warning system).
2. Insufficient financial resources because of an unexpected surge of complaints. This could affect CIFO's ability to meet short-term obligations and undermine CIFO's reputation with funding stakeholders. Controls include regular board oversight of financial reports and cash flow projections.
  - a. Mitigation: Maintenance of an operating reserve as determined by the board of directors each year and replenished, as required, through CIFO's annual budget and levy setting process.
  - b. Mitigation: £250,000 operating line of credit with CIFO's bank for use only with board of directors' prior approval.
  - c. Mitigation: Ability to issue an intra-year supplemental levy notice (subject to consultation), if required, or accelerated invoicing of case fees.
3. Judicial review (JR) of CIFO decision on an error of fact, law or procedural fairness resulting in unplanned legal expenses and potentially a court judgment against CIFO. Intra-year financial impact of JR legal costs could be significant if not covered by insurance. In case of an unsuccessful defence of a JR, award of an FSP's costs against CIFO could be significant if not covered by insurance. Loss of a JR could undermine CIFO's reputation with stakeholders.
  - a. Mitigation: Quality control measures in place regarding preparation of CIFO ombudsman determinations (final decisions).
  - b. Mitigation: Director & officer liability policy in place that includes coverage for legal costs arising from a judicial review.
  - c. Mitigation: Maintenance of an operating reserve as determined by the board of directors each year and replenished, as required, through CIFO's annual budget and levy setting process.
  - d. Mitigation: £250,000 operating line of credit with CIFO's bank for use only with board of directors' prior approval.
4. Data breach leading to compromise of CIFO core systems, loss of case file data, or exposure of sensitive complainant or FSP information could undermine CIFO's operating capability, reputation with stakeholders, and lead to possible public sanction by data protection regulators.

- a. Mitigation: IT infrastructure and policies developed with outside expert input.
- b. Mitigation: Cloud-based file storage accessed via 2-factor authentication.
- c. Mitigation: Cyber Essentials Plus advanced cybersecurity certification in 2019. Ongoing external assessment on a quarterly basis.
- d. Mitigation: Regular staff training in cybersecurity policies, procedures, and good practice.
- e. Mitigation: Annual independent audits to reconfirm cybersecurity certification (last conducted in 2021).
- f. Mitigation: Insurance coverage in place for liability and remediation costs associated with a possible data breach.

## EMERGING ISSUES

Each year CIFO encounters the usual mix of common complaints about accounts and payment transactions, investment suitability and insurance. We seek to identify in our annual report those new and emerging issues that we see in the complaints referred to our office.

### *Banking - Authorised push payment (APP) fraud*

Again in 2021 fraud complaints remained common and were amongst the most difficult. Sophisticated scams of various types convince customers to authorise payments from their accounts to fraudsters in the UK and abroad. Such complaints sadly increased during the global pandemic as less technology-savvy individuals were suddenly forced into the online banking and payment worlds as fraudsters lurked taking full advantage of the situation.

Further complicating things, email as a means of communication is now widely recognised as not being secure. Fraudsters have hacked the accounts of businesses or their customers and waited for an opportunity to substitute fraudulent payment instructions to divert large payments for such things as home purchases or significant investments.

To help combat these types of payment fraud, most banks have added clear and distinct warnings to their online payment screens, some where the customer must check a box acknowledging having read the warning. Warnings are of assistance in helping avoid fraud, but the FSPs will also point to such warnings when frauds still happen to assert that customers are responsible when they make authorised payments to fraudsters. In this office, the question is usually about who is responsible for the losses incurred to fraud, the FSP or the customer. CIFO's published case studies and decisions involving APP frauds illustrate the two-step approach that CIFO takes to such complaints. The first test is whether the FSP ought to have reasonably been aware and done something reasonable to inquire about or block the suspicious transaction or pattern of transactions. The second test is whether the fraud would, on the balance of probabilities, have been avoided if the FSP had done something reasonable to inquire about the transaction or pattern of transactions.

It will take the combined efforts of all stakeholders (FSPs, regulators, consumer groups, law enforcement, and the courts) to help customers and FSPs to stop these tragic occurrences before they come to our office as a fight over which victim, the customer or the FSP, is responsible for covering the funds lost to the criminals.

#### ***Banking – account closures***

Account closure complaints tend to come in two flavours. One flavour is the single account closure due to a customer's inappropriate use of their bank account or the customer's failure to provide updated verification of personal information to enable the bank to meet its regulatory obligations to demonstrate that it "knows its client". The second flavour is perhaps attributable to CIFO being in an international banking environment like the Channel Islands. This is the large-scale closure of many customer accounts due to a risk management decision by the bank to exit a market or exit customers maintaining residency in certain jurisdictions.

During Covid, we saw complaints from individuals who were unable to meet their bank's request for proof of identity and residency due to Covid-related restrictions limiting movement and access to bank branches, professional services like lawyers, copying services, and post offices. More recently we are seeing a resurgence of programmes of mass account closures by FSPs.

For account closure situations, CIFO will generally view a bank being free to decide who it wishes to do business with. Therefore, a bank can choose to close a customer account, subject to adequate notice but without requiring a reason be provided to the customer. Issues around the ability of customers to meet the bank's requirements, to move their assets, and to contact their bank all can have a role in CIFO's determination of what would be fair and reasonable in the individual circumstances of each complaint, so most complaints tend to involve such unique factors rather than the bank's act of account closure alone.





### ***Pensions – pension plan transfers***

Pension plan transfers have become a prominent issue for the UK regulators and in the media. CIFO has dealt with a number of complaints involving pension plan members who seek to transfer their pension plan to a new provider in another jurisdiction. In cases where there is an issue raised about the transfer, plan members or their independent financial advisors bring a complaint to CIFO in an attempt to pressure their current pension plan provider to process the requested transfer. This can surface several challenges that CIFO has previously highlighted about the conflict of interest that both transferring and receiving pension plan providers have, the sometimes conflicted nature of pension transfer advice from independent financial advisors, and the interest of financial managers who may reinvest the underlying pension plan assets once transferred. In some cases, CIFO has intervened to educate the complainant about the concerns surrounding their proposed plan transfer which enabled a resolution to the complaint. In other cases, intractable issues between pension providers, each seeking to minimise their liabilities for the proposed transfer, prompted CIFO to refer the parties to court to resolve the dispute between the two pension providers.

### ***Pensions – pension trustee responsibility***

The use of trusts as the legal structure for the provision of pension plans to customers raises questions about the duty of the trustee where other parties each perform a discrete function within the overall pension product. This is particularly of interest where the pension provided is a low-cost commoditised pension product sold to the customer by their independent financial advisor and customers complain to the trustee about errors made by other entities (e.g., financial managers). The potential liability attaching to the fiduciary duty of a trustee offering such low-cost pension products, usually set out and strictly limited by the trust deed, is an issue with significant implications for industry stakeholders. Recent court cases in Guernsey, the UK, and elsewhere are gradually clarifying certain aspects of trustee liability for pension plans in various circumstances. These legal developments, regulation, and general industry practice, are all factors that CIFO notes in coming to a decision of what would be fair and reasonable in the circumstances of each individual complaint.

### ***Investments – issues involving basis of determining “suitability” and losses incurred***

Unsuitable investment advice is a common complaint theme encountered by financial ombudsman offices, including CIFO. Complaints commonly have investors arguing after the fact that money-losing investments were not suitable. FSPs commonly argue that higher risk investments can be suitable in the context of an overall investment portfolio with a balanced mix of lower and higher risk investments designed to provide a better return from a diversified portfolio with an overall suitable risk profile. Questions arise continually about the application of the portfolio approach. It can become particularly challenging to define the boundaries of the investor’s portfolio for the purpose of CIFO’s

analysis when the investor may have investments held across multiple providers and multiple accounts, sometimes including personal, joint, pension, and holding company accounts. In a more recent case, the inclusion of the large value of an investor's real estate holdings by the independent financial advisor diluted the portfolio making the allegedly money-losing high-risk investments complained about appear to be a smaller proportion (and therefore arguably suitable) within the "overall investment" portfolio. In other cases, investments were recommended or selected for customer portfolios by an investment firm with an economic interest in 'parking' those securities in their customers' accounts. Investment losses arising from a firm's failure to properly manage such a conflict of interest could not be excused by a portfolio approach where recommendations to invest in money-losing high-risk securities are defended as having otherwise been suitable investment recommendations.

#### ***Insurance – home emergency complaints***

In 2021, the number of complaints opened involving insurance increased significantly to 115 from 77 in 2020. We had remarked previously on the relocation to Guernsey of several UK providers of different types of home insurance covering such things as boiler repair and bicycle theft. As only new policies written following those firms' relocations to Guernsey fall with CIFO's mandate, it was expected that there would be a time lag before we received complaints about such insurance claims. In 2021, those complaints began to emerge in significant numbers and volumes are expected to continue growing. It has already caused insurance complaints to leap into the second-place spot for financial sector complaints in the Channel Islands behind banking complaints.

#### ***The expected complaint themes that did not emerge***

Surprisingly, two types of complaint that we had expected to see more of in 2021 did not materialise. This could be due to the specific context surrounding each of these complaint areas. It is also possible that FSPs had handled these situations well.

With the number of loan payment deferrals agreed by FSPs during Covid, Covid-related disruption to household employment, and the increase in interest rates, we expected to see a spike in lending and credit-related complaints during 2021. We are aware that in many cases loan payment deferrals were extended to account for the lingering effects of Covid. With restrictions falling away in the first half of 2022 in the Channel Islands and major jurisdictions such as the UK and EU, such credit-related complaints might yet emerge in 2022.

The second area where anticipated volumes did not materialise is business interruption insurance. Given the profile this issue attracted in the UK during the Covid pandemic, we expected more complaints from local microenterprises who had lost revenue due to the government-imposed restrictions on retail business activity. The small number of complaints referred to CIFO may be a result of delays in getting claim decisions made by the FSPs, meaning that complaints may well emerge at a later date. It is also possible that the low volume of complaints is due to the small number of insured microenterprises in the Channel Islands, insurance policies that

do not include such cover, or insured microenterprises that are not aware they had such cover. The complexities of local government Covid support programmes for retail businesses and the possible impact of insurance claims on such benefit entitlement may have also been a factor.

## LOOKING AHEAD TO 2022

### *Transitioning to a post-Covid environment*

As Covid continued to evolve as a public health and economic concern, 2021 brought new uncertainties and financial stress to retail financial consumers in the form of rising inflation and interest rates. As 2022 began, inflation and interest rates remained major topics of concern. Then we saw the addition of armed conflict in Ukraine causing significant disruption to global investment markets and price increases, notably in fuel for domestic use, giving rise to concerns about a cost-of-living crisis.

Market drops generate losses to consumers' investment accounts or pensions causing distress and raising questions of investment suitability. Interest rate increases can affect the ability of consumers to keep up with debt payments or consolidate existing debt. Such uncertainty and change will inevitably generate customer complaints.

Despite the operational challenges brought on by Covid, and with the strong support of our experienced contract part-time Ombudsmen, CIFO was able to effectively deal with the accumulated case file backlog and anticipated increases in case file volumes. This had the desired effect of significantly reducing the number of cases awaiting attention. In 2022, our attention will turn to improve the timeliness with which CIFO completes its reviews of complaints. We look forward to welcoming new members of the Jersey-based team to enhance our core case handling capacity to meet these new challenges.

### *CIFO mandate changes – occupational pensions*

In early 2022, the Government of Jersey introduced the first phase of legislation to regulate the provision of pensions. The second phase, proposed for later in 2022 will clarify CIFO's mandate for resolving complaints about occupational pension plans (including the large public sector pension schemes in Jersey) explicitly adding them to the broad list of financial services provided in or from the Channel Islands that are already covered by CIFO's statutory mandate. Some pension complaints can be quite complex and may occasionally require expert advice to support the effective handling of such complaints. CIFO will be reviewing the impact of this proposed mandate change for our staffing, funding model and legislative framework to ensure that we have the required resources and to minimise any possible cross-subsidisation of costs to resolve pension complaints by FSPs in other financial sub-sectors.



### ***Regulation of lending and credit***

Regulation of lending and credit is still anticipated in both Guernsey and Jersey. This area of business activity is already covered by CIFO's mandate. As regulatory expectations are one of the things CIFO considers in coming to a decision on what would be a fair and reasonable resolution to a complaint in the circumstances, the new regulation will assist by providing clarity of market conduct expectations in Guernsey and Jersey for the broad range of FSPs active in this area playing various customer-facing roles (e.g., lender, broker, promoter/introducer, collections agent, etc.).

### ***CIFO operations – secure file transfer***

The ability to securely exchange sensitive information is a key enabler of CIFO's role. Complainants and FSPs both interact with our office through remote channels and need to send sensitive information necessary for our review of the underlying details that gave rise to the complaints. The number of FSPs that CIFO deals with, many having their own internal security restrictions on data and file transfer, has posed an operational challenge. With the general concerns about the lack of security around normal email, alternatives have been explored, including leveraging encryption and the secure file transfer abilities of our existing office software. CIFO is in the process of changing its approach to file transmission to ensure we maintain appropriate security for the sensitive information we exchange with the parties to a complaint while maintaining accessibility for complainants and an efficient process that can work with the wide range of FSPs we interact with more frequently.

### ***CIFO operations – dealing with sensitive information***

In some complaints, the subject matter underlying the FSP's interaction with the complainant involves sensitive information (such as suspicions about money laundering) that by law can only be disclosed to specified agencies, which does not currently include CIFO. CIFO has sought a means to balance the need to protect sensitive information with the need to ensure we have a solid evidential basis for the decisions we make. A new approach was developed in Jersey, based on discussions in 2021, that will be piloted in 2022. If successful, it will be adopted as standard operating procedure going forward and a similar solution will be sought for Guernsey-originating complaints.

### ***Environment and sustainability policy***

While CIFO is a small office performing an important public interest mandate, we need to consider our broader social responsibilities in areas such as the environment and sustainability. In 2022, we intend to have CIFO's board and management turn their minds to CIFO's environmental impact and the development of policies to demonstrate CIFO's commitment to sustainability.

### *CIFO governance*

There were four founding directors of CIFO. John Curran's term expired at the end of January 2022. The terms of David Thomas (the chair), Debbie Guillou and John Mills will expire at the end of January 2023.

To secure some overlap, in the interests of maintaining continuity, Antony Townsend and Robert Girard were appointed by the two governments as additional directors from the end of January 2022 – following an open recruitment process overseen by the Jersey Appointments Commission.

During 2022, two further directors will be appointed, and a chair appointed from among the directors, to serve from the end of January 2023.

As a result of benchmarking the director roles against comparable roles in the Channel Islands, an increase in the annual director fee from £6,000 to £7,500 (the first such increase since CIFO's creation in 2015) was agreed by both governments from Q4 2021.

Lihou Island, Guernsey



## HEAT MAP ORIGIN OF CIFO COMPLAINANTS IN 2021

As the financial ombudsman for the international financial centres in Jersey and the Bailiwick of Guernsey, CIFO's mandate covers customers anywhere in the world whose non-exempt financial services are provided in or from the Channel Islands. The heat map and table below demonstrate the international nature of CIFO's work and the global reach of the Channel Islands' financial sectors.



Jurisdiction	#
United Kingdom	156
Jersey	88
United States of America	74
Guernsey	34
South Africa	10
Spain	10
Netherlands	8
Thailand	8
France	7
Hong Kong	5
United Arab Emirates	5
Italy	4
Australia	3
Canada	3
Ireland	3
New Zealand	3

Jurisdiction	#
Philippines	3
Switzerland	3
Ukraine	3
Cyprus	2
Germany	2
Ghana	2
Isle of Man	2
Malaysia	2
Portugal	2
Qatar	2
Singapore	2
Zimbabwe	2
Austria	1
Brazil	1
British Virgin Islands	1
Bulgaria	1

Jurisdiction	#
Denmark	1
Gambia	1
Gibraltar	1
Greece	1
India	1
Israel	1
Jamaica	1
Japan	1
Malta	1
Morocco	1
Nigeria	1
Poland	1
Russia	1
Sri Lanka	1
Taiwan	1
Turkey	1

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## COMPLAINTS STATISTICS 2021

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This presentation of CIFO's complaints statistics represents the sixth full calendar year of operation for CIFO and supplements the quarterly complaints statistics regularly published by CIFO on our website.

The volume of in-mandate complaints received by CIFO in 2021 was 20% higher than in 2020. This meant the workload faced by CIFO staff created by new in-mandate complaints increased moderately compared to the previous year, well above the rate of inflation.

Complaints determined to be in-mandate for CIFO to review are referred to as case files. The number of case files successfully resolved by either mediation or Ombudsman determination increased by 114%, up to 360 from 168 in 2020. CIFO continues to resolve the majority of complaints through informal mediation, with over three-quarters (77%) of complaints now being resolved without the need for a formal Ombudsman final determination, up from 74% in 2020.

In 2021, the proportion of complaints resolved in favour of complainants decreased. Upheld complaints now represent 45% of the proportion of complaints. Complaints not upheld (i.e., in favour of the financial service provider) increased from 43% in 2020 to 55% in 2021. While the proportion of complaints upheld can vary from year-to-year, there was no identifiable reason for this change in 2021.

Also of note, was the significant decrease in the average amount of compensation awarded. In 2021, CIFO awarded a maximum compensation amount of £104,351, less than in previous years.

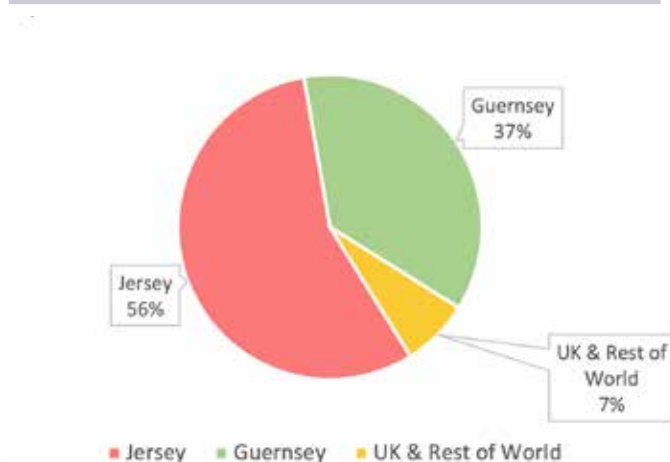
The thematic nature of complaints in 2021 was similar to what CIFO experienced in 2020 looking at the products and issues complained about. Administrative error and non-payment of insurance claims, account remediation by firms seeking to meet their regulatory "know your client" requirements, and disputes over fees charged for various products and services continue to be the predominant issues giving rise to complaints. Geographically, CIFO continues to receive complaints from all over the world and received proportionally fewer complaints from Channel Islands residents in 2021, down to 29% of total complaint volumes from 30% in 2020.

*Please note that percentages may not add to 100% due to rounding.*

## 2021 COMPLAINTS STATISTICS ANALYSIS

Table 1: **Complaints Received - Location of Financial Services Provider**

Jersey	233	56%
Guernsey	152	37%
UK & Rest of World	30	7%
<b>Grand Total</b>	<b>415</b>	<b>100%</b>

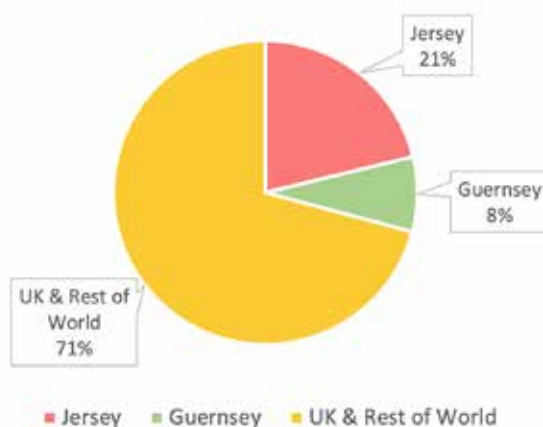


This section of the 2021 statistics analysis provides detailed information concerning all complaints about a financial service provider that have been received by CIFO whether or not they are ultimately confirmed as falling within CIFO's statutory mandate.

Of the 415 complaints received by CIFO in 2021, 385 (93%) were against financial services providers operating in or from the Channel Islands, 56% in Jersey and 37% in Guernsey. 30 (7%) were against financial services providers that operated in or from the UK or the rest of the world. When CIFO receives a complaint against a financial service provider operating outside the Channel Islands, it will be referred to the most appropriate financial Ombudsman service or regulator within that jurisdiction.

Table 2: **Complaints Received - Location of Complainants**

Jersey	88	21%
Guernsey	33	8%
UK & Rest of World	294	71%
<b>Grand Total</b>	<b>415</b>	<b>100%</b>



CIFO reviews complaints about financial services provided in or from the Channel Islands. The complainants can be from anywhere in the world. Of the 415 complaints received by CIFO in 2021, 121 (29%) were from complainants residing in the Channel Islands, 21% in Jersey and 8% in Guernsey. 294 (71%) were from complainants residing outside the Channel Islands; in the UK or the rest of the world.

Table 3: **Complaints Received - Type and Origin of Complainant**

	Jersey		Guernsey		UK & Rest of World		Total	
Consumer	73	83%	26	79%	287	98%	386	93%
Microenterprise	8	9%	6	18%	2	1%	16	4%
Other	6	7%	0	0%	4	1%	10	2%
Charity	1	1%	1	3%	0	0%	2	1%
Trustee	0	0%	0	0%	1	0%	1	0%
<b>Grand Total</b>	<b>88</b>	<b>100%</b>	<b>33</b>	<b>100%</b>	<b>294</b>	<b>100%</b>	<b>415</b>	<b>100%</b>

Of the 415 complaints received by CIFO in 2021, 386 (93%) were from consumers. 16 (4%) were from microenterprises, with 2 (1%) from charities and 1 (0%) from trustees. The 10 (2%) 'other' complaints were from entities that did not meet CIFO's definition of a micro-enterprise.

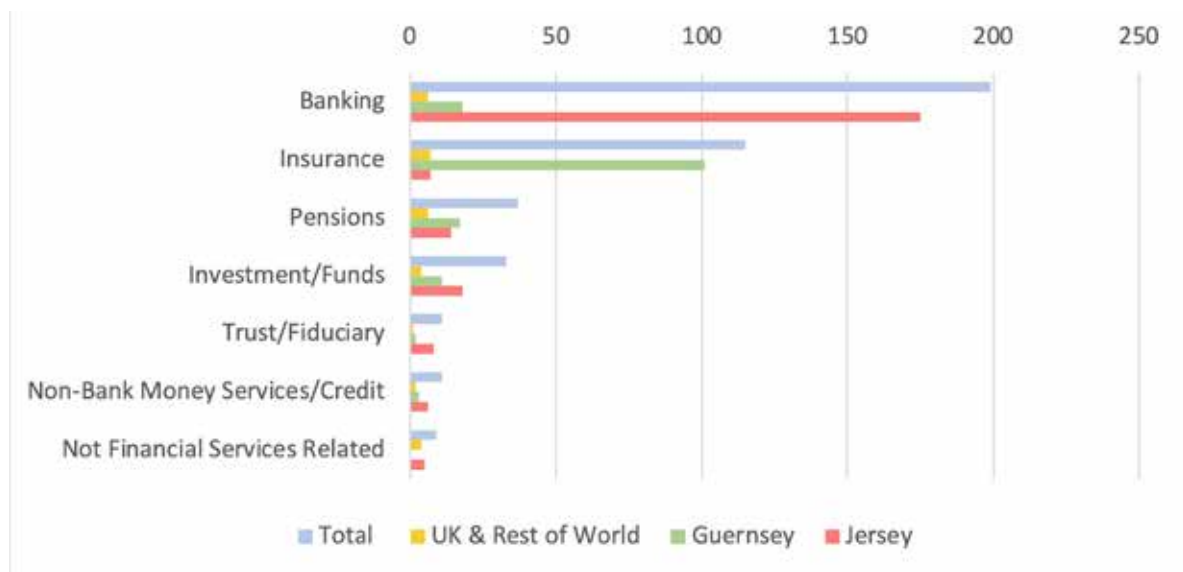




Table 4: **Complaints Received - Sector of Business Activity**

	Jersey		Guernsey		UK & Rest of World		Total	
Banking	175	75%	18	12%	6	20%	199	48%
Insurance	7	3%	101	66%	7	23%	115	28%
Pensions	14	6%	17	11%	6	20%	37	9%
Investment/Funds	18	8%	11	7%	4	13%	33	8%
Non-Bank Money Services/Credit	6	3%	3	2%	2	7%	11	3%
Trust/Fiduciary	8	3%	2	1%	1	3%	11	3%
Not Financial Services Related	5	2%	0	0%	4	13%	9	2%
<b>Grand Total</b>	<b>233</b>	<b>100%</b>	<b>152</b>	<b>100%</b>	<b>30</b>	<b>100%</b>	<b>415</b>	<b>100%</b>

The columns in Tables 4, 5 and 6 show the location from where the financial services were provided.



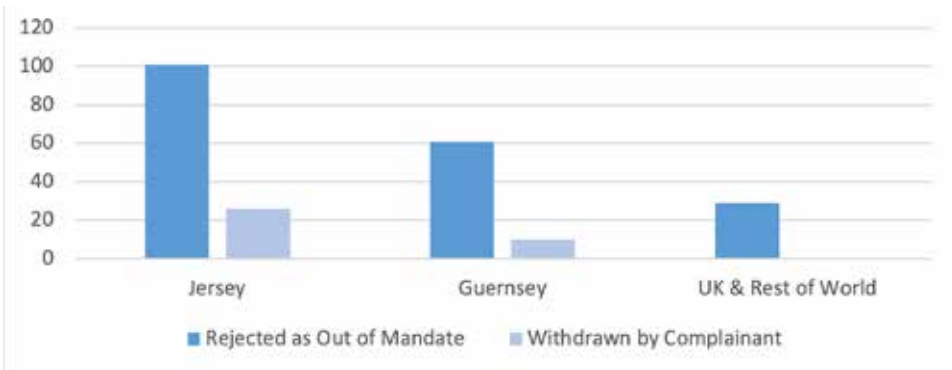
Of the 415 complaints received by CIFO in 2021, 48% related to the banking sector. The relative proportions by location varied widely with Jersey having 75% of the banking sector complaints while Guernsey had only 12%. This contrasts significantly with the second most prevalent sector, insurance, which accounted for 28% of the overall total - but accounted for 66% of the complaints in Guernsey and only 3% in Jersey.

Of the other complaints, 9% related to the pensions sector, 8% to the investment/funds sector, 3% to the trust/fiduciary sector, and 3% to the non-bank money sector. The remaining 2% of complaints received by CIFO related to business activities that were not related to financial services.

The columns in Tables 4, 5 and 6 each show the location from where the financial services were provided.

Table 5: Complaints Received That Did Not Become Cases

	Jersey		Guernsey		UK & Rest of World		Total	
Rejected as Out of Mandate	101	80%	61	86%	29	100%	191	84%
Withdrawn by Complainant	26	20%	10	14%	0	0%	36	16%
Grand Total	127	100%	71	100%	29	100%	227	100%



Of the 415 complaints received by CIFO in 2021, 227 complaints (55%) did not become case files reviewed by CIFO. Of those 227 complaints, 191 were rejected as falling outside of CIFO's statutory mandate. 36 were withdrawn by the complainant.

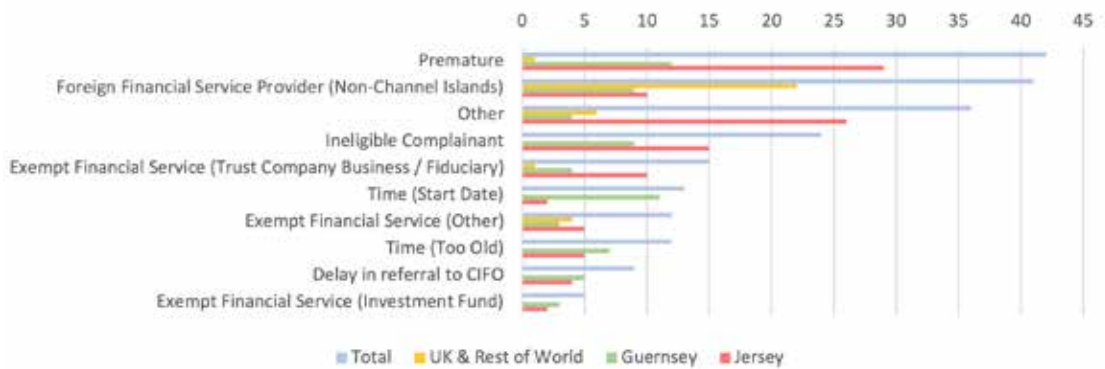




Table 6: **Why Complaints Were Rejected As Out Of Mandate**

	Jersey		Guernsey		UK & Rest of World		Total	
Premature	29	27%	12	18%	1	3%	42	20%
Foreign Financial Service Provider (Non-Channel Islands)	10	9%	9	13%	22	65%	41	20%
Other	26	24%	4	6%	6	18%	36	17%
Ineligible Complainant	15	14%	9	13%	0	0%	24	11%
Exempt Financial Service (Trust Company Business / Fiduciary)	10	9%	4	6%	1	3%	15	7%
Time (Start Date)	2	2%	11	16%	0	0%	13	6%
Time (Too Old)	5	5%	7	10%	0	0%	12	6%
Exempt Financial Service (Other)	5	5%	3	4%	4	12%	12	6%
Delay in Referral to CIFO	4	4%	5	7%	0	0%	9	4%
Exempt Financial Service (Investment Fund)	2	2%	3	4%	0	0%	5	2%
<b>Grand Total</b>	<b>108</b>	<b>100%</b>	<b>67</b>	<b>100%</b>	<b>34</b>	<b>100%</b>	<b>209</b>	<b>100%</b>

\*Please note some complaints may have been out of mandate for more than one reason



Of the 191 complaints that were rejected as falling outside CIFO's statutory mandate, 20% were premature complaints where the FSP had not yet been provided with an opportunity to resolve the complaint or where the complainant's loss had not yet crystallised to establish a fair basis for an award of compensation. 20% were rejected as they were about a non-Channel Islands financial services providers. 17% were rejected for a reason other than the primary statutory reasons for rejection under CIFO's law.

Table 7: **Case Files Opened - Location of Financial Services Provider**

Jersey	159	59%
Guernsey	109	41%
United Kingdom	1	0%
<b>Total</b>	<b>269</b>	<b>100%</b>

Of the 269 case files (complaints confirmed as falling within CIFO's statutory mandate) opened in 2021, 160 (59%) were about FSPs based in Jersey and 109 (41%) were about FSPs based in Guernsey.\*

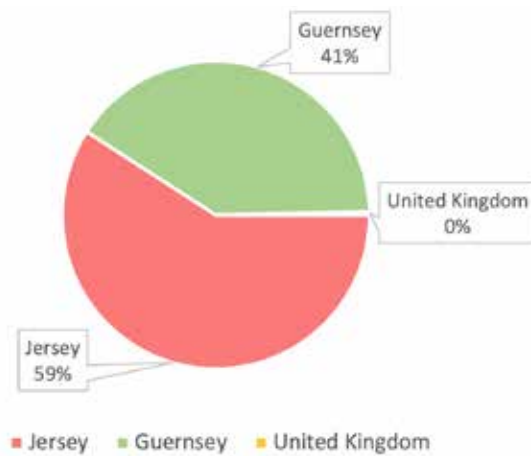


Table 8: **Case Files Opened - Location of Complainants**

Jersey	50	19%
Guernsey	23	9%
UK & Rest of World	196	73%
<b>Total</b>	<b>269</b>	<b>100%</b>

Of the 269 case files opened in 2021, 50 (19%) were from residents of Jersey, 23 (9%) were from residents of Guernsey, and 196 (73%) were from residents of the UK or the rest of the world.

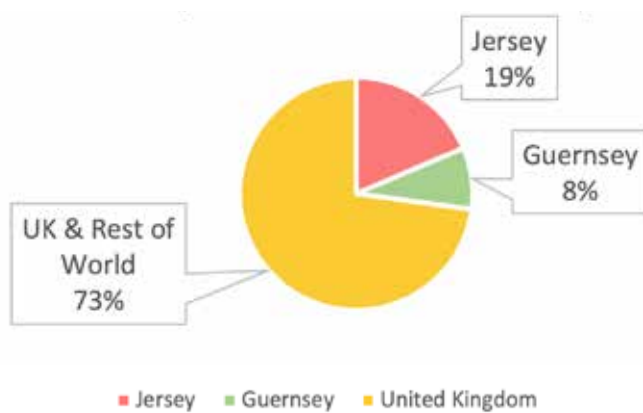
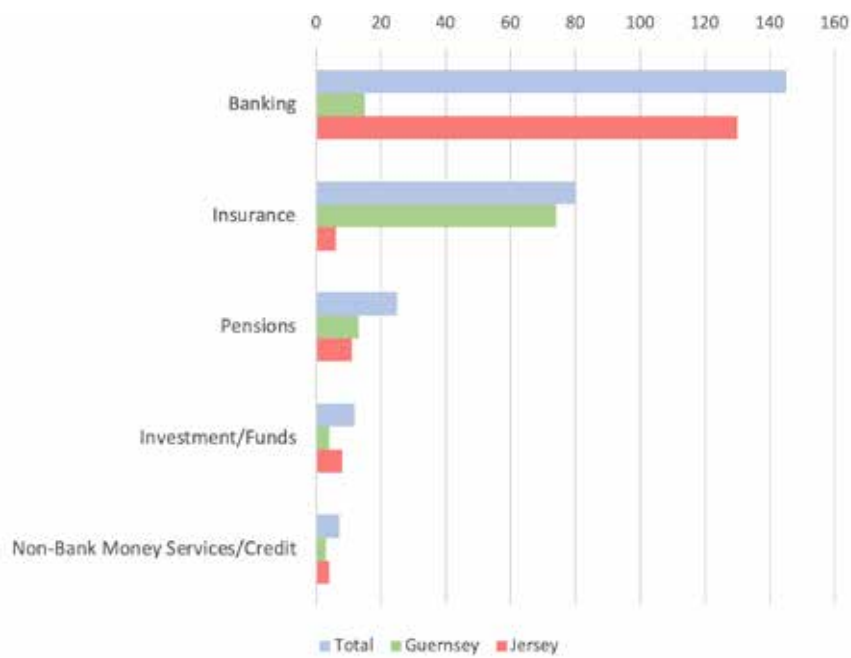


Table 9: Case Files Opened - Sector of Business Activity

	Jersey		Guernsey		Total	
Banking	130	82%	15	14%	145	54%
Insurance	6	4%	74	68%	80	30%
Pensions	11	7%	13	12%	25	9%
Investment/Funds	8	5%	4	4%	12	4%
Non-Bank Money Services/Credit	4	3%	3	3%	7	3%
<b>Grand Total</b>	<b>159</b>	<b>100%</b>	<b>109</b>	<b>100%</b>	<b>269</b>	<b>100%</b>

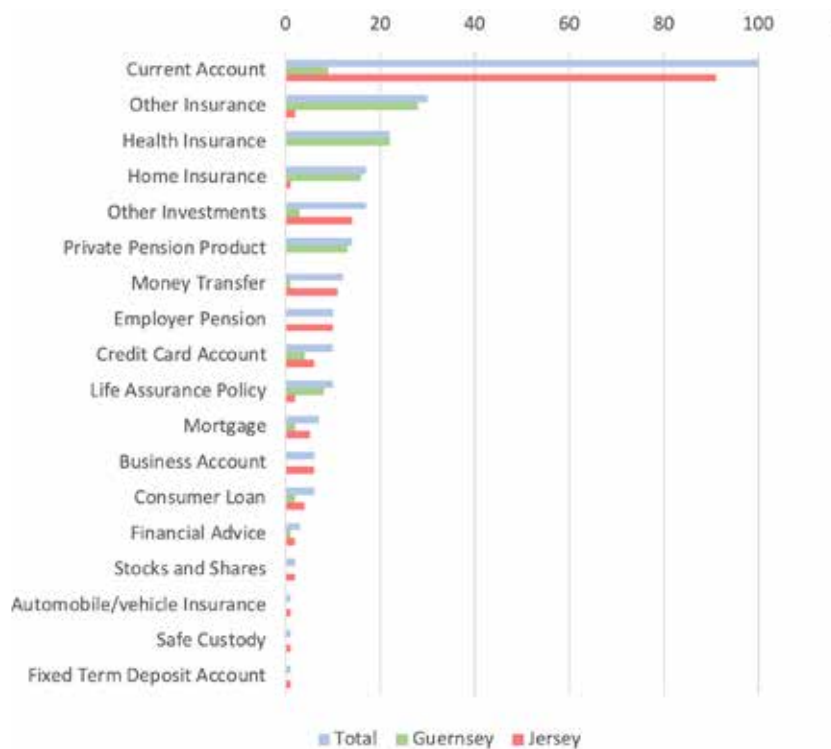


Over half of the 269 case files opened in 2021, 145 were related to the banking sector (54%). This proportion varied significantly between Jersey and Guernsey with banking comprising 81% of opened case files in Jersey but only 14% of opened case files in Guernsey. In contrast, the insurance sector accounted for 30% of all opened case files but represented over half (68%) of opened case files in Guernsey and only 4% in Jersey. The pensions sector accounted for 9% of opened case files with a similar proportion between the islands, 12 opened in Jersey and 13 opened in Guernsey.\*

The columns in Tables 9, 10, 11, 12 and 13 each show the location from where the financial services were provided.

Table 10: **Case Files Opened - Product Areas**

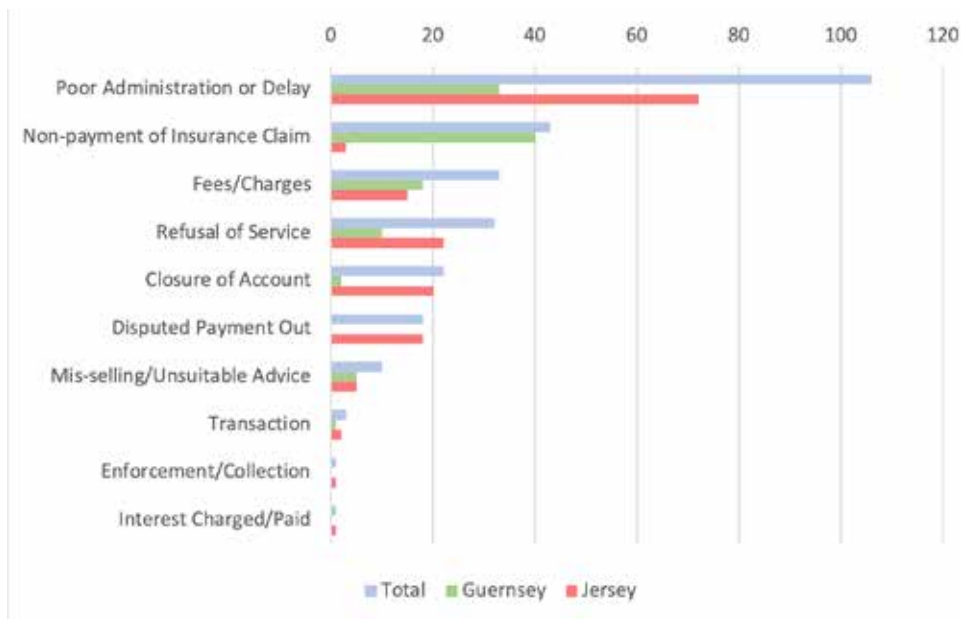
	Jersey		Guernsey		Total	
Current Account	91	57%	9	8%	100	37%
Other Insurance	2	1%	28	25%	30	11%
Health Insurance	0	0%	22	20%	22	8%
Home Insurance	1	0%	16	15%	17	6%
Other Investments	14	8%	3	3%	17	6%
Private Pension Product	0	0%	13	12%	14	5%
Money Transfer	11	7%	1	0%	12	4%
Employer Pension	10	6%	0	0%	10	4%
Credit Card Account	6	4%	4	4%	10	4%
Life Assurance Policy	2	1%	8	7%	10	4%
Mortgage	5	3%	2	1%	7	3%
Business Account	6	4%	0	0%	6	2%
Consumer Loan	4	3%	2	1%	6	2%
Financial Advice	2	1%	1	0%	3	1%
Stocks and Shares	2	1%	0	0%	2	1%
Automobile/vehicle Insurance	1	0%	0	0%	1	0%
Safe Custody	1	0%	0	0%	1	0%
Fixed Term Deposit Account	1	0%	0	0%	1	0%
<b>Grand Total</b>	<b>159</b>	<b>96%</b>	<b>109</b>	<b>97%</b>	<b>269</b>	<b>100%</b>



Of the 269 case files opened in 2021, 100 (37%) related to current accounts and 30 (11%) related to other insurance (mostly home emergency insurance). Miscellaneous investments other than those already categorised made up 8% of the total case files opened.\*

Table 11: **Case Files Opened - Issue**

	Jersey		Guernsey		Total	
Poor Administration or Delay	72	45%	33	30%	106	39%
Non-payment of Claim	3	2%	40	37%	43	16%
Fees/Charges	15	9%	18	16	33	12%
Refusal of Service	22	14%	10	9%	32	12%
Closure of Account	20	13%	2	1%	22	8%
Disputed Payment Out	18	11%	0	0%	18	7%
Mis-selling/Unsuitable Advice	5	3%	5	4%	10	4%
Transaction	2	1%	1	0%	3	1%
Enforcement/Collection	1	0%	0	0%	1	0%
Interest Charged/Paid	1	0%	0	0%	1	0%
<b>Grand Total</b>	<b>159</b>	<b>98%</b>	<b>109</b>	<b>97%</b>	<b>269</b>	<b>100%</b>

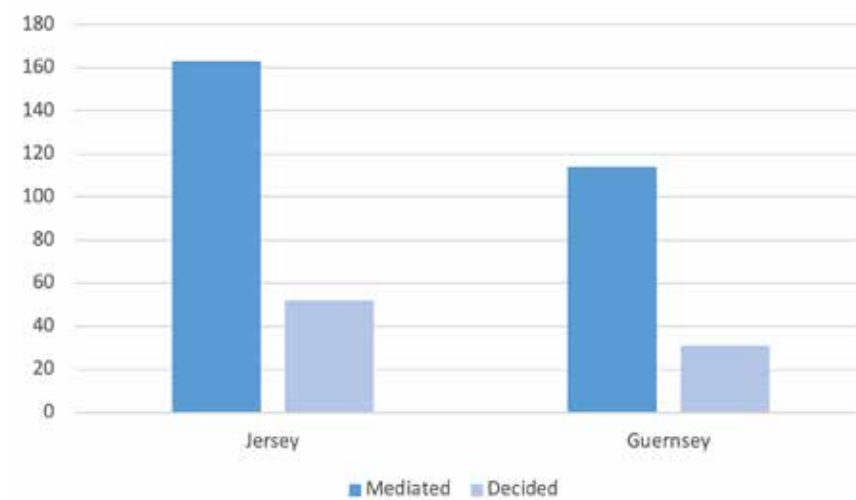


The most common issue in the 269 case files opened in 2021 was poor administration or delay with 106 (39%). Non-payment of insurance claim was the second most common issue with 43 (16%) and arose across insurance products. Fees/Charges was the third most common issue with 33 (12%).\*

\*CIFO opened a case file involving multiple FSPs from the Channel Islands and the UK. During the subsequent investigation, it became apparent that the appropriate respondent was the UK-based FSP only. The case file was therefore resolved as a second-stage out-of-mandate outcome and the complaint referred to the UK Financial Ombudsman Service (UK FOS).

Table 12: **Resolved Case Files - How They Were Resolved**

	Jersey		Guernsey		Total	
Mediated	163	76%	114	79%	277	77%
Decided	52	24%	31	21%	83	23%
<b>Grand Total</b>	<b>215</b>	<b>100%</b>	<b>145</b>	<b>100%</b>	<b>360</b>	<b>100%</b>

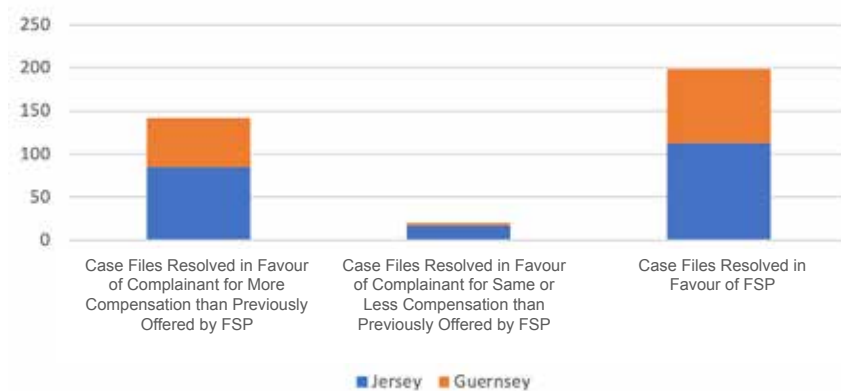


In 2021, CIFO opened 269 case files and resolved 360 through either mediation or an Ombudsman final determination. Of the 360 case files resolved, over three-quarters (77%) were resolved informally through mediated settlements. Only 83 (23%) of case files proceeded to the end of CIFO's process and required an Ombudsman final determination to resolve.



Table 13: **Resolved Case Files by Outcome**

	Jersey		Guernsey		Total	
Case Files Resolved in Favour of Complainant for More Compensation than Previously Offered by FSP	85	40%	57	39%	142	39%
Case Files Resolved in Favour of Complainant for Same or Less Compensation than Previously Offered by FSP	17	8%	3	2%	20	6%
Case Files Resolved in Favour of FSP	113	53%	85	59%	198	55%
<b>Total</b>	<b>215</b>	<b>100%</b>	<b>145</b>	<b>100%</b>	<b>360</b>	<b>100%</b>



Of the 360 case files resolved in 2021, 142 case files (39%) were resolved in favour of the complainant for more compensation than previously offered by the financial services providers. A higher proportion (40%) of Jersey case files received higher compensation than previously offered by the financial services providers compared with 39% in Guernsey. An additional 20 case files (6%) were resolved in favour of the complainant, but for the same or less compensation than previously offered by the financial service provider. 198 case files (55%) were resolved in favour of the financial service provider.

Table 14: **Amounts Of Compensation Awarded Up To Statutory Limit Of £150,000**

Maximum	£104,351
Average	£4,585
Median	£500
Minimum	£20

Of the case files that were resolved in favour of the complainant and involved financial compensation, the largest award for compensation was £104,351. The average award of compensation was £4,585 with the median amount £500. The lowest amount awarded was £20.

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## PUBLICATION OF NEW SUMMARY COMPLAINTS STATISTICS

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The published summary complaints statistics relate to the period between 1st January 2021 and 31st December 2021. Readers of the following summary complaints statistics should take care in drawing conclusions from the data. There are numerous factors that can influence the volume and nature of complaints made against a particular financial services provider (FSP).

These can include:

- Some sub-sectors within the financial services industry will generate more complaints than others in relation to their number of total customers.
- Some sub-sectors have more transactions (or customer interactions) per customer than others which can result in higher complaint volumes.
- Some FSPs are larger and can have more customers which can result in more complaints even if the number of complaints as a proportion of its total customer base is lower than other comparable FSPs.
- FSPs within the same sub-sector (e.g., retail banking) can have a different mix of products and services with some types of products and services being more likely to generate complaints than others (e.g., credit card accounts, current accounts with debit cards, savings accounts). It is also important to note that a higher volume of complaints does not necessarily have a negative connotation and may simply result from an FSP's more effective signposting of its customers with unresolved complaints to its internal complaint handling and to our office.



Stakeholders interested in exploring specific complaints-related data for the period 1st January 2018 and 31st December 2021 are encouraged to use CIFO's on-line search facility which can be found [here](#).



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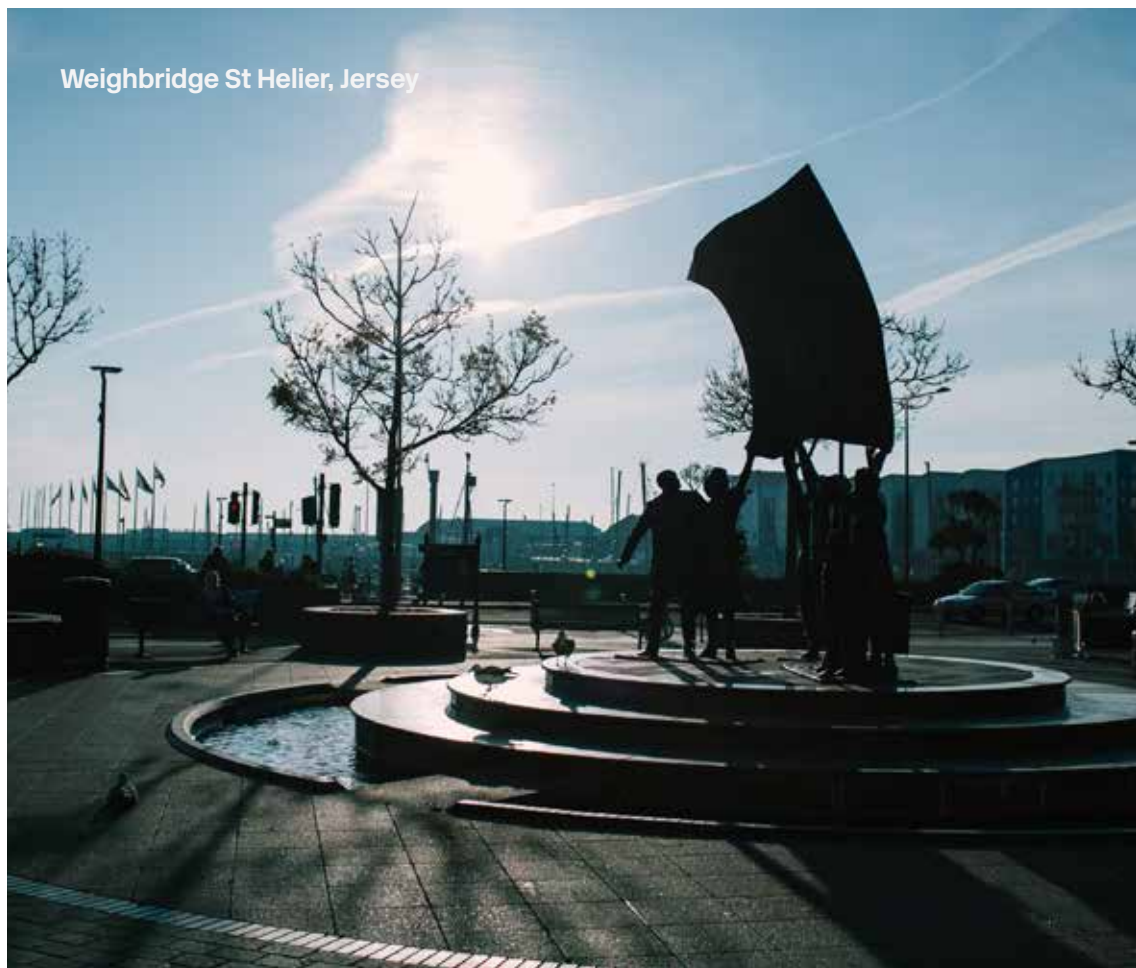
## Summary Complaints Statistics **2021**

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CIFO opened 415 complaints this year from 121 financial service providers (FSPs) and resolved 358\* complaints against 70 FSPs through mediation or final decision.

This information shows in-mandate complaints resolved by CIFO within the 2021 calendar year. All complaints withdrawn, open or found to be outside of CIFO's statutory mandate are not included. All FSPs are named using the legal entity that CIFO was advised of at the time CIFO received the complaint and provided to the FSP for confirmation.

\* Due to post-period adjustments, the comparative data table may have a few minor differences from CIFO's overall 2021 statistical summary.



FIRM	FIRM JURISDICTION	SECTOR	CASES RESOLVED	CASES RESOLVED BY MEDIATION	CASES RESOLVED BY DETERMINATION	OUTCOME IN FAVOUR OF COMPLAINANT (More compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF COMPLAINANT (Same or less compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF FSP
Actus (Life & Pensions) Limited	Jersey	Insurance	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Alexander Forbes Channel Islands Limited*	Jersey	*Multiple	2	1(50%)	1(50%)	0(0%)	0(0%)	2(100%)
Aviva Life & Pensions UK Limited - Guernsey Branch	Guernsey	Insurance	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Barclays Bank PLC, Guernsey Branch	Guernsey	Banking	6	6(100%)	0(0%)	2(33%)	0(0%)	4(67%)
Barclays Bank plc, Jersey Branch	Jersey	Banking	20	19(95%)	1(5%)	7(35%)	2(10%)	11(55%)
Barclays Wealth Management Jersey Limited*	Jersey	*Multiple	12	9(75%)	3(25%)	7(59%)	1(8%)	4(33%)
Black Horse Offshore Limited JSY	Jersey	Non-Bank Money Services/ Credit	2	2(100%)	0(0%)	1(50%)	0(0%)	1(50%)
Bourse Pension Trustees Limited	Guernsey	Pension	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Brooks Macdonald Asset Management (International) Limited	Jersey	Investment/ Funds	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
BWCI Pension Trustees Limited	Guernsey	Pension	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Cherry Godfrey Finance Limited	Guernsey	Non-Bank Money Services/ Credit	3	2(67%)	1(33%)	2(67%)	0(0%)	1(33%)
Cherry Godfrey Insurance Services (Jsy) L	Jersey	Insurance	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)
Church Street Trustees Limited	Jersey	Pension	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Cigna Global Insurance Company Limited	Guernsey	Insurance	18	16(89%)	2(11%)	9(50%)	0(0%)	9(50%)
Citibank N.A., Jersey Branch	Jersey	Banking	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
City & Commercial Insurance Company (PCC) Limited	Guernsey	Insurance	2	2(100%)	0(0%)	2(100%)	0(0%)	0(0%)
Close Finance (CI) Limited - Jersey	Jersey	Non-Bank Money Services/ Credit	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
Concept Group Limited	Guernsey	Pension	5	4(80%)	1(20%)	2(40%)	0(0%)	3(60%)

FIRM	FIRM JURISDICTION	SECTOR	CASES RESOLVED	CASES RESOLVED BY MEDIATION	CASES RESOLVED BY DETERMINATION	OUTCOME IN FAVOUR OF COMPLAINANT (More compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF COMPLAINANT (Same or less compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF FSP
Confiance Limited	Guernsey	Pension	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
Criteria Wealth Management Limited	Guernsey	Investment/ Funds	2	0(0%)	2(100%)	2(100%)	0(0%)	0(0%)
Dukes House Insurance Limited	Guernsey	Insurance	3	3(100%)	0(0%)	2(66%)	0(0%)	1(33%)
Fairway Pension Trustees Limited	Jersey	Pension	2	0(0%)	2(100%)	0(0%)	0(0%)	2(100%)
FirstRand Bank Limited, Guernsey Branch	Guernsey	Banking	1	0(0%)	1(100%)	1(100%)	0(0%)	0(0%)
GBG Insurance Limited	Guernsey	Insurance	2	1(50%)	1(50%)	0(0%)	0(0%)	2(100%)
General & Medical Insurance Limited	Guernsey	Insurance	5	4(80%)	1(20%)	1(20%)	0(0%)	4(80%)
Generali Worldwide Insurance Co Ltd*	Guernsey	*Multiple	15	10(67%)	5(33%)	2(13%)	0(0%)	12(87%)
Goldmoney Wealth Limited	Jersey	Non-Bank Money Services/ Credit	2	1(50%)	1(50%)	0(0%)	0(0%)	2(100%)
Gower Pensions Management	Guernsey	Pension	2	1(50%)	1(50%)	0(0%)	0(0%)	2(100%)
Guernsey Home Loans Limited	Guernsey	Non-Bank Money Services/ Credit	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)
Hawk Lending Limited	Jersey	Non-Bank Money Services/ Credit	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
HSBC Bank Plc, Guernsey Branch	Guernsey	Banking	8	7(87%)	1(13%)	5(62%)	0(0%)	3(38%)
HSBC Bank Plc, Jersey Branch	Jersey	Banking	76	64 (84%)	12(16%)	42(55%)	6 (8%)	28(37%)
Igloo Insurance PCC Limited	Guernsey	Insurance	2	2(100%)	0(0%)	2(100%)	0(0%)	0(0%)
Insurance Corporation of the Channel Islands	Guernsey	Insurance	4	3(75%)	1(25%)	2(50%)	0(0%)	2(50%)
Jersey Home Loans Ltd	Jersey	Non-Bank Money Services/ Credit	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)
JTC Employer Solutions Limited	Jersey	Pension	2	1(50%)	1(50%)	0(0%)	0(0%)	2(100%)
Lloyds Bank International Limited	Jersey	Banking	16	10(62%)	6(38%)	6(38%)	1(6%)	9(56%)

FIRM	FIRM JURISDICTION	SECTOR	CASES RESOLVED	CASES RESOLVED BY MEDIATION	CASES RESOLVED BY DETERMINATION	OUTCOME IN FAVOUR OF COMPLAINANT (More compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF COMPLAINANT (Same or less compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF FSP
Lloyds Bank International Limited	Guernsey	Banking	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Lloyds Bank Plc, Jersey Branch	Jersey	Banking	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
M.J. Touzel (Insurance Brokers) Limited	Jersey	Insurance	3	3(100%)	0(0%)	2(67%)	1(33%)	0(0%)
Momentum Wealth International	Guernsey	Investment/ Funds	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
National Westminster Bank Plc	Jersey	Banking	39	31(79%)	8(21%)	14(36%)	3(8%)	22(56%)
Nedgroup Trust Limited	Guernsey	Pension	1	1(100%)	0(0%)	0(0%)	1(100%)	0(0%)
Network Insurance & Financial Planning Limited	Guernsey	Insurance	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Newcastle Mortgage and Loans (Jersey) Limited	Jersey	Non-Bank Money Services/ Credit	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
Old Mutual International (Guernsey) Limited	Guernsey	Pension	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)
Omega Financial Services (Jersey) Ltd	Jersey	Pension	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)
Overseas Trust and Pension Limited*	Guernsey	*Multiple	7	4(57%)	3(43%)	3(43%)	1(14%)	3(43%)
OVO Insurance Services Ltd	Guernsey	Insurance	13	13	0(0%)	6(46%)	0(0%)	7(54%)
Praemium International Limited	Jersey	Investment/ Funds	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Prudential Assurance Company Limited	Jersey	Pension	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
R.A. Rossborough (Insurance Brokers) Limited	Jersey	Insurance	3	1(33%)	2(67%)	0(0%)	0(0%)	3(100%)
RAW Capital Partners Limited*	Guernsey	*Multiple	2	2(100%)	0(0%)	0(0%)	0(0%)	2(100%)
RBC cees Ltd	Jersey	Pension	3	1(33%)	2(67%)	0(0%)	0(0%)	3(100%)
RBC Trustees (Jersey) Limited	Jersey	Pension	2	0(0%)	2(100%)	0(0%)	0(0%)	2(100%)
Rossborough Financial Services Limited	Jersey	Pension	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Royal Bank of Scotland International Limited	Jersey	Banking	3	1(33%)	2(67%)	1(33%)	1(33%)	1(33%)
Safe World Insurance Group International Limited	Guernsey	Insurance	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)
Santander International, Jersey	Jersey	Banking	5	4(80%)	1(20%)	1(20%)	0(0%)	4(80%)

FIRM	FIRM JURISDICTION	SECTOR	CASES RESOLVED	CASES RESOLVED BY MEDIATION	CASES RESOLVED BY DETERMINATION	OUTCOME IN FAVOUR OF COMPLAINANT (More compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF COMPLAINANT (Same or less compensation than originally offered by FSP)	OUTCOME IN FAVOUR OF FSP
Santander UK Plc, Jersey Branch	Jersey	Banking	2	2(100%)	0(0%)	0(0%)	0(0%)	2(100%)
SG Kleinwort Hambros Bank (CI) Limited	Jersey	Banking	1	1(100%)	0(0%)	0(0%)	0(0%)	1(100%)
Skipton International Limited	Guernsey	Banking	3	3(100%)	0(0%)	2(67%)	0(0%)	1(33%)
Sovereign Trust (Guernsey) Limited	Guernsey	Pension	5	3(60%)	2(40%)	1(20%)	0(0%)	4(80%)
SPF Private Clients (Channel Islands) Limited*	Guernsey	*Multiple	3	2(67%)	1(33%)	2(67%)	0(0%)	1(33%)
Standard Chartered Bank, Jersey Branch	Jersey	Banking	4	2(50%)	2(50%)	2(50%)	0(0%)	2(50%)
The Islands' Insurance Brokers Limited	Guernsey	Insurance	4	3(75%)	1(25%)	1(25%)	0(0%)	3(75%)
The Pensioner Trustee Company (Guernsey) Ltd	Guernsey	Pension	1	0(0%)	1(100%)	0(0%)	0(0%)	1(100%)
Trafalgar Insurance Company Limited	Guernsey	Insurance	3	2(67%)	1(33%)	1(33%)	0(0%)	2(67%)
Utmost Worldwide Limited*	Guernsey	*Multiple	14	11(79%)	3(21%)	3(21%)	1(7%)	10(72%)
Wealth Financial Planning Jersey Ltd	Jersey	Investment/Funds	1	1(100%)	0(0%)	1(100%)	0(0%)	0(0%)

**\* FSPs with multiple sectors:**

Alexander Forbes Channel Islands Limited - CIFO sectors: Investment/Funds and Pension

Barclays Wealth Management Jersey Limited - CIFO sectors: Investment/Funds and Banking

Generali Worldwide Insurance Co Ltd - CIFO sectors: Investment/Funds and Insurance

Overseas Trust and Pension Limited - CIFO sectors: Investment/Funds and Pension

RAW Capital Partners Limited - CIFO sectors: Investment/Funds and Non-Bank Money Services/Credit

SPF Private Clients (Channel Islands) Limited - CIFO sectors: Investment/Funds, Non-Bank Money Services/Credit and Insurance

Utmost Worldwide Limited - CIFO sectors: Investment/Funds and Insurance



ANNEXES

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# ANNEXES TO THE ANNUAL REPORT 2021

Channel Islands Financial Ombudsman

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## ANNEX 1 OUR STAFF

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CIFO is committed to an inclusive and diverse workplace where we invest in our people. Appointment to the role of Principal Ombudsman & Chief Executive and all new permanent staff appointments are made following an open recruitment process.

Our staff – with a wide variety of experience and training in financial services, law, finance, law enforcement, consumer research and policy, data protection, dispute resolution and regulatory compliance – review and investigate unresolved complaints about the provision of financial services in or from the Channel Islands.

**Douglas Melville**  
Principal Ombudsman & Chief Executive

**Mike Ingram**  
Ombudsman

**Amanda Maycock**  
Ombudsman

**David Millington**  
Ombudsman

**Clare Mortimer**  
Ombudsman

**Ross Symes**  
Manager, Complaints Resolution

**Chris Bick**  
Case Handler

**Natalie Mooney**  
Case Handler

**Lindsey Power**  
Case Handler

**Oana Lupu**  
Intake and Assessment Officer

**Alison Finn**  
Manager, Finance & Administration

**Carol Rabet**  
Information Officer

**Heather Rushton**  
Administration Officer



Front row: Amanda Maycock, Chris Bick, Natalie Mooney, Mike Ingram, Alison Finn

Back row: Ross Symes, Oana Lupu, David Millington, Douglas Melville, Clare Mortimer, Lindsey Power, Heather Rushton, Carol Rabet



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## ANNEX 2

# GOVERNANCE, ACCOUNTABILITY AND TRANSPARENCY

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When combining an important public interest mandate with a strict need for independence, it is particularly important to demonstrate accountability and transparency. CIFO takes various steps to ensure that we are accountable for our performance of this role and to drive our commitment to continuous improvement.

### *New CIFO directors*

Several CIFO directors (including CIFO's chair) approached the end of their terms of office in 2021 and would be stepping down between January 2022 and January 2023 in accordance with governance good practice limiting directors to maximum collective terms of service not to exceed nine years. An open competition, overseen by the Jersey Appointments Commission (JAC), was held to identify director candidates for recommendation to the Jersey Minister for Economic Development, Tourism Sport & Culture and the Guernsey Committee for Economic Development for appointment. Upon conclusion of the search process, which attracted a large number of excellent candidates from the Channel Islands, the United Kingdom, and Western Europe, two new directors were recommended to both governments and duly appointed effective 30 January 2022. Guernsey-based Robert Girard and UK-based Antony Townsend were appointed with a third recommendation of a Jersey-based candidate to be considered for appointment following the Jersey general election scheduled for June of 2022. The appointment of a new board chair (from amongst the appointed directors) to take office from the end of January 2023 will occur in late 2022.

### *CIFO rolling board review of CIFO operations*

CIFO regularly conducts a rolling review of various aspects of CIFO's operations. At each quarterly CIFO board meeting, part of the strategy discussion time is devoted to conducting a review of CIFO's operation against one of the fundamental principles for effective financial ombudsman schemes set out by the International Network of Financial Services Ombudsman Schemes (INFO Network) and the

Service Standards Framework of the Ombudsman Association (OA). In the past, CIFO has been found by the board to be generally consistent with the fundamental principles and standards and those few opportunities for enhancement that were identified will be implemented by management as resources permit. These INFO Network fundamental principles can be [seen here](#). The OA Service Standards Framework can be [seen here](#).

Making such ongoing reviews a part of CIFO's governance culture ensures that we stay focused not only on the high-level purpose of CIFO's mandate, but also on the various operational aspects which are critical to ensuring our service is effective, responsive, and continuously improving.

### *Transparency of governance*

CIFO remains committed to the continued transparency of our operation. The expenses of the chairman and directors as well as those of the Principal Ombudsman are posted to [CIFO's website](#). Chairman and director remuneration and attendance record at board of directors meetings is provided in this annual report. Minutes of board of directors meetings are posted on [CIFO's website](#).

### *Governance review*

During 2021, CIFO's board of directors conducted a governance review, including a director survey, that looked at how the board functions, what the board focuses its attention on both at and between board meetings, and opportunities for continuous improvement in CIFO's governance and its interaction with and oversight of management. Arising from the review, several tangible steps were undertaken including:

- Reintroduction of a dedicated strategy discussion on the first day of our quarterly board of directors meetings followed by a working dinner enabling the morning of the second day to be dedicated to the usual quarterly board oversight matters.
- Introduction of a comprehensive induction and



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## ANNEX 2 (CONT.)

### GOVERNANCE, ACCOUNTABILITY AND TRANSPARENCY

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orientation session for new directors (which also serves as a refresher for existing directors) reflecting the fact that CIFO would be on-boarding its first new directors since its formation in 2015.

- Supplementing the risk-oriented quarterly rolling reviews of different aspects of CIFO's operations, formalisation of the board's risk management oversight to ensure the board has continuous oversight of on-going risks and mitigation measures in place and refreshes its perspective on risks at least each quarter.

#### ***Board risk management***

During 2021, CIFO's board of directors conducted in-depth reviews of different aspects of CIFO's operations including:

- The integrity of CIFO's systems infrastructure and cybersecurity.
- CIFO's accounting policy for case-related expenses in the context of CIFO's workload analysis.
- Quality control measures in place for decisions made at various stages in CIFO's complaint resolution process.
- Service complaints involving CIFO's performance of its role.
- Possible legislative changes to CIFO's enabling legislation or other laws that impact CIFO's statutory mandate for recommendation to both governments.

In addition to these reviews, a comprehensive risk assessment methodology and dashboard were developed which provide a continual perspective for directors on the risks affecting CIFO rated for both inherent and residual risk, noting risk mitigation measures in place, and which is reviewed quarterly on an on-going basis. The risk categories reviewed include:

- Operational risk
- Liquidity risk
- Conduct risk
- Outsourcing risk

#### ***Transparency of operations***

In addition to the provision of this annual report and audited financial statements, CIFO publishes a range of information on its website including [board minutes](#), [newsletters](#), and details of CIFO's [funding](#) and [legislation](#). CIFO also publishes [final Ombudsman decisions](#) and [case studies](#) on its website. Published decisions on complaints referred to CIFO on or after 1 January 2018 will include the names of the FSPs involved. Complainants' names are not published.

This year we have included a total of 25 case studies in this annual report that illustrate the range of complaints we deal with and the approach CIFO takes to achieving fair and reasonable outcomes in each unique circumstance.

CIFO is continuing its practice of publishing quarterly complaints statistics and annual summary complaint statistics on an FSP-named basis.

## THE FIVE MEMBERS OF THE CIFO BOARD OF DIRECTORS ARE:



**David Thomas (chairman)** is a Senior Alternative-Dispute-Resolution Consultant for the World Bank and also a volunteer adviser for Citizens Advice (UK). He was formerly: a lawyer in private practice and a member of the Council of the Law Society (England and Wales); Banking Ombudsman (UK); principal ombudsman with the Financial Ombudsman Service (UK); and a director of the Legal Ombudsman (England and Wales). He has advised on financial consumer protection in more than 30 countries.



**John Mills CBE (vice-chairman)** was formerly a senior civil servant in the UK and Jersey. In recent years he has held a number of non-executive appointments in the public and statutory sectors, including as a board member of the Jersey Financial Services Commission, vice-chairman of the Port of London Authority and deputy chairman of Ports of Jersey Ltd. Since 2017 he has been Jersey's first Charity Commissioner. He is a member of the board of both public sector pension funds in Jersey and is also an independent trustee of one of the country's largest private sector pension schemes.



**Rob Girard** is a Fellow of the Chartered Institute of Bankers and has extensive banking experience with previous roles which include Country Head and Director of Institutional Banking for RBS International/NatWest in Guernsey and Board Director of the NatWest Group Global Captive Insurer. He acted as a committee member for the Association of Guernsey Banks for over 10 years. Rob is also a former member of the Juvenile Panel of Guernsey's Royal Court.



**Deborah Guillou** is a fellow of the Chartered Institute of Management Accountants and a Chartered Director with experience in wealth management, insurance, and fund management as well as utilities and healthcare. Debbie is currently Chief Executive Officer of Artemis Trustees Ltd in Guernsey and was formerly Chief Executive of the Medical Specialist Group. Previous roles include head of Generali International, chief financial officer of Generali Worldwide Insurance, a senior finance manager at Investec Asset Management, finance director at Guernsey Electricity and an accountant with Fairbairn International.



**Antony Townsend** currently serves as Chair of the Determinations Panel of the UK Pension Regulator (TPR) and Deputy Chair of the UK Professional Standards Authority for Health and Social Care. He brings deep experience in complaints handling and regulation. He previously served as the UK's Financial Regulators Complaints Commissioner, a Director of the Ombudsman Association, Chair of the UK and Ireland Regulatory Board of the Royal Institute of Chartered Surveyors, and Chair of the Regulation Board of the Association of Chartered Certified Accountants. Antony is also a former Chief Executive of the Solicitors Regulation Authority and General Dental Council in the UK. In the first part of his career, he was a policy civil servant in the UK Home Office working primarily on criminal justice issues.

## DIRECTORS' ATTENDANCE AT 2021 BOARD MEETINGS

### ATTENDANCE AT BOARD MEETINGS

Regular in-person meetings of the board of directors were scheduled throughout 2021, although due to the Covid-19 pandemic restrictions, only one in-person meeting took place with the balance by video conference.

	No. of meetings held	No. of meetings attended	No. of meetings absent	Attendance rate	Meeting dates
David Thomas (Chair)	4	4	0	100%	21 January 2021
Deborah Guillou	4	4	0	100%	29 April 2021
John Mills	4	4	0	100%	21 July 2021
John Curran	4	4	0	100%	20 October 2021

### DIRECTOR REMUNERATION 2021

	Total Pay	Bonuses and other incentives
David Thomas (Chair)	£24,000	NIL
Deborah Guillou	£6,375	NIL
John Mills	£6,375	NIL
John Curran	£6,375	NIL



Catherine Best, Jersey

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## ANNEX 3

### WHO WE ARE

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*The Channel Islands Financial Ombudsman (CIFO) is the independent dispute resolution service for unresolved complaints involving financial services provided in or from the Channel Islands of Jersey, Guernsey, Alderney, and Sark. Complaints can be brought by any individual consumers and small businesses from anywhere in the world, plus certain Channel Islands charities.*

CIFO is a joint operation of two statutory ombudsman roles, established in law by the Financial Services Ombudsman (Jersey) Law 2014 and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014, jointly operating under the name Channel Islands Financial Ombudsman. CIFO operates from a single office in Jersey with one set of staff and the

same board members overseeing the two statutory roles. The States of Jersey and States of Guernsey jointly appointed the Board of Directors and the Board appointed the Principal Ombudsman and Chief Executive. The office commenced operation on 16 November 2015.

The primary role of CIFO is to resolve complaints about financial services provided in or from the Channel Islands. It resolves complaints against financial services providers – independently, fairly, effectively, promptly, with minimum formality and so as to offer a more accessible alternative to court proceedings. This helps to underpin confidence in the finance sectors of Jersey and Guernsey, both locally and internationally.



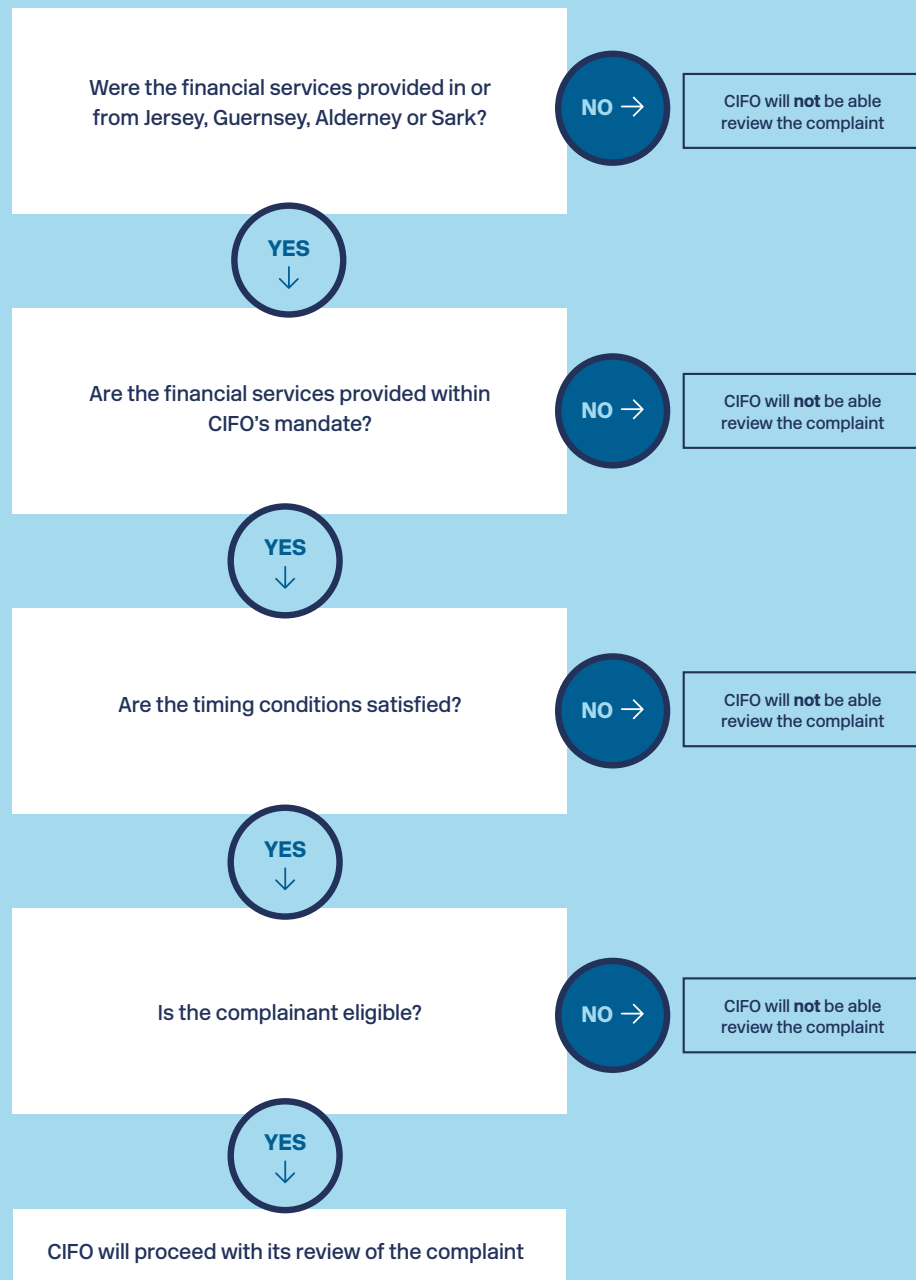
## OUR MANDATE

The mandate of the Channel Islands Financial Ombudsman is set in the primary laws and supporting secondary legislation in Jersey and the Bailiwick of Guernsey. CIFO can only investigate complaints that meet certain conditions relating to the person bringing the complaint, the type of financial service complained about and the timing limitations. The table on the following page summarises the mandate according to the location from where the financial services were provided. Please note that this is a summary, and the full detail is provided in the legislation viewable on [our website](#).



Service provided in / from	Guernsey, Alderney and Sark	Jersey
<b>Complainants</b>	<ol style="list-style-type: none"> <li>1. Must be a consumer or microenterprise (anywhere in the world) or a Channel Islands small charity;</li> <li>2. Must not be a financial services provider;</li> <li>3. Must have been a client or had another specified relationship with the financial services provider.</li> </ol>	
<b>Financial Services</b>	<p>The complaint must relate to an action (or failure to act) by a person while carrying out relevant financial services business, in or from within the location. Relevant financial services business covers:</p> <ol style="list-style-type: none"> <li>1. Banking</li> <li>2. Money service business</li> <li>3. Insurance, excepting commercial reinsurance;</li> <li>4. Investment funds: activities relating only to Class A collective investment schemes and not other collective investment schemes;</li> <li>5. Investment services such as advising, managing or dealing in Class A funds and other investments such as stocks and shares;</li> <li>6. Pensions. Exemption for pension business carried on in relation to an occupational pension scheme, where the employer does not do any other pensions business;</li> <li>7. Credit. Exclusions for informal store credit; debt-advice from a third party such as the Citizens Advice Bureau; point-of-sale credit intermediaries that are not financial services entities;</li> <li>8. Related (or ancillary) services provided by the same financial services provider;</li> <li>9. Providing advice or introductions to the areas above.</li> </ol> <p>Fiduciary/trust company business is exempt unless it relates to one of the areas above.</p>	
<b>Timing</b>	<ol style="list-style-type: none"> <li>1. 'Starting point': the act or omission that led to the complaint must not be before 2 July 2013;</li> <li>2. The financial services provider must have already had a reasonable opportunity to resolve the complaint (a maximum of 3 months);</li> <li>3. The complainant must refer the complaint to CIFO by the later of: <ol style="list-style-type: none"> <li>a. 6 years from the act/omission; or</li> <li>b. 2 years after complainant should have known he/she had reason to complain.</li> </ol> </li> <li>4. The complainant must also refer the complaint to CIFO within 6 months of receiving the financial services provider's decision on the complaint if the financial services provider met certain conditions in handling the complaint.</li> </ol>	<ol style="list-style-type: none"> <li>1. 'Starting point': the act or omission that led to the complaint must not be before 1 January 2010;</li> </ol>

## A SUMMARY OF HOW WE DETERMINE IF A COMPLAINT IS WITHIN CIFO'S MANDATE





North Coast of Jersey

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## ANNEX 4

### HOW WE WORK

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#### The complex role of an Ombudsman

When we receive a complaint, CIFO's team looks at the information provided to make sure it falls within our mandate (see our 'Summary of how we determine if a complaint is within CIFO's mandate' on page 48). For instance, the FSP has to fall within CIFO's mandate as set out by law in both Jersey and Guernsey. A 'summary of CIFO's mandate' is set out on page 47. We do not handle matters that have already been through a court or an arbitration. We look for a final answer from the FSP to the consumer responding to their complaint, which allows us to start our review knowing the positions of both parties.

During an investigation, we gather information from both parties and review the facts of the case. We make decisions based on what's fair to both the consumer and the FSP, the law, regulatory policies and guidance, any applicable professional body, standards, codes of practice, or codes of conduct, taking into account general principles of good financial services and business practices. If we believe that the facts of the case do not warrant further review, we will let the consumer know. We always make sure that we explain our reasons, just as we do when we are determining that compensation is appropriate.

If we determine that compensation is owed to the consumer, we try to resolve the dispute through a facilitated settlement between the consumer and FSP that aims to address the complaint quickly with a fair outcome to both parties.

If we are unable to facilitate a settlement but we continue to believe the consumer should be compensated, we will complete our investigation and make a decision. Our decision, if accepted by the consumer, becomes binding upon the FSP. Guidance as to 'CIFO's Process Stages & Timelines' is detailed on page 51.

Neither a court nor a regulator, CIFO does not fine or discipline FSPs or individuals working within the financial sector. However, we can require that FSPs pay compensation to the consumer of up to £150,000 to cover economic loss, distress, or inconvenience. In some instances, non-financial actions such as correcting a credit reporting agency record may be appropriate. CIFO's approach to compensation has been published on our website and can be seen [here](#). If a client does not accept our conclusions, they are free to pursue their case through other processes including the legal system, subject to statutory limitation periods.



#### A preference for mediation, where appropriate

Where appropriate, CIFO seeks to resolve complaints through early mediation. Mediation is an alternative dispute resolution method where a neutral and impartial third party, the mediator, facilitates dialogue in a structured multi-stage process to help parties reach a conclusive and mutually satisfactory agreement. A mediator assists the parties in identifying and articulating their own interests, priorities, needs and wishes to each other. The ombudsman process is often more of a mediation where the ombudsman plays the role of the guide, mediator, and arbitrator to both parties in a dispute.

As an independent third party with relevant sector knowledge, CIFO can help the parties 'see sense' and come to a mutually agreed and fair solution. Mediation is not always an appropriate solution for complaints, as there may be significant and material disputes of fact, or the parties may be too deeply entrenched in their own views. Where necessary, both parties to the complaint have a right to a binding decision from a CIFO Ombudsman, but in most cases that does not prove necessary. All CIFO's case handlers have advanced training in mediation skills and endeavour to resolve complaints through this alternative approach which tends to be faster and better at preserving the existing relationship between the customer and their financial services provider.

Sark Harbour, Guernsey



## THE CIFO PROCESS STAGES & TIMELINES



Intake is where a complaint is brought to CIFO with a completed complaint form, logged into CIFO's complaint management system (CMS), and acknowledged back to the complainant. We strive to complete this stage within 4 days.

Assessment is where the complaint is assessed against CIFO's mandate which is set by law. We determine whether CIFO can review the complaint or whether it should be rejected under our law. We inform both parties by email (or by post if required) with our decision. If we are proceeding with a review, we request the file information from the financial services provider. We strive to complete this stage within 7 days.

This is where the financial service provider's response to the complaint and their complaint file is prepared, sent, and received by CIFO pursuant to our request issued at the end of stage 1. At this stage, a complaint becomes a CIFO case file for our review. We expect the financial service provider to respond with their file within 14 days.

### STAGE 2 Financial Service Provider's (FSP's) Response



Allocation is where a case file is ready for assignment to a member of our team for review. Given the volume of case files being handled by our office, there can be a delay at this stage until a case handler has capacity to take on a case file. We strive to complete this stage and assign new case files within 30 days.

Review is where the assigned CIFO team member reviews the case file and reaches a conclusion through either a successful mediated settlement based on their assessment of the complaint or a recommendation to the complainant and their financial service provider. In some cases where one or both parties disagree with the recommendation, we will proceed to an Ombudsman Decision. We strive to complete this stage and issue the case handler's recommendation within 60 days.

This is where the Ombudsman reviews the case file and decides what, if anything, the financial service provider should do to resolve the complaint. In some cases, a provisional decision will be made giving both parties an opportunity to review the Ombudsman's conclusions and providing an opportunity for additional input from both parties. A final decision on the complaint, if accepted by the complainant, becomes binding on the financial service provider. We strive to complete this stage and conclude our work on each case file within 60 days.

### STAGE 4 Ombudsman Decision



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## ANNEX 5

### CASE STUDIES

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*The case studies presented in this report and published on CIFO's website are intended to illustrate the type of complaints handled and the approach taken to resolve them. The case studies are based on actual CIFO case files. Some specific details may be altered to protect confidentiality.*



## Case Study #1

### BANKING, INVESTMENTS/ FUNDS

## INVESTOR INCURS LOSS DUE TO EARLY SURRENDER

This complaint relates to a bank's investment advice, the complainant's withdrawal from the investment, and the subsequent surrender charges the complainant incurred as a result.

In December 2019, Mrs A wanted to invest some savings and visited her bank who completed a financial planning report for her. Mrs A's financial planning report profile concluded that she wished to remain invested for 10 years or more, with a moderate level of investment risk. Mrs A was advised by her bank to carefully read all the information they had provided.

The bank recommended a single diversified investment product for Mrs A to invest in which the bank anticipated would pay interest of 3% per annum. Mrs A agreed and invested £75,000 from her savings accordingly.

Less than a year later, Mrs A visited the bank to check on the value of the investment she had made and was told the value of her investment had dropped due to market turmoil arising from the Covid-19 outbreak. Mrs A decided to withdraw her funds and incurred a cost of approximately £6,000 for surrendering the investment only 10 months into a 10-year fixed investment plan.

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#### Themes

- Fees and charges
- Process and procedures
- Investment risk
- Hard sell

Mrs A made a complaint to the bank as she felt that the Covid-19 outbreak was prevalent in the news at the time she invested, and the bank should have advised caution against investing at such a time. Mrs A also felt that as she was only offered one product, the bank had used 'hard sell' tactics to coerce her into investing in that specific option.

The bank advised they had provided a suitable investment based on the information provided by Mrs A and that all the relevant paperwork had been completed and signed. The documentation included a confirmation that Mrs A was aware of the risks associated with the product that the bank had recommended. Therefore, the bank did not uphold the complaint and referred Mrs A to CIFO.

CIFO investigated and noted that Mrs A had signed a declaration confirming that she was happy to remain invested for 10 years and was fully aware that the investment may not make the return that was anticipated. CIFO also decided that the bank's process for recommending one suitable diversified investment product was reasonable under the circumstances and that the bank should not be responsible for the loss incurred with Mrs A's investment. CIFO concluded that nobody could have reasonably foreseen at that time the effects Covid-19 would have on the financial markets and Mrs A made the choice to invest at that time. CIFO did not uphold the complaint.

## Case Study #2

### BANKING

## MORTGAGE VALUATION FEE NOT REFUNDED WHEN MORTGAGE APPLICATION WAS NOT ACCEPTED

A bank refused to refund a property valuation fee when the complainant's buy-to-let mortgage application was declined.

In November 2020, Mrs E submitted a mortgage application to her bank for the purchase of a new property. The bank formally approved the buy-to-let mortgage, subject to a valuation and rental income confirmation. The bank instructed Jersey Residential Valuation Services (JRVS) who instructed a valuer from the bank's panel of valuers, to complete the valuation and rental income confirmation for the property at a cost to the applicant borrower of £400.

Mrs E signed a mortgage declaration, stating that payment of the valuation fee would be made, regardless of whether the mortgage completes (i.e., the mortgage application was accepted). The bank had also told Mrs E that the only valuation they were able to accept was a bank instructed valuation and not a customer's own-obtained valuation. The valuation and rental income confirmation were returned but confirmed the buy-to-let property Mrs E wished to purchase would not yield the rental income required to cover the mortgage. The bank therefore rejected Mrs E's mortgage application.

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#### Themes

- Valuation fee
- Process and procedures
- Mortgage application

Mrs E complained to the bank and requested a refund of the £400 valuation and rental income confirmation fee. The bank said that they were unable to approve the mortgage following the outcome of the valuation as they were advised by the valuer that the rental income would not meet the requirements of the requested mortgage. This meant that the bank's affordability policy for a loan of this size (net disposable income) would not be met. The bank confirmed to Mrs E that they were unable to refund the valuation cost as they had formally approved the mortgage application based on different information received from Mrs E.

Mrs E took her complaint to CIFO saying that she was not given an opportunity to obtain a second valuation and requested the valuation fee of £400 be refunded, plus interest on that fee, along with compensation for the inconvenience caused in the form of a grocery store voucher valued at £100.

CIFO investigated and found that the bank had followed their process and procedures correctly. CIFO also noted that Mrs E had understood the terms of the agreement by signing a declaration that the fee would need to be paid irrespective of whether the mortgage was completed. The bank had also sent an email re-iterating that the formal mortgage approval was subject to the valuation and rental income confirmation. Finding no error on the part of the bank, CIFO did not uphold Mrs E's complaint.



## Case Study #3

### BANKING

## BANK CAUSES STRESS DUE TO DELAYS IN FINALISING A PROPERTY TRANSACTION

A customer claimed his bank failed to complete a funds transfer on time to pay for a house purchase, causing the complainant needless distress.

In September 2020, Mr C told his bank to transfer funds from his account in the Channel Islands to a UK account for the purchase of a property. Mr C had sought advice from his bank prior to the transfer to ensure the property purchase would not be delayed by the funds transfer. The bank had assured Mr C that the transfer would be completed on time.

Unfortunately, Mr C's funds did not arrive at the UK account on the date previously advised by the bank. Mr C contacted his bank to find out why the transfer had been delayed. Mr C's bank responded by saying the transaction had actually been cancelled and offered no apparent reason for this cancellation. Mr C had no alternative but to request the bank to do another funds transfer, postponing the house purchase transaction by another few days. This further delay caused Mr C some embarrassment as he had to request additional time from the seller to finalise the property purchase.

The funds were transferred, and the house purchase transaction was completed. Mr C made a complaint to his bank about the delay. The bank responded with an apology, but Mr C was not satisfied with the bank's response and referred his complaint to CIFO.

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#### Themes

- Bank transfer delay
- Process and procedures
- Distress and inconvenience award

CIFO investigated and noted that the bank admitted the delay in completing the transaction was the bank's responsibility caused by a staff error. CIFO therefore upheld the complaint and recommended the bank pay compensation to Mr C for the distress and inconvenience caused. CIFO also noted that the bank had not contacted Mr C to advise him that there had been an error with the transaction. It was only when Mr C contacted the bank to enquire about the delay that the error was discovered. Mr C then initiated the second funds transfer request.

Upon learning of CIFO's conclusion on the matter, the bank initially offered £150 for the upset it had caused Mr C. However, CIFO proceeded to make a recommendation to both parties as CIFO concluded the bank's offer was not fair and reasonable under the circumstances. Although CIFO recognised Mr C had suffered no economic loss, as the property seller had accommodated the delay caused by the bank, CIFO did feel the assurances given, the error, and the bank's lack of communication with Mr C regarding the error had together caused significant distress that warranted greater compensation than what the bank had offered. CIFO therefore recommended the bank provide Mr C with an increased offer of £500 due to the distress caused by the multiple errors. The bank accepted and compensated Mr C accordingly.

## Case Study #4

### BANKING

## BANK ACCOUNT INCURS CHARGES WITH A DELAYED TRANSFER REVERSAL REQUEST

A customer incurred charges when a bank delayed returning funds to her account.

In August 2020, Miss Q transferred funds from her overseas account to her local bank account. Within a few hours on the same day, Miss Q asked her overseas bank to reverse the transfer.

Her transfer reversal request was received a week later by her overseas bank, meaning that Miss Q had to make a formal transfer reversal request to her local bank in order for them to complete the transfer. After receipt of Miss Q's transfer reversal request the local bank tried to contact Miss Q on several occasions to finalise the transaction but was unable to reach her to confirm the instructions. Miss Q's overseas bank made another two requests to her local bank to reverse the funds, but the local bank advised they were still awaiting confirmation from Miss Q to complete the reversal transaction to return the funds back to Miss Q's overseas bank account.

In September 2020, Miss Q finally contacted her local bank to authorise the return of her funds. Her local bank advised her that she would be liable for the loss incurred due to foreign exchange rate differences arising between her local and overseas banks. Miss Q complained to her local bank as she felt that the foreign exchange fees were only being charged because her transaction reversal request had not been concluded when she had instructed, and that

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#### Themes

- Payment reversal request
- Foreign exchange fees
- Delayed process

this had not been her fault. The local bank rejected Miss Q's complaint and referred her to CIFO.

Miss Q complained to CIFO that she had requested an immediate transfer reversal, but the local bank had delayed this request ultimately causing Miss Q to incur foreign exchange charges. Miss Q also stated that the local bank's claim to have attempted to contact her was untrue and it had taken months for the return of her funds to be completed.

CIFO investigated and concluded that the delays with completing the transfer reversal request were mostly due to the local bank's inability to contact Miss Q. The local bank had made several calls to Miss Q and sent an email, but Miss Q had not responded to her bank's attempts to contact her. CIFO listened to the recorded calls made by the local bank, reviewed the email they had sent and determined that the local bank had indeed attempted to contact Miss Q as stated. However, CIFO noted that after Miss Q had authorised the payment back to her overseas account, the local bank took a further seven days to complete that transaction. Therefore, CIFO partially upheld the complaint and recommended the local bank compensate Miss Q £1,381 for the loss due to the exchange in rates for the further unreasonable delay caused by her local bank once the transaction was finally authorised.

## Case Study #5

### BANKING

## BANK USES COMMERCIAL DECISION TO DENY PAYMENTS TO PARTICULAR MERCHANT

A customer complained about their inability to make online debit payments to an online European store using a Euro denominated debit card.

Mr Z contacted his primary bank (the one he uses most for his personal transactions) after an online European store payment was declined when he used his Euro denominated debit card. Mr Z's bank initially advised that this was due to an issue with his debit card, then later advised that their policy prevented customers from making online payments to that particular online European store. Mr Z felt that his bank was being untruthful, as he was able to make payments to the same online European store from another bank which was part of the same banking group as his primary bank. Mr Z complained to his bank who referred his complaint to CIFO.

Mr Z complained to CIFO that the bank had provided incorrect advice regarding his debit card and had not provided an adequate explanation as to why online transactions with that particular online European store was blocked by the bank. With Mr Z's permission, CIFO suspended its investigation while Mr Z's bank made a further attempt to resolve his complaint. Mr Z's bank apologised for the poor standard of communication, reiterated that it was bank policy that prevented the payment and offered Mr Z €200 to cover communication costs and for the distress and inconvenience he had experienced. Mr Z declined their offer and referred the matter back to CIFO for review.

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#### Themes

- Euro denominated debit card
- Commercial or business decision
- Poor communication

CIFO investigated further and found that the complaint related to the bank's commercial or business decision and their risk management policies. CIFO was therefore unable to review the matter. CIFO informed Mr Z that banks often introduce payments-related risk management policies due to intelligence received or after completing an internal risk review, and that bank was not obligated to advise as to why they made these commercial decisions. Mr Z did not accept CIFO's conclusion and added that he believed his bank's policy existed in order to unreasonably restrict CIFO's powers to intervene.

CIFO again re-iterated that it was unable to interfere with a bank's commercial or business decision to block card purchases for certain merchants if they had concerns regarding those merchants. CIFO decided that it was reasonable that the bank imposes restrictions in accordance with its risk management decisions and its processes and policies. Therefore, CIFO did not uphold Mr Z's complaint. CIFO did however, conclude that it would be fair and reasonable under the circumstances for the bank to compensate Mr Z for the distress and inconvenience caused him by the bank's poor communication in this matter.



## Case Study #6

### BANKING

## BANK ACCOUNT CLOSURE DUE TO REGULATORY REQUIREMENT LEADS TO COMPLAINT

This complaint related to the closure of a complainant's joint bank account, the proceeds from an investment portfolio that had been paid into the bank account and an existing complaint.

In 2015, Mr & Mrs D transferred an investment portfolio away from their bank. This was because of a complaint they had made about the bank in 2010 to the local regulatory authority which they believed was still ongoing. In January 2016, the bank received a final payment from one of Mr & Mrs D's portfolios that had gone into liquidation, and this was credited to their bank account which they still held with the bank because of the ongoing complaint issue.

In November 2020, the bank wrote to Mr & Mrs D advising closure of their account, but Mr & Mrs D objected to the closure and the bank later started to apply a monthly charge to their joint account. Later, the bank advised they could no longer maintain the account due to regulatory issues and again advised that the account would soon be closed. Mr & Mrs D took their complaint to CIFO as they believed the closure of the bank account would sever the link to their earlier unresolved complaint and that the bank had failed to deal with the proceeds of the liquidated portfolio in accordance with their previous instructions.

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#### Themes

- Account closure
- CIFO's statutory time limit
- Commercial judgement

CIFO investigated and advised Mr & Mrs D that CIFO could not review the earlier complaint as the event had occurred more than 6 years prior to bringing their complaint to CIFO and therefore fell outside of CIFO's statutory mandate. CIFO also explained to Mr & Mrs D that CIFO will not generally review complaints if they concern the legitimate exercise of a financial service provider's commercial judgement, which includes decisions to terminate a relationship with a customer. This is in line with CIFO's policy on factors that CIFO considers in rejecting complaints. As commercial entities, banks are entitled to choose who they do business with and may terminate relationships with customers at their discretion and in accordance with the terms and conditions. CIFO would normally expect appropriate advance notice be given before the account closure. CIFO concluded that the bank's actions regarding the final portfolio payment were not unreasonable and noted that the bank had provided adequate notice to Mr & Mrs D of the account closure. CIFO did not uphold the complaint.

## Case Study #7

### BANKING

## COMPLAINANT'S FUNDS DRAINED FROM JOINT BANK ACCOUNT BY EX-PARTNER

This complaint related to the withdrawal of all the funds from a complainant's joint bank account by the ex-partner who still had full account access.

Miss A held a joint bank account with her ex-partner that had approximately £52,000. The bank had advised Miss A that the account could not be used until all outstanding "Know Your Customer" documentation had been received. This was part of the bank's regulatory obligation to enable the bank to continue to provide account facilities. This led Miss A to believe the bank account could not be accessed by either herself or her ex-partner until the documentation had been provided. However, in November 2017 Miss A's ex-partner transferred all the funds out of the account without Miss A's knowledge.

In December 2020, Miss A complained to the bank as she believed that neither she nor her ex-partner could have accessed the account in November of 2017. The bank advised that it was not aware of a dispute between Miss A and her ex-partner and that the joint bank account could accept withdrawals from either Miss A or her ex-partner as they both had signing authority on the account. The bank accepted that, had it been aware of any dispute, it would have been appropriate to change the mandate so that both account holders' consent would be needed before money from the account could be released.

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#### Themes

- Account closure
- 'Know Your Customer' documentation
- Joint account
- Time limit to refer complaint

The bank also explained that, although there were restrictions on the account (because "Know Your Customer" documentation was missing), it could ease those restrictions in certain circumstances.

In July 2021, Miss A referred her complaint to CIFO. CIFO considered whether the complaint could be reviewed as the time between the bank's final response to her complaint and Miss A's complaint to CIFO had been longer than 6 months. CIFO can generally only review complaints that have been received within 6 months of the financial service provider's final decision. However, CIFO made an exception given the specific circumstances in this case and reviewed Miss A's complaint.

CIFO found that Miss A and her partner were in the process of dividing their assets (including a house) and it would have been entirely reasonable for that agreement to include the funds from the joint bank account. That meant that Miss A could well have been entitled to recover the missing funds from her ex-partner. However, CIFO noted that Miss A's bank was not aware of the dispute between Miss A and her ex-partner and, as both had equal access to withdraw funds from the joint account, it was not fair or reasonable to expect the bank to reimburse Miss A for her loss. CIFO did not uphold this complaint as the bank had made no error.

## Case Study #8

### BANKING

## VISHING ATTACK ON COMPLAINANT LEADS TO LOSS OF FUNDS

A customer lost their funds from a joint account with their spouse after authorising online payments to a fraudster who was inciting fear by pretending that the customer's bank accounts were under threat from criminals.

In January 2021, Mrs Y received a 'vishing' phone call from a fraudster claiming that her funds were in jeopardy from criminals who had accessed her joint accounts. The fraudster told Mrs Y to make various payments throughout the day to move, and thereby safeguard her money. The fraudster instructed Mrs Y not to contact anyone or use her mobile phone during the interaction, which lasted most of the day. Mrs Y, who was in a state of shock and fear, was first instructed by the fraudster to make a payment of £20,000 to a bank account in the UK which Mrs Y's bank intercepted. Mrs Y's bank contacted Mrs Y as they believed it to be fraudulent, but Mrs Y was told by the fraudster to tell the bank that the payment was genuine. Having received her assurance, the bank then proceeded with the transaction as instructed.

The fraudster continued to terrorise Mrs Y on the phone by warning her that the criminals were still in her joint accounts. The fraudster then instructed Mrs Y to make another online payment of £25,000 to a different UK bank account, and that transaction went through. Later that afternoon, Mrs Y was again instructed by the fraudster to authorise two more transactions, each for £25,000. Both payments were intercepted by the bank and neither went through.

When Mrs Y's husband was alerted later that day, he tried to contact the bank but could not get a response. When Mr Y finally reached the bank, they assured him that the first transaction of £20,000 was still being held for fraud checks. However, the bank had in fact already completed this transaction, along with the second transaction of £25,000 - meaning that £45,000 had been transferred to the fraudsters.

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#### Themes

- Authorised push payment fraud
- Vishing
- Safe account

The bank was able to recover approximately £17,000 of that amount, leaving Mr & Mrs Y with a loss of approximately £28,000. Mr & Mrs Y complained to the bank asking to be reimbursed, but the bank declined to do so. The bank did however agree that they had provided incorrect information to Mr Y on the phone and offered a distress and inconvenience payment of £300. Mr & Mrs Y rejected that offer and brought their complaint to CIFO.

CIFO investigated and noted that the first transaction had been stopped because the beneficiary's bank account in the UK was on a UK banks' watch list - which the Channel Islands bank had access to. CIFO also noted, from the bank's recording of the first transaction call, that the fraudster's voice could be heard at the very end, instructing Mrs Y to hang up. CIFO felt that the bank should have noted that and been put on notice of potential fraud as it could reasonably have been feared that Mrs Y was potentially acting under duress, partly from hearing the fraudster's voice on the call but also more generally from the content of the call and the answers Mrs Y gave to the bank's questions. This was even more concerning as the bank had intercepted the first attempted payment because of concerns about the beneficiary account. Had the bank recognised these signs and made more enquiries (possibly including contacting Mr Y who was also a joint account holder) before releasing the first payment, CIFO concluded - on balance - that the fraud would have been uncovered and no additional payments would have been made.

CIFO upheld the complaint and recommended that the bank compensate Mr & Mrs Y for the amount which had not been recovered from the beneficiary banks, plus interest at an annual rate of 8% simple, plus a distress and inconvenience award of £500 - in total, about £30,000.

## Case Study #9

### INSURANCE

## INSURANCE COMPANY REJECTS CLAIM DUE TO TERMS AND CONDITIONS AFTER VERBALLY CONFIRMING THE CLAIM COVER

A customer complained about their insurance company's rejection of a claim when it said the wife's treatment was not covered by their policy.

Mr B and his wife were visiting a maternity doctor who noted it was a high-risk pregnancy and recommended Mrs B undergo some additional tests. Before Mr B agreed to the additional tests, he contacted his insurance company by telephone to ensure that the tests would be 100% covered by his health insurance policy. Mr B's insurance company confirmed that everything would be covered, and they followed the doctor's advice to obtain the additional tests.

Mr B then received bills for the tests as the insurance company had rejected the claim. Mr B contacted his insurance company who advised that the medical provider that provided the tests was not in its network of providers so the claim wouldn't be paid in full. Mr B referred the insurance company to the recorded telephone call that he had with the insurer prior to him and his wife agreeing the recommended tests. The insurance company referred Mr B to his health insurance policy and said the terms and conditions were clear. The insurance company advised that the terms and conditions of the policy could not be modified by either oral miscommunications or misunderstandings and could only be altered through a formal process. The insurance company referred Mr B to CIFO.

Mr B brought his complaint to CIFO emphasising that the whole process had been mentally stressful. Mr B believed that, as the insurance company had confirmed on a recorded telephone call that 100% of the costs for

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#### Themes

- Recorded customer call determinative evidence
- Insurance policy terms and conditions
- Distress and inconvenience

the tests would be covered, the insurance company should honour the claim.

CIFO investigated and decided that the telephone call between the insurance company and Mr B had led Mr B to continue with the recommended tests believing that the costs would be fully covered. Mr B had explained to the insurer that he and his wife could not afford the cost of the tests, so would not have been able to proceed with the tests unless they were covered under the policy. Mr B had also explained during the call that he was an expatriate and inexperienced with making claims in the country he was residing in. Mr B's comments during the call also should have indicated to the insurer that the medical provider may not have been within the insurer's network. The insurer's adviser had explained the tests would be covered in full and had not explained this was dependent on the medical provider being within the insurer's network. CIFO therefore upheld the complaint and recommended that the full health insurance claim of £3,700 be paid. CIFO also decided that as this process had caused Mr B great anxiety during a particularly stressful period, the insurance company should also compensate Mr B a further £300 for the distress and inconvenience caused.

CIFO recommended the insurance company to cover the full cost as it was decided that it was clear Mr B wouldn't have gone ahead with the treatment in this way if not for the incorrect advice received from the insurance company.

## Case Study #10

### INSURANCE

## INSURANCE CLAIM REJECTED DUE TO NON- COMPLIANCE WITH SECURITY REQUIREMENTS

A customer objected to the rejection of a bicycle theft insurance claim. The claim was rejected due to the limitations in the insurer's policy about keeping the insured asset secure.

In April 2020, Mr M discovered that his bike had been stolen. Mr M had stored the bike in a council-supplied, shared, residents only, secure bike hanger which he rented. Mr M submitted a claim to his insurance company for the value of the bicycle and the damaged accessories, estimated to be worth £750.

The insurer rejected the claim citing that the bike was stolen from a place that did not meet the insurance policy's 'security requirements' for the 'insured location'. The insurer also stated that, as the bike was left for more than 12 hours outside the insured location, according to the policy the bike would be considered 'abandoned'.

Mr M appealed the rejection of the insurance claim stating that the policy did not clearly state that a bicycle theft from a council-supplied bicycle hanger would not be covered, but Mr M did notice that provision would be granted to bicycles stored in a 'communal outbuilding'. However, the insurer continued to reject the claim as they stated a 'residents only, council supplied bicycle hanger' did not comply with the specific policy phrase 'communal outbuilding within the boundaries of the property'.

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#### Themes

- Claim rejection
- Security requirements
- Customer obligation to properly protect the insured asset
- Bicycle insurance policy
- Insurance broker as 'agent' of insurer

In May 2020, the insurer responded and explained that although the bicycle hanger was on Mr M's road it was not the insured location defined in his policy (which was his home address). As the bicycle was not at the insured location for more than 12 hours, it was considered abandoned, and Mr M's appeal was rejected. The insurer referred Mr M to CIFO, and Mr M brought his complaint to our office.

CIFO investigated and concluded that the definition of 'abandonment' was quite different to the commonly accepted definition of the word and that policy exclusions regarding the bicycle storage significantly limited the scenarios in which cover would be granted. CIFO explained that both the regulator's code of conduct for the jurisdiction in which the policy was sold and the Licensed Insurer's (Conduct of Business) Rules, 2018 require significant and unusual terms to be highlighted and explained to customers at the point of sale.

The policy documentation made clear that the insurance broker was acting as the insurer's agent when selling the policy. This meant that the insurer was responsible for any acts or omissions made by the insurance broker when selling the policy. CIFO concluded that it was unreasonable for the insurance company to rely on the unclear policy exclusions to decline the claim. CIFO recommended the insurance company settle the claim in line with the remaining terms of the policy and pay interest of 8% on that settlement, from the date of loss until the date of the final settlement.

## Case Study #11

### INSURANCE

## HEALTH INSURANCE CLAIM REJECTED AS COVID PANDEMIC NOT COVERED

An insured objected to a health insurance claim rejection for a Covid-19 diagnosis as the insurance provider advised that pandemics were not covered by the complainant's insurance policy.

In March 2020, Mrs G contracted Covid-19 and was admitted to hospital on an emergency basis with the costs covered by local public healthcare. In April 2020, Mrs G made a health insurance claim for the period of time that she was in hospital, as her policy allowed for a 'hospital cash benefit' if Mrs G was admitted to hospital under public healthcare as opposed to private healthcare. Mrs G's claim was rejected by her insurance provider.

Mrs G complained to her insurance provider who advised that the claim was rejected as they did not pay for treatment arising from any disease or illness which was considered to be a pandemic and the World Health Organisation had declared Covid-19 to be a pandemic prior to Mrs G's admission to hospital. The insurance company did offer to reduce Mrs G's monthly premiums by a third for a period of three months, but Mrs G declined the offer and advised that she would not be renewing her health insurance policy. The insurance provider's final response letter to Mrs G referred her to the UK Financial Ombudsman Service (UK FOS) if she remained dissatisfied. Mrs G made a complaint to UK FOS, but they were not able to consider her complaint as it did not fall within their jurisdiction. UK FOS referred Mrs G to CIFO.

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#### Themes

- Claim rejection
- Covid-19
- Terms and conditions
- Incorrect financial ombudsman referral

Mrs G complained to CIFO claiming that her insurance provider should have made their terms and conditions clearer in respect of Covid-19 and that they had referred her to the wrong financial ombudsman, causing her a great deal of inconvenience and wasted time.

CIFO investigated and noted that Mrs G's health insurance policy's terms and conditions did exclude costs for the treatment of a disease or illness considered to be an epidemic or pandemic. The health insurance policy's terms and conditions also stated that an emergency admission to hospital would only be covered if the treatment itself was eligible under the terms of cover. Since the pandemic was not covered, the emergency hospital admission would also have been excluded. On this basis CIFO concluded that the insurance company's decision to reject Mrs G's health insurance claim was reasonable and in accordance with the insurance policy's terms and conditions.

CIFO did though note that Mrs G was directed to refer her complaint to the wrong financial ombudsman which significantly delayed her complaint being considered. CIFO therefore recommended the insurance company pay £150 to Mrs G for the inconvenience she suffered as a result.

## Case Study #12

### INSURANCE

## HOME INSURANCE CLAIM REJECTED DUE TO ENGINEER'S MIS-DIAGNOSIS OF PROBLEM

A home emergency insurance claim was rejected because the home insurance company's appointed engineer mis-diagnosed an error, leading to the belief that the issue was not covered by the complainant's home insurance policy.

Mr D's boiler failed leaving him with no hot water. Mr D contacted his home insurance company, and an engineer was dispatched to examine the boiler. The engineer advised that the boiler's heat exchanger was blocked, and this was unfortunately outside of Mr D's home insurance policy cover. The engineer also recommended additional work that would be needed at a cost of between £500 - £1,000. As the additional work was not covered by Mr D's home insurance policy, the engineer was unable to complete the repairs and left.

Mr D was not convinced with the first engineer's diagnosis and contacted another accredited engineer to re-examine his boiler. Mr D's engineer found that the issue was related to a seized pump that was covered by Mr D's home insurance policy and not a blockage as the first engineer had concluded. Mr D contacted his home insurer again to advise of this new advice, but the home insurer stated that the seizure must have been caused by the blockage and rejected Mr D's home insurance claim. Mr D felt he had no alternative but to commission his engineer to complete the work at a cost of approximately £600 as he had no hot water. Whilst Mr D's engineer completed the work, he advised Mr D that there was no blockage and that the additional work required according to the first engineer, costing between £500 and £1,000, was not necessary.

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#### Themes

- Home insurance
- Accredited engineer
- Second professional opinion

Mr D made a formal complaint to his home insurance company as he believed the actual boiler issue was covered by his home insurance policy. Consequently, Mr D requested his home insurance company refund him the cost of the repairs. Mr D's home insurance company investigated and upheld Mr D's complaint. They apologised to Mr D but stated that Mr D's repair costs were unreasonable and offered Mr D approximately £450 towards the repairs with no compensation for distress or inconvenience. Mr D accepted this offer and took his complaint to CIFO in an effort to retrieve the rest of the repair costs and compensation.

Mr D complained to CIFO, requesting a refund of the outstanding £150 repair costs and £50 for the distress and inconvenience he had suffered. CIFO investigated and found that Mr D's home insurance company's engineer had originally mis-diagnosed the problem which had led to Mr D's complaint. CIFO also noted that Mr D's home insurance policy did cover the actual boiler issue. Therefore, notwithstanding the previous agreement for the amount offered by the insurer, CIFO upheld the complaint and recommended Mr D's home insurance company cover the remaining costs for the boiler repairs and compensate Mr D £100 for the distress and inconvenience they had caused. The recommendation was accepted by the insurer.



## Case Study #13

### INSURANCE

## COMPLAINANT'S REPATRIATION DELAY LEADS TO FURTHER MEDICAL TREATMENT

Miss X was a keen marathon runner and led an active lifestyle. In February 2019, Miss X was on a ski trip in Europe when another skier crashed into her, causing a hip fracture. Miss X was admitted to the local hospital. The doctors confirmed she had an un-displaced hip fracture which they pinned. Miss X was told an operation was needed. Miss X contacted her travel insurance provider for help getting back home. Miss X's travel insurance provider informed Miss X that the overseas hospital could complete the procedure there, but Miss X was reluctant and reiterated her wish to return home to have the operation in her local hospital. The travel insurer engaged a third-party provider to arrange for Miss X's repatriation. Meanwhile, the hospital near her home was contacted and was ready for Miss X's admission upon her arrival.

It was not until one week later that the third-party provider had managed to arrange for a flight medic to meet with Miss X to assist with her return home. In the meantime, Miss X had kept going to the local hospital in Europe for pain treatment while awaiting her transportation home.

The flight medic suggested repatriation using a stretcher but was told this could take several more days to organise. Miss X insisted on making the journey immediately and the doctor prescribed a strong pain reliever to support her through the return journey.

Miss X travelled back to her home via a commercial flight, using three seats. While on the plane, she was forced by flight safety regulations to put her legs down and therefore experienced great discomfort. When the first flight landed, she took a connecting flight to get to her home and upon arrival was taken home. She then went to her local hospital. By this time, the hip fracture had displaced, and Miss X needed a full hip replacement. The hip replacement operation took place shortly after.

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#### Themes

- Travel insurance
- Repatriation
- Delay
- Communication error

Miss X complained to her travel insurance provider regarding the delays she had experienced during her repatriation, which she felt had caused her further injury. Her travel insurance provider suggested compensation of £15,000 would be appropriate under the circumstances; however, the travel insurance provider only offered her £7,500 and told her to claim the other £7,500 from the doctor who first treated her in Europe following the accident. Miss X rejected their offer, and her complaint was referred to CIFO.

Miss X's travel insurance provider stated that the overseas doctor had recommended a procedure, but not a full hip replacement and that it was Miss X's decision to travel home without a stretcher so the procedure could be completed locally. Miss X's travel insurance provider also informed CIFO that the delays in Miss X's repatriation were due to the fact that Miss X's local hospital near her home had advised that an operation could not be done locally. However, Miss X's local hospital confirmed to CIFO that they had provided confirmation the day after the ski accident that they were able to perform the operation, and that if appropriate travel could have been arranged sooner the fracture would not have displaced, meaning the full hip replacement would not have been required.

CIFO upheld the complaint on the basis that any subsequent issues were caused by the travel insurer's unreasonable delay in getting Miss X back home. CIFO initially recommended total compensation of £35,000 given the medical result, the impact on Miss X's active lifestyle, and the severe level of distress and inconvenience caused. Miss X's travel insurance provider disagreed with some of CIFO's conclusions and argued that the failure had been in some part, due to the overseas doctor and asked CIFO to reconsider. CIFO obtained external advice regarding the amount of compensation awarded by the courts in such cases and recommended compensation should be paid to Miss X to the value of £25,000 plus 8% interest from February 2019, the date of the complaint, for a total amount of approximately £30,000.



## Case Study #14

### PENSION

#### **PENSION TRUST INCURS LEGAL FEES THAT COMPLAINANT BELIEVED WERE NOT RELEVANT OR NECESSARY**

A complainant believed that the trustees of his pension acted wrongly by seeking legal advice and charging the fees for that advice back to his pension.

Mr H held a pension in the form of a retirement annuity trust with a local trust company. The trustees and Mr H's pension trust both held an interest in a separate company, of which the majority shareholder was Mr H's trust. In August 2018, Mr H – on behalf of the separate company – wrote to the trustees as shareholders, following which the trustees sought legal advice and billed Mr H's pension trust for legal fees of about £7,000.

Mr H complained to the trust company, seeking a refund of the legal fees plus interest. In response, the trustees said that the advice they had sought had covered a wide range of issues including the closure of Mr H's pension scheme; in other words, it was not just limited to the content of the company letter. The trustees maintained that not only was it appropriate for them to have sought legal advice, but it was right that the fees should have been billed to his pension.

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#### Themes

- Pensions
- Retirement annuity trust
- Trustee's duties
- Legal fees

CIFO investigated and noted the trustee's duties and responsibilities were not only to 'act in the best interests of the beneficiaries, to preserve and enhance the value of the trust' but also to 'take advice where appropriate'. This included seeking legal advice in appropriate circumstances. CIFO reviewed the company letter which Mr H had sent to his trustees, along with the legal advice the trustees obtained. Because the trustees were unable to provide a copy of any written instructions they had provided to the advocates (it had been covered orally in a meeting) CIFO had to use a balance of probabilities test to establish what had most likely happened. Overall, CIFO concluded that – in these specific circumstances – it had been reasonable for the trustees to seek the legal advice they did, and it was similarly reasonable that Mr H's pension should meet the legal costs incurred by the trustees. CIFO did not uphold Mr H's complaint.

## Case Study #15

### PENSION

## PENSION PROVIDER'S REFUSAL TO TRANSFER PENSION WITHOUT INDEMNITY

A pension plan beneficiary complained when his pension plan provider failed to action his request to transfer his personal pension plan. His pension plan provider required an indemnity from the receiving plan trustee before completing the requested transfer.

Mr N held a membership in a qualifying recognised overseas pension scheme (QROPS) and wanted to transfer this personal pension to a UK based self-invested personal pension (SIPP) provider. Mr N discussed the transfer with his financial adviser and found a suitable pension scheme to transfer into. In order for the requested transfer to take place, Mr N's existing pension provider requested the new pension provider to first complete a letter of understanding and an indemnity.

Unfortunately, both pension providers were unable to agree upon the wording of the indemnity and the pension plan transfer was not actioned. Mr N complained to his existing pension provider as he believed their requirement for the indemnity was unreasonable and unfairly restricted Mr N's ability to transfer his private pension plan to whichever provider he wanted. Mr N's pension provider rejected his complaint and referred him to CIFO.

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#### Themes

- Qualifying recognised overseas pension plan (QROPS)
- Self-invested personal pension (SIPP)
- Pension transfer
- Indemnity
- Role of ombudsman where commercial dispute between FSPs affecting customer
- Complaint rejected using ombudsman discretion under the law

CIFO investigated and concluded that it was inappropriate for CIFO to impose a commercial agreement on the two pension providers, each understandably seeking to contractually limit their potential liabilities arising from Mr N's requested pension plan transfer. Mr N's financial adviser requested assistance from CIFO to convene a meeting between the two pension providers to assist with mediating a solution. CIFO saw such a requested mediation between commercial parties as inconsistent with its statutory role as ombudsman. CIFO suggested that there were other organisations that could provide a mediation or arbitration service to assist the trustees to find a solution to their impasse.

CIFO concluded that Mr N's complaint was out of mandate on the basis that the complaint was about the exercise of the respondent pension provider's commercial judgement to manage risk and that the issue to be resolved was between the two pension plan providers. CIFO explained to Mr N that CIFO's law sets out that a complaint can be rejected if the subject matter of the complaint is inappropriate, such as where the complaint is about "the legitimate exercise of the respondent's commercial judgement". On that basis, the ombudsman exercised his discretion under the law to reject the complaint.

## Case Study #16

### PENSION

## **PENSION PROVIDER'S REFUSAL TO TRANSFER PENSION DUE TO INAPPROPRIATE FINANCIAL ADVICE**

A beneficiary of a pension plan complained that his pension trustee refused his request to transfer his pension plan to another provider.

Mr X was a member of a qualifying recognised overseas pension scheme ("QROPS") and he wanted to transfer his pension plan to a UK-based pension provider that had been recommended by his independent financial adviser.

Mr X asked his existing pension provider to forward the relevant transfer documentation to his financial adviser. Mr X's financial adviser received the documentation and contacted the new pension provider. The existing pension provider then heard from Mr X's financial adviser that the new pension provider had asked for further information. The existing pension provider provided the requested information, but it pointed out that the scheme did not meet the new pension provider's transfer requirements, so the proposed transfer did not take place.

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#### Themes

- Pension transfer
- Independent financial adviser
- Pension scheme transfer fee
- Qualifying recognised overseas pension scheme (QROPS)

Mr X complained to his existing pension provider, who replied saying the requested pension plan transfer would not be in his best interests. Mr X disagreed and complained to CIFO saying that it was his pension scheme and therefore his decision whether to transfer his pension plan. He also said his existing pension provider's fees had increased drastically.

CIFO looked at the plan fees and the additional fees quoted for the pension plan transfer. Mr X had previously been notified of the pension scheme transfer fee increase and CIFO decided this disclosure had been fair and reasonable. CIFO spoke with Mr X and his existing pension provider, and it was revealed that the existing pension provider's problem was with the quality and integrity of the advice provided by Mr X's financial adviser, not the pension plan transfer itself. After these conversations, Mr X engaged a new independent financial adviser and a new pension plan transfer was completed to meet Mr X's wishes.

## Case Study #17

### PENSION

## COMPLAINANT'S INABILITY TO ACCESS HIS ONLINE PENSION PLAN TRADING PLATFORM

This complaint arises from a complainant's inability to gain access to his online pension plan trading platform for three months.

Mr O held a pension in the form of a trust which was administered by trustees for an annual fee. He appointed himself as the investment manager, making investments for the trust using the online trading platform. Between March and May 2019, Mr O was unable to access the online trading platform. He asked the trustees to compensate him for the time he spent pursuing the matter and for the consequent effects of being unable to make trades for his pension account.

The trustees explained that the original platform had been decommissioned in March 2019. Whilst the new platform was supposed to have been available from February 2019 – so ensuring a seamless transition – problems meant it was out of action for three months. The trustees further explained that the problems arose because of their intermediary's 'due diligence' process and the need for another intermediary's technical support – in other words, what happened was not the trustees' fault. They added that while the platform was out of action, Mr O could have traded by other means – and they also noted that he only traded very occasionally, so he may not have needed to make a trade at all during the three-month period the online platform was not functioning. The trustees offered a fee refund for the three-month period but did not otherwise uphold Mr O's complaint.

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#### Themes

- Trustees' responsibilities; change in process
- Online pension plan trading platform
- CIFO's action in 'bringing the parties back together' to settle the complaint between themselves

Mr O rejected the trustees' offer, firstly saying that he should not in any event have been charged a platform fee when it was not available – so the refund 'meant nothing'. He further felt that the trustees were not taking responsibility for their failure, and he again requested compensation. After the trustees rejected Mr O's appeal, he referred his complaint to CIFO.

When CIFO started to investigate Mr O's complaint the trustees told us they had recently paid him more compensation by way of a 12-month fee holiday, and they regarded the complaint as settled. But Mr O explained that this additional compensation had been for a separate complaint about a different matter. His original complaint about the online trading platform remained outstanding.

As CIFO continued to investigate the complaint it became increasingly clear there was a fundamental misunderstanding between the trustees and Mr O which – given the nature and value of the underlying relationship to them both – might be most effectively resolved by them talking to each other. Both acknowledged that they had not, in fact, done so. At CIFO's suggestion they agreed to a call, whereafter Mr O accepted that the trustees had indeed intended the additional compensation previously paid to cover both of his complaints. Both Mr O and trustees expressed their gratitude to CIFO for the practical approach we had adopted – 'bringing them back together' and helping to cement their continuing business relationship.

## Case Study #18

### PENSION

## CHANGE IN TRUSTEES AND SUSPENSION OF INVESTMENTS IN PENSION TRUST

A pension plan beneficiary complained about a pension trust that invested in funds which lost value and a change of trustee that occurred prior to that investment loss.

Mr S was advised to invest £111,000 of his pension plan assets into a fund. Two years later the trustee of the pension plan changed. The following year the fund that Mr S's pension plan had invested in was suspended. The suspension meant that the fund was split into two separate and still suspended funds. The investment value fell drastically due to the fund suspension and Mr S could no longer access the invested money or receive the level of pension income that had been originally anticipated.

Mr S brought a wide-ranging complaint to the new trustee. He felt that the pension plan assets had been sold without his authority. He also felt that the trustee should have told him that his pension plan investments were in difficulty and that the risk rating of his investments had changed. Mr S also felt the trustee should have notified him of a conflict of interest during the setup and management of his pension plan, additional fees and charges, the new trustee's role, and that the original trustee had made changes to his application form without authorisation or communicating the changes. Mr S also complained that the new trustee had given him incorrect information when he wanted to get the money from his pension plan investment.

The new trustee did not uphold Mr S's complaint, but it agreed that the information it gave Mr S about encashing his pension investment could have left him confused. The trustee waived the outstanding fees and reduced the pension plan termination fee. Mr S did not accept this as sufficient compensation and brought his complaint to CIFO.

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#### Themes

- Suspension of assets
- Change of trustee
- Trustee responsibilities

CIFO investigated and found that the sale of the pension plan assets pre-dated the absolute date bar in CIFO's statutory mandate. CIFO could therefore not investigate that part of Mr S's complaint. On the complaint about the failure by the trustee to notify Mr S of the pension investment's difficulties or a change in risk rating, CIFO found that the trustee had no stated requirement to proactively provide this information to Mr S and therefore the trustee could not reasonably be held accountable for this part of the complaint. CIFO concluded that the alleged conflicts of interest during the setup and maintenance of Mr S's fund did not relate to the new trustee as they played no part in the establishment of the initial pension plan investments. CIFO noted that the part of Mr S's complaint regarding fees and charges pre-dated CIFO's statutory mandate and CIFO again, could not investigate this part of the complaint. CIFO concluded that role of the trustee should have been advised to Mr S at the time the pension plan structure was initially established by the previous trustee, and not when the new trustee was appointed. Mr S had also complained that his application form had been altered, however, in the absence of sufficient evidence CIFO could not establish if this form had been altered by the previous trustee or the new trustee.

Finally, in relation to the encashment of the investments, CIFO decided that the trustee had already made fair and reasonable compensation. CIFO did not uphold this complaint.

## Case Study #19

### INVESTMENT/FUNDS

### FINANCIAL PLANNER BREACHED CUSTOMER'S PRIVACY RELEASING PERSONAL DATA

The privacy of a complainant's personal data was breached by his financial planner causing distress.

In January 2021, Mr W received an email from his financial planner with a pension proposal document, which included personal financial and health information. The sender also included another customer's email address in error, causing a data breach. The other customer noticed the error and immediately contacted the financial planner to advise that he had deleted the email without reading the contents. Mr W remained unaware of the breach.

In May 2021, Mr W was reviewing his financial affairs and noticed the pension proposal email included an additional email address. Mr W also noticed that the email he was sent had tried to be recalled by his financial planner. Mr W queried this with his financial planner who advised that the email recall request was made because changes needed to be made to the pension proposal. Mr W decided to contact the other customer who had been emailed in error and he advised that he had deleted the email immediately, without reading the contents and contacted the financial planner. Mr W complained to his financial planner, alleging that they had attempted to cover up the error and that he had suffered sleepless nights as a result leading to numerous doctor appointments to help with the stress.

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#### Themes

- Data breach
- Attempted cover-up
- Delayed process
- Distress and inconvenience award

Mr W's financial planner notified the local data protection authorities a few days after Mr W's complaint and advised the local financial regulator that it had received a complaint regarding a data breach. Mr W received an apology from his financial planner regarding the breach of his data, but they did not accept Mr W's assertion that they had tried to cover up the error. The financial planner referred Mr W to CIFO.

CIFO investigated and found that the financial planner did know at the time Mr W's data had been breached because of the communication from the other customer who had been copied into the email. CIFO decided that the financial planner should have known what course of action to take when a data breach occurred. CIFO also noted that the financial planner had not been transparent in January 2021 when Mr W queried the incident, which further compounded the error.

CIFO upheld the complaint and concluded that Mr W had suffered undue stress as a result of the error made by his financial planner and suggested compensation of £500 for distress caused. Mr W rejected this proposal and provided CIFO with a letter from his doctor that detailed the level of stress he had suffered as a result of the incident. CIFO reconsidered the compensation value and issued a final ombudsman decision confirming that the initial recommended compensation of £500 was a fair and reasonable amount considering the circumstances of this case.

## Case Study #20

### INVESTMENT/FUNDS

## DELAYED REPAYMENT OF COMPLAINANTS' INVESTMENT

This complaint related to delays in the complainants' receiving repayment of their investments from an investment bank, and a claim for a pro-rata dividend following repayment.

Mr & Mrs B held two investments with an investment bank. In late 2020, the investment bank wrote to all investors proposing that the fund be closed, and all investments repaid. The proposal was accepted, the fund was closed, and in December 2020 the investment bank tried to repay Mr & Mrs B their money. It did so by using the payment instructions it held on file for them – one payment by cheque, and the other (larger) investment by bank transfer. The cheque payment went through, but the bank transfer was rejected by the receiving bank. The investment bank subsequently issued a further cheque to repay the remaining investment amount.

After Mr & Mrs B received their money back, they made a complaint because they believed that – to avoid delays – the investment bank should have checked with them how they wanted their investment repaid. They felt they had been caused considerable inconvenience when trying to resolve the rejection of the bank transfer. Mrs & Mrs B also complained that they had expected to receive a pro-rata dividend on their investments in January 2021, because their money had been invested in the fund for most of the last quarterly dividend period. They believed the closure proposal had not been clear enough

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#### Themes

- Process and procedure
- Inadequate communication
- Entitlement to pro-rata dividend

about this and that, if they had understood they weren't going to get a final pro-rata dividend, they wouldn't have voted in favour of the proposal. But the investment bank rejected their complaint and referred them to CIFO.

After Mr & Mrs B complained to CIFO, the investment bank offered them £500 as compensation for inconvenience caused. Mr and Mrs B initially accepted that offer, but then changed their minds. They continued to pursue the complaint with CIFO, requesting considerably more compensation even though the investment bank had by then already paid them the £500 that had been offered and accepted.

CIFO investigated and found that, before the investment bank had repaid Mr and Mrs B's money, it had asked them to check – and if necessary, update – the repayment instructions it held for them. Because they did not do so, CIFO didn't believe the bank had acted wrongly when it used the payment details it had to try to repay Mr and Mrs B's money. CIFO also noted that Mr & Mrs B had received the full value of their investments in accordance with the accepted terms with the closure proposition and did not accept that any further pro-rata dividend was due.

CIFO concluded that the £500 payment the bank had already made fairly reflected any inconvenience Mr & Mrs B had experienced.

## Case Study #21

### INVESTMENT/FUNDS

## UNSUITABLE FINANCIAL ADVICE LEADS TO COMPLAINANTS' TAX LIABILITIES

An investor received unsuitable investment advice which led to excessive tax implications when investment withdrawals were later made.

Mrs G requested investment advice from an investment firm and, based on that advice, invested £175,000 into a bond. The bond was a non-qualifying investment for UK tax purposes which meant any withdrawals from the initial investment would potentially be considered taxable by the UK tax authorities.

Mrs G had requested that the investment adviser recommend an investment that she could make withdrawals from without incurring a sizable tax liability, essentially a short-to-medium term investment. However, the investment adviser had recommended a medium-to-long term investment which only permitted 5% of the investment amount to be withdrawn free of tax.

When Mrs G discovered that such withdrawals were potentially taxable, she complained to her investment adviser. The investment adviser stated

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#### Themes

- Tax liability
- Non-qualifying for UK tax purposes
- Investment advice

that they did not provide tax advice and felt that Mrs G had discussed her tax position regarding the recommended investment with her accountant and referred Mrs G to CIFO. Mrs G complained to CIFO and requested a lump sum of £25,000 to cover her potential tax liabilities on her future investment withdrawals.

CIFO investigated and noted that the investment adviser was required to make proper suitability enquiries before providing investment advice to Mrs G and, in this case, CIFO concluded that the investment advice led to Mrs G investing in an investment that was unsuitable for her. CIFO also decided that Mrs G's investment adviser had failed to explore Mrs G's personal circumstances as Mrs G had clearly intended to make withdrawals from the bond beyond the 5% allowed as regular non-taxable payments.

CIFO upheld the complaint and recommended that the investment adviser compensate Mrs G for either the tax liability for that financial year upon Mrs G's surrender of the investment or on a portion of the original investment sum if Mrs G wished to retain the investment.



## Case Study #22

### NON-BANK MONEY SERVICE/CREDIT

## MORTGAGE REJECTED DUE TO PROPERTY VALUATION BUT FEES STILL APPLY

This complaint related to a complainant's mortgage application and the lender's fees to support the initial application stages.

Miss Z approached a lender through a mortgage broker to obtain funding for a property purchase. The lender requested a mortgage arrangement fee of £2,000 and a valuation fee of approximately £700 to support the application. Miss Z agreed to the fees. The property valuation received by the lender showed the value of the property was significantly lower than the purchase price that Miss Z had originally advised. Upon receipt of the valuation, Miss Z decided not to proceed with the property purchase.

Miss Z then complained to the lender that the application fees paid should be refunded as her mortgage application did not progress. Miss Z also complained that she believed the lender's valuer had negligently completed the property valuation. The lender stated that the fees were non-refundable as they represented the work, they had carried out in connection with the initial stages of the mortgage application. However, the lender did offer to transfer

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#### Themes

- Mortgage application fee
- Property valuation fee
- Terms and conditions

the arrangement fee to a new mortgage application and refund the procurement fee portion (33%) of the mortgage arrangement fee to Miss Z. Miss Z refused their offer, and the lender referred her complaint to CIFO.

Miss Z complained to CIFO that the reason the mortgage did not complete was due to the extremely low valuation and requested that both lender fees be refunded. CIFO investigated and noted that Miss Z had accepted and signed the mortgage application's terms and conditions which stated that both fees were non-refundable. CIFO also noted that the valuation completed by a qualified independent firm appointed by the lender was prepared in accordance with the relevant regulatory standards. CIFO advised Miss Z that if she felt the valuer had been professionally negligent, she would need to address this with the relevant authority responsible for setting the standards for property valuers.

CIFO did not uphold this complaint and advised Miss Z that the lender's previous offer was fair and reasonable. Miss Z accepted CIFO's recommendation.

## Case Study #23

### NON-BANK MONEY SERVICE/CREDIT

#### MORTGAGE PROVIDER REJECTS PORT REQUEST CAUSING COMPLAINANT UNNECESSARY FEES AND DISTRESS

This complaint related to the refusal of a mortgage provider to port an existing mortgage, resulting in additional costs for the complainant to arrange an alternative loan.

In May 2020, Mr G asked his mortgage provider if he could repay part of his existing mortgage and then resume it on the same terms secured against a different property, known as 'porting', because they had sold their existing property and wished to purchase a smaller property. Mr G wanted to repay £250,000 of his mortgage but was told by his mortgage provider that this was not possible as the new loan term would be less than five years, the minimum term for a mortgage that the mortgage provider offered.

However, Mr G's mortgage had been taken out in July 2005 for a period of 20 years. This meant that the new loan term should have been just over 5 years, above the stated minimum period required by his mortgage provider. As such, Mr G made a complaint to his mortgage provider who said that Mr G's request did not meet their criteria at the time of his inquiry and rejected his complaint.

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#### Themes

- Porting
- Terms and conditions
- Arrangement fee

Mr G therefore arranged a mortgage with an alternative mortgage provider. Mr G felt that his previous mortgage provider should be liable to cover the new mortgage provider's arrangement fee of £2,000, along with the additional interest for the five-year period totalling £36,000. Mr G's original mortgage provider again rejected Mr G's appeal and referred Mr G to CIFO.

CIFO investigated and found that Mr G's original mortgage provider's terms and conditions did allow for porting. The terms and conditions also stated that, although the mortgage provider had stopped making new mortgages available in Mr G's jurisdiction, any existing mortgages may be ported for a new property of a lower loan amount. With this information CIFO concluded that Mr G's terms and conditions entitled Mr G to port his mortgage. However, CIFO noted that Mr G met with difficulties when the property he wished to purchase was withdrawn from sale even though Mr G had already arranged a new mortgage from an alternative mortgage provider.

CIFO considered that the withdrawal from sale of the property Mr G wished to purchase was not the fault of the mortgage provider. Compensation for potential additional interest over the five-year period was therefore not appropriate. CIFO partially upheld the complaint, recommending that Mr G's original mortgage provider cover the new mortgage provider's arrangement fee of £2,000 along with an additional £500 as compensation for the distress and inconvenience caused.

## Case Study #24

### NON-BANK MONEY SERVICE/CREDIT

## COMPLAINANTS REPAYMENT CONFUSION DUE TO UNCLEAR LOAN SETTLEMENT

A borrower became confused about their loan repayments due to the loan company's inadequate explanation of the applicable loan repayment charges.

In July 2019, Mr F approached a loan company to borrow money. Mr F said he was planning to pay off the loan early so he asked the loan company to explain to him how this would work for his loan. Mr F requested the loan company to provide him with a copy of the interest calculations or a loan amortisation schedule to demonstrate what he would need to pay if repaying the loan early. The loan company said it could not provide this but did advise Mr F that he would be charged a 6.25% flat rate of interest on the loan amount and, if Mr F made an early repayment, he would only be liable for the interest up to the months the loan ran for, along with a closure fee. Mr F agreed to take the loan and signed the loan agreement.

Mr F repaid the loan early, but he was unhappy with the amount he was required to pay. He said that the loan settlement information he was provided declared his original loan amount to be much higher than what he borrowed which meant more interest had been charged than should have been. Mr F complained to his loan company.

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#### Themes

- Loan amortisation schedule
- Process and procedure
- Inadequate communication

The loan company advised Mr F that their loan calculation was applied on an actuarial basis, which incorporated both the loan value and interest. Mr F complained that he was not provided with enough information at the outset, and he felt that the loan company had treated him unfairly. When Mr F requested a loan amortisation schedule, the loan company dismissed this request as it was not part of their process. The loan company said the interest rate had been applied correctly and that Mr F had received an interest rebate when repaying the loan early. Mr F was not satisfied with the loan company's response and referred his complaint to CIFO.

CIFO requested the loan company provide a full breakdown of the loan settlement calculation. This demonstrated that the interest and charges applied to the loan were correct. CIFO pointed out that the loan company was a signatory to Jersey's Code of Practice for Consumer Lending. Signatories to the code agree to provide and explain key information to customers including how interest is applied and, if the total amount of interest charged is changed, how and why. CIFO concluded the loan company had not provided this information when Mr F requested it.

CIFO mediated Mr F's complaint and recommended the loan company compensate Mr F £100 for the distress and inconvenience caused when the loan company failed to provide a clear breakdown of the loan settlement when requested. Both parties accepted.

## Case Study #25

### NON-BANK MONEY SERVICE/CREDIT

### COMPLAINANT'S LOANS WRITTEN OFF AS LOAN COMPANY LENT INAPPROPRIATELY

A borrower was unable to make the agreed repayments on his loans after the loan company lent him more money.

Mr F took out a £45,000 loan from a loan company but, after a while, he struggled to make the repayments. In November 2018, he asked to borrow more money from the same loan company for his business. This was declined because the loan company wanted to see the previous loan run properly for at least six months before agreeing to any further lending.

In April 2019, and although Mr F was still in arrears on his existing loan, he asked the loan company for a further £35,000, again to help his business. This time, the loan company agreed and also consolidated all of Mr F's existing borrowing into one new loan. Unfortunately, Mr F fell into arrears on the new loan almost immediately. Mr F then complained to the loan company claiming they had not made enough checks or done enough 'due diligence' before lending him the extra money. In response, the loan company said it had agreed to the new loan on the basis of comprehensive income and expenditure and profit and loss statements. They also said they believed that Mr F was extremely knowledgeable in his business and that the extra money would help him earn a great deal more which would enable him to repay all of his debts.

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#### Themes

- Loan agreement
- Affordability checks
- Inadequate process and procedures

When he complained to CIFO, Mr F said that the extra lending, combined with a string of bad luck he had experienced both personally and, in his business, had caused him to lose everything. Mr F wanted the loan company to 'write-off' all of his outstanding debt, compensate him for his lost earnings, and give him compensation for business and reputational damages along with a substantial distress and inconvenience award. Mr F estimated his total claim was worth more than £300,000.

Whilst CIFO found that Mr F's loan company had completed adequate checks before it had granted him the first loan, the same could not be said for the second loan. Although the lender was not bound by any local consumer credit law, CIFO concluded that when assessing the complaint, it was appropriate to have regard to a local voluntary code of practice for consumer lending which the loan company had signed up to in an adjoining jurisdiction. This code of practice promotes responsible lending and commits lenders to "obtain the right information to ensure that credit is not advanced where the ability to repay might be in doubt."

CIFO concluded that the loan company had not made enough checks or undertaken enough due diligence before it had agreed to Mr F's second loan. Therefore, CIFO upheld the complaint and recommended that the loan company rework Mr F's loan as if the second loan had not been granted and write-off the difference which came to approximately £46,000. Both the loan company and Mr F accepted CIFO's recommendation.



Gorey Castle, Jersey



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## ANNEX 6

### INSIGHT INTO OUR APPROACH

## UNDERSTANDING CIFO'S GENERAL APPROACH TO COMPENSATION

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If a customer has been affected by an error, there may be different types of compensation to consider. This information is to help stakeholders understand the general approach taken by CIFO in determining fair and reasonable compensation for complaints relating to losses.

When a complaint referred to CIFO is found to have merit, our objective is to restore the customer to the position they would have been in if things had not gone wrong. For investment complaints, that can mean awarding money – for example, compensation for financial loss due to unsuitable advice or refunding a fee that was charged incorrectly. But we may also direct financial services providers (FSPs) to do something that does not involve money such as correcting information or issuing a written apology.

In some cases, we will award compensation for non-financial loss – for example, for the distress and inconvenience an issue has caused a customer.

It is important to note that an ombudsman's decision does not set a precedent. This is because each case is decided in accordance with what is fair and reasonable in those specific case circumstances. While it is acknowledged that similar products and services are seen across different cases, the number of variables present (such as different complainants, firms, factual backgrounds and outcomes) means it would be unreasonable to bind future decisions to the individual circumstances of previous ones.

#### TYPES OF COMPENSATION WE CAN AWARD

The [Financial Services Ombudsman \(Jersey\) Law 2014](#) and the [Financial Services Ombudsman \(Bailiwick of Guernsey\) Law, 2014](#) both empower CIFO to make decisions requiring an FSP to pay compensation or directing an FSP to do something. These can include:

- Money awards
- Awards for distress and inconvenience
- Interest awards
- Costs awards
- Directions

#### MONEY AWARDS

When a customer has lost out financially, we usually tell the FSP to compensate them for the loss it caused. This can be any amount of money up to our award limit of £150,000 set by law.

Where it is clear how much a customer lost, we will specify the amount of money the FSP needs to pay.

Where it is not clear we will usually set out the basis on which the FSP should compensate a customer, rather than a specific amount. For example, if a customer was unaware that their mortgage payment had been calculated incorrectly, we might ask the FSP to calculate how much they would have owed if the error had not occurred.

In cases where we think a customer is due more than our statutory award limit of £150,000, we will recommend the additional amount we think the FSP should pay. While CIFO can only make a binding award of compensation up to £150,000, the recommended compensation above £150,000 reflects the total amount of compensation that we believe would be fair and reasonable in the circumstances. Once they understand the basis of CIFO's conclusion, some FSPs decide to pay the full amount.

#### AWARDS FOR TROUBLE, UPSET, DISTRESS OR INCONVENIENCE

A mistake can affect a customer practically or emotionally, as well as financially. So CIFO can also award fair compensation for any of the following subject to the overall £150,000 compensation limit:

- Distress
- Inconvenience
- Pain and suffering
- Damage to reputation

We might award these if we feel a customer faced obstacles or difficulties that could have been avoided if the FSP had handled things differently.

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## ANNEX 6 (CONT.)

### INSIGHT INTO OUR APPROACH

### UNDERSTANDING CIFO'S GENERAL APPROACH TO COMPENSATION

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#### EXAMPLES OF AWARDS FOR DISTRESS AND INCONVENIENCE

In considering compensation for distress and inconvenience, CIFO has taken note of, and will generally seek to be consistent with the approach taken and compensation ranges used by the [Financial Ombudsman Service](#) in the United Kingdom (UK FOS). The ranges of compensation are as follows:

- Moderate (less than £500)
- Substantial (£500 to £2,000)
- Severe (£2,000 to £5,000)
- Extreme (£5,000 or more)

Awards for moderate distress and inconvenience will generally be associated with errors which cause any one or more of:

- A short delay
- Brief upset
- Mild concern
- Minor inconvenience

In considering whether awards for distress and inconvenience in individual complaints should be for an amount falling within the higher ranges noted above, CIFO will generally take into account such aggravating factors as:

- Whether the error was a single incident or a recurring sequence of similar or different incidences.
- The degree of frustration or unnecessary delay caused to the customer.
- The degree of unnecessary and/or ongoing stress and disruption caused to the customer's life and wellbeing.
- The degree of embarrassment caused to the customer.
- The degree of reputational damage and time spent mitigating.
- The degree of disappointment caused to the customer.
- The degree of distress and anxiety caused to the customer.

- The length of time the disruption is caused to the customer.
- The reduced living standard caused to the customer.
- The lost opportunity for a significantly different lifestyle caused to the customer.
- The degree of pain and suffering caused to the customer.
- The degree of vulnerability of the customer.
- The long-term and/or far-reaching consequences caused to the customer.
- The irreversible changes to the personal or professional life of the customer.

CIFO will also take into account the customer's conduct in determining the amount of any award for distress and inconvenience. CIFO will generally take into account such factors as:

- whether the customer could have taken reasonable steps to mitigate the effect of the FSP's error; and/or
- whether the conduct of the customer contributed to the incident that gave rise to the distress and inconvenience.

#### INTEREST AWARDS

CIFO might tell an FSP to pay interest on top of (or as part of) any payment we recommend. Interest on an award is usually calculated from the date the customer should have had the money until the date it was actually paid. This additional compensation accounts for the fact that the FSP arguably could have, and should have, made the funds available to the customer throughout the period since the incident occurred to when the compensation is paid.

We can award interest in three ways:

- **As part of the award itself.** For example, we might tell the FSP to refund interest it charged the customer on their mortgage if they were incorrectly paying a higher amount.
- **On top of a financial award.** For example, if the customer was 'deprived' of money – meaning they

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## ANNEX 6 (CONT.)

### INSIGHT INTO OUR APPROACH

## UNDERSTANDING CIFO'S GENERAL APPROACH TO COMPENSATION

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did not have it available to use – we can tell the FSP to pay interest on top of the money award.

- **After the financial award has been calculated.** For example, if there is an unreasonable delay in settling a complaint following an ombudsman decision. We can decide that 8% simple interest should start to accrue until the award is paid.

In most cases, we think a rate of 8% simple interest per year is appropriate to reflect the cost of being deprived of money in the past. We would not normally use the current rates paid on deposit accounts as a benchmark. This is because the rates of interest customers have to pay in order to access funds to replace the funds lost are usually much higher. This rate takes also into account that:

- the rate is gross before tax is deducted;
- it often applies to losses at times when different base rates applied; and
- current interest rates charged on overdrafts and loans may not have reduced in line with the base rate.

In some cases, we can use a different rate if we think it is fair to do so. For example, if we think the money a customer was deprived of might have been used to pay a credit card bill, we might use the higher interest rate they were charged on the outstanding credit card balance instead.

We note that most customers will have to pay at least a basic rate of income tax.

#### **COSTS AWARDS**

Occasionally, we might tell an FSP to reimburse some or all of the costs a customer reasonably incurred. Costs awards are not common, but we need to think about what is fair in each individual case. As CIFO is a free service operating in a non-legalistic manner, we do not normally reimburse for legal advice or other professional expenses if, in our view, they were not reasonably required in the circumstances.

Costs awards can also include interest.

#### **DIRECTIONS**

We might decide that an FSP needs to put things right in a way that does not involve paying money. For example, amending an error in a customer's credit file or issuing a letter of apology.

#### **HOW COMPENSATION IS PAID**

In most cases, FSPs should pay the compensation amount that we award directly to their customer.

But this is not always appropriate. For example, if the customer owes a debt to an FSP, we might say it is reasonable to offset any compensation against the debt owed. CIFO would only do this where we think the complaint would be fairly addressed by doing so.

In some other circumstances, for example where there is a trust in place holding investment or pension assets, we may direct that payment be made directly to the trust to restore the trust assets that may have been affected by the FSP's error or omission. In this way we avoid or minimise any undue impact on the trust itself and any potential legal, confidentiality or taxation implications which could arise.

#### **CALCULATING COMPENSATION - GENERAL**

Sometimes we will recommend that an FSP follow a formula to work out the right amount of money to pay to the customer. This might be because the calculations involve information that CIFO does not have but is on the FSP's own systems or is available from a third party, such as an actuary.

We might also ask an FSP to re-work an account – for example if the customer has been charged an incorrect interest rate and they incurred additional charges or costs as a result. Where we tell the FSP the basis on which to pay compensation, we will always explain the principle behind the calculation to customers so that they can understand what was involved.



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## ANNEX 6 (CONT.)

### INSIGHT INTO OUR APPROACH

## UNDERSTANDING CIFO'S GENERAL APPROACH TO COMPENSATION

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#### CALCULATING COMPENSATION - INVESTMENT-RELATED COMPLAINTS

Investment-related complaints require a more specific approach to determining compensation. Where we think an FSP gave their customer unsuitable investment advice, we might tell the FSP to compare the value of the actual investment with a suitable investment or benchmark portfolio of suitable investments that was available at the time.

Where it is not clear what product a complainant may otherwise have invested into, CIFO uses the ARC Private Client Indices (PCI) as an appropriate comparative benchmark. The PCI is produced by [Asset Risk Consultants Limited](#) (ARC) using performance data gathered from 68 contributing portfolio managers, many of which are based in the Channel Islands. This affords it a particular relevance to investment complaints brought to CIFO as opposed to a benchmark or index predominantly focused on UK-based firms or investments.

The PCI has four benchmarks which measure the average performance of portfolios of varying levels of risk. The benchmarks are listed below from lowest to highest risk:

- Cautious
- Balanced
- Steady Growth
- Equity Risk

CIFO is aware that some investment firms use more than four risk profiles when assigning a risk rating to a customer. Where a complainant appears to straddle the border between two PCI risk profiles, CIFO will generally use the average performance of the two benchmarks to calculate compensation.

To calculate compensation for a single unsuitable investment which is no longer worth anything, CIFO will run the benchmark from the original date

of investment up until the point the unsuitable investment was either sold, became illiquid, or the date of CIFO's final decision. If the PCI indicates that a suitably invested portfolio would have increased in value during the corresponding period, this percentage growth will be added to the complainant's original invested amount in order to calculate total compensation payable.

It is important to note that the value of any investment, even those which are suitable, can go up or down. If the PCI indicates that an alternative investment would have lost value in the invested period, CIFO is likely only to award the amount that the investment would have been worth had it been invested suitably. As a result of actual market performance, this may result in the complainant receiving less than they originally invested.

In some circumstances, CIFO will need to undertake more complex calculations to come to a fair and reasonable settlement. The following factors may affect the amount of compensation or type of resolution determined by CIFO in an investment complaint:

- The unsuitable investment had, or still has, some realisable value.
- The unsuitable investment has not caused a loss and/or has actually increased in value.
- The complainant has received income from the unsuitable investment.
- The unsuitable investment has not yet matured, and its value cannot be easily determined before a certain future date.
- The unsuitable investment has value but cannot currently be sold, for example an investment into a fund which has been suspended.

CIFO will take all of these factors into account to ensure that the complainant is placed in the position they would have been but for the error made by the FSP.

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## ANNEX 6 (CONT.)

### INSIGHT INTO OUR APPROACH

## UNDERSTANDING CIFO'S GENERAL APPROACH TO COMPENSATION

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#### Examples of Loss Calculation – Investment-Related Complaints

Where an unsuitable investment has failed entirely and has no value, CIFO will compensate the invested amount plus the return which could otherwise have been generated with reference to the PCI which accords with the complainant's risk profile:

Invested Amount	Current Investment Value	ARC Benchmark to Date	ARC Benchmark Investment Return (+)	Total Compensation
£10,000	£0	+10%	+£1,000	£11,000

If the PCI suggests that the investment would have lost value, even if suitably invested, CIFO will only compensate the value of the investment as it would have stood according to the PCI:

Invested Amount	Current Investment Value	ARC Benchmark to Date	ARC Benchmark Investment Return (+)	Total Compensation
£10,000	£0	-10%	-£1,000	£9,000

If the investment has already been sold, CIFO will remove the proceeds received from the sale from the final compensation amount to avoid overcompensating the complainant:

Invested Amount	ARC Benchmark to Date	ARC Benchmark Investment Return (+)	Investment Sale Proceeds Already Received (-)	Total Compensation
£10,000	10%	+£1,000	-£2,000	£9,000

Similarly, if the complainant has received income from the investment during the time invested, this will also be removed from the final compensation amount:

Invested Amount	ARC Benchmark to Date	ARC Benchmark Investment Return (+)	Investment Sale Proceeds Already Received (-)	Investment Income Already Received (-)	Total Compensation
£10,000	10%	+£1,000	-£2,000	-£1,000	£8,000

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## ANNEX 6 (CONT.)

### INSIGHT INTO OUR APPROACH

## UNDERSTANDING CIFO'S GENERAL APPROACH TO COMPENSATION

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In the event an unsuitable investment has increased in value and overperformed the PCI which accords to the complainant's risk profile, CIFO will generally decide not to award any compensation to the complainant:

Invested Amount	Current Investment Value	ARC Benchmark to Date	Actual Performance to Date	Current Investment Value compared to ARC Benchmark Value (+/-)	Loss on Investment Amount compared to ARC Benchmark Value	Total Compensation
£10,000	£12,000	+10%	+20%	+£1,000	Nil	Nil

In the event an unsuitable investment has been suspended, or has not yet matured, CIFO will generally take one of the following approaches depending on the wishes of the complainant:

- Scenario 1: Request that the complainant immediately sell the investment, thereby crystallising the loss and allowing CIFO to proceed with calculating compensation up to the point of sale.
- Scenario 2: Order the FSP to take back the unsuitable investment, along with the right to any future proceeds in the event the investment matures or is no longer suspended and compensate the complainant for the total value of the investment and any PCI return up until the date of transfer to the FSP.

#### Scenario 1

Invested Amount	Current Investment Sale Value	Loss on Invested Amount	ARC Benchmark on Invested Amount to Date of Sale	ARC Benchmark Investment Return (+)	Total Compensation
£10,000	£3,000	£7,000	10%	£1,000	£8,000

#### Scenario 2

Invested Amount	Current Investment Value	Loss on Invested Amount	Amount FSP to Pay as Consideration for Transfer of Investment	ARC Benchmark on Invested Amount to Date of Transfer	ARC Benchmark Investment Return (+)	Total Compensation
£10,000	?	?	£10,000	10%	£1,000	£11,000

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## ANNEX 7

### INTERNATIONAL ENGAGEMENT

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Given the international nature of the financial services sector in the Channel Islands, it is appropriate that CIFO has formed relationships with various international bodies active in the area of ombudsman practice, dispute resolution, and financial services.

#### ***The International Network of Financial Services Ombudsman Schemes (INFO Network)***

CIFO continues to be an active member of the INFO Network whose membership includes about 60 financial sector bodies around the world engaged in dispute resolution for financial services consumers. The INFO Network focuses on professional development and mutual support amongst member schemes. Details on the network can be seen [here](#).

#### ***EU Financial Dispute Resolution Network (FIN-NET)***

FIN-NET is the European Union's network of financial dispute resolution schemes and helps consumers resolve cross-border complaints involving financial services. Details on the network can be seen [here](#).

While the Channel Islands are not members of the European Union (EU), the importance of the European market for the Channel Islands' financial sectors, the extensive regulatory framework being established for the provision of financial services into the EU, and the proportion of complainants referred to CIFO who are resident outside the Channel Islands, make this EU body highly relevant for CIFO. As one of three Official Observers and Associate Members of the FIN-NET network (the other two being the Swiss Banking Ombudsman and the Swiss Ombudsman of Private Insurance and of Suva), CIFO attends the semi-annual meetings of FIN-NET. CIFO is also in regular contact with individual FIN-NET member schemes to refer complaints appropriately resolved by those schemes and to accept referrals of complaints from FIN-NET member schemes that fall within CIFO's mandate to resolve.

#### ***Ombudsman Association (OA)***

CIFO is an active member of the Ombudsman Association (the OA, formerly the British and Irish Ombudsman Association or BIOA) which represents both public and private sector ombudsman schemes in the United Kingdom, Ireland, and Britain's Crown Dependencies and Overseas Territories. CIFO's Principal Ombudsman serves on the OA board of directors. Details on this association can be seen [here](#).

This professional body of ombudsman practitioners seeks to promote and support the development of ombudsman schemes and provides opportunities to engage in professional development and policy advocacy in the area of dispute resolution. Through this body, financial sector ombudsman schemes interact with other ombudsman practitioners involved in dispute resolution across a broad range of sectors where alternative dispute resolution offers a compelling value proposition to society.

#### ***UK Financial Ombudsman Service (UK FOS)***

Given the close relationship between the Channel Islands and the UK and the fact that many financial services providers in the Channel Islands are branches or subsidiaries of UK-based providers, it is not unexpected that UK changes to financial sector regulations and financial dispute resolution are followed closely by CIFO.

Recent developments in the UK which were notable given CIFO's complaints experience included regulatory developments involving authorised push payment (APP) fraud, pension plan transfers, and the UK Supreme Court decisions on business interruption insurance claims arising from business losses attributable to the Covid-19 pandemic.

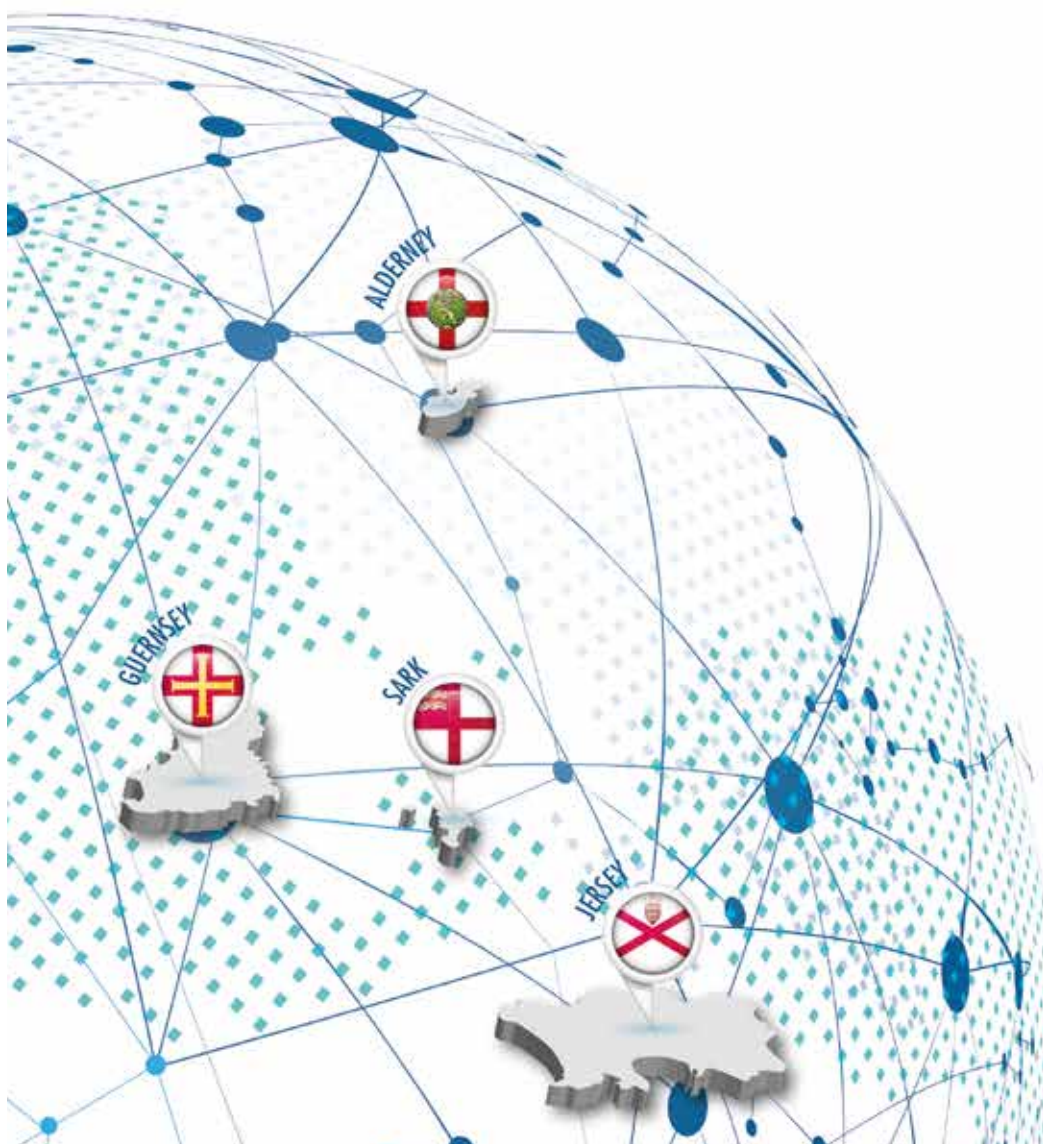
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# APPENDIX

## 2021 AUDITED FINANCIAL STATEMENTS

Channel Islands Financial Ombudsman

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Floral St Peter Port, Guernsey

**CHANNEL ISLANDS FINANCIAL OMBUDSMAN**  
**Audited financial statements**  
**for the year ended**  
**31 December 2021**

## CHANNEL ISLANDS FINANCIAL OMBUDSMAN

### INFORMATION

The financial statements of the Channel Islands Financial Ombudsman are the combined financial statements of the Office of Financial Services Ombudsman Guernsey and the Office of the Financial Services Ombudsman Jersey, referred to in the body of the financial statements as the OFSOs.

<b>Directors</b>	David Thomas - Chairman	
	John Curran	Term ended 30 January 2022
	Deborah Guillou	
	John Mills	
	Robert Girard	Term commenced 31 January 2022
	Antony Townsend	Term commenced 31 January 2022
<b>Administration Office</b>	Channel Islands Financial Ombudsman No 3 The Forum Grenville Street St Helier Jersey JE2 4UF	
<b>Independent auditors</b>	RSM Channel Islands (Audit) Limited PO Box 179 40 Esplanade St Helier Jersey JE4 9RJ	
<b>Principal Ombudsman</b>	Douglas Melville	



## **CHANNEL ISLANDS FINANCIAL OMBUDSMAN**

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**CHANNEL ISLANDS FINANCIAL OMBUDSMAN  
CHAIRMAN'S STATEMENT  
for the year ended 31 December 2021**

**1**

The Chairman presents his statement on the 2021 accounts.

The Channel Islands Financial Ombudsman ("CIFO") is the joint operation of the Offices of the Financial Services Ombudsman (the "OFSOs") established by the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and the Financial Services Ombudsman (Jersey) Law 2014. The joint operation is provided for in a Memorandum of Understanding between the States of Guernsey and the States of Jersey and in the relevant legislation in each Bailiwick.

These financial statements reflect the joint operation. Up to the 2019 financial year, separate financial accounts were prepared for each OFSO, with operating expenses divided equally between the two bodies. Since the 2020 financial year, following amended legislation, the financial statements have been prepared on a combined basis. Expenses are covered by amounts raised from relevant financial services providers through annual levies, charged on the same basis in each Bailiwick, plus case fees.

A decrease in income for 2021 arising from a reduction in five relevant banking licences was partially offset by an increase in billable case fees. An increase in expenditure arose mainly from case-related costs to assist with clearing a backlog of cases. As case-related costs are unforeseeable, they are not normally included in the annual budget and are met from reserves; so the operating surplus during 2021 is lower than budgeted.

The accumulated surplus at the end of 2021 reflects the operating reserve. This is intended to cover the operating costs payable between the end of the year and receipt of levy payments during the following year, as well as the unforeseeable volatility inherent in a demand-led case-working organisation. Increasing or reducing reserves can help the Board to smooth fluctuations in the levy from year to year.

David Thomas  
Chairman

21 April 2022

The directors present their report and the financial statements for the year ended 31 December 2021.

#### **DIRECTORS' RESPONSIBILITIES STATEMENT**

The directors are responsible for preparing the Report of the Directors and the financial statements in accordance with applicable law and regulations.

The Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and the Financial Services Ombudsman (Jersey) Law 2014 require the directors to prepare financial statements for each financial year. Under that law they have elected to prepare the financial statements in accordance with FRS 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland and applicable law.

Under the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and the Financial Services Ombudsman (Jersey) Law 2014 the directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Offices of the Financial Services Ombudsman ("OFSOs") and the profit or loss of the OFSOs for that period.

In preparing these financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;
- assess OFSOs' ability to continue as a going concern, disclosing, as applicable, matters related to going concern;
- use the going concern basis of accounting unless they either intend to liquidate the OFSOs' or to cease operations, or have no realistic alternative but to do so; and
- submit the financial statements and report to the Guernsey Committee for Economic Development (the "Committee") and the Jersey Minister for Economic Development, Tourism, Sport and Culture (the "Minister") not later than 4 months after the end of each financial year.

The directors are responsible for keeping adequate accounting records that are sufficient to show and explain the OFSOs' transactions and disclose with reasonable accuracy at any time the financial position of the OFSOs and enable them to ensure that the financial statements comply with the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and the Financial Services Ombudsman (Jersey) Law 2014. They are responsible for such internal control as they determine is necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error, and have general responsibility for taking such steps as are reasonably open to them to safeguard the assets of the OFSOs and to prevent and detect fraud and other irregularities.

The directors are responsible for the maintenance and integrity of the corporate and financial information included on the OFSOs website. Legislation in Guernsey and Jersey governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

## **PRINCIPAL ACTIVITY**

The OFSOs' primary function is to ensure that complaints about financial services are resolved:

- independently, and in a fair and reasonable manner;
- effectively, quickly, with minimum formality, and so as to offer an alternative to court proceedings that is more accessible for complainants; and
- by the most appropriate means, whether by mediation, referral to another forum, determination by an Ombudsman or in any other manner.

## **RESULTS**

The Statement of Income and Retained Earnings for the year is set out on page 7.

## **DIRECTORS**

The directors who held office during the year were:

David Thomas - Chairman  
John Curran  
Deborah Guillou  
John Mills

On 30 January 2022 John Curran's term as director ended. On 31 January 2022 Robert Girard was appointed in his place and Antony Townsend was also appointed as a director.

## **DISCLOSURE OF INFORMATION TO THE AUDITOR**

Each of the persons who are directors at the time when this Report of the Directors is approved has confirmed that:

- so far as that director is aware, there is no relevant audit information of which the OFSOs' auditor is unaware; and
- that director has taken all the steps that ought to have been taken as a director in order to be aware of any relevant audit information and to establish that the OFSOs' auditor is aware of that information.

## **INDEPENDENT AUDITOR**

RSM Channel Islands (Audit) Limited was appointed as auditor on 29 June 2020.

This report was approved by the board on 21 April 2022 and signed on its behalf.

**Director**

**INDEPENDENT AUDITOR'S REPORT TO THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE OF THE STATES OF JERSEY (THE "MINISTER") AND THE COMMITTEE FOR ECONOMIC DEVELOPMENT OF THE STATES OF GUERNSEY (THE "COMMITTEE")**

**Opinion**

We have audited the financial statements of the Channel Islands Financial Ombudsman (the "Body Corporate") which comprise the statement of financial position as at 31 December 2021, and the statement of income and retained earnings and statement of cash flows for the year then ended, and notes 1 to 13 to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards.

In our opinion the financial statements:

- give a true and fair view of the state of affairs of the Body Corporate as at 31 December 2021 and of its results for the year then ended;
- have been properly prepared in accordance with United Kingdom Accounting Standards; and
- have been prepared in accordance with the Financial Services Ombudsman (Jersey) Law 2014 and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014.

**Basis for opinion**

We conducted our audit in accordance with International Standards on Auditing (UK) ('ISAs (UK)') and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of this report. We are independent of the Body Corporate in accordance with the ethical requirements that are relevant to our audit of the financial statements in Jersey and Guernsey, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

**Conclusions relating to going concern**

In auditing the financial statements, we have concluded that the directors' use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Body Corporate's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue.

Our responsibilities and the responsibilities of the directors with respect to going concern are described in the relevant sections of this report.

**Other information**

The directors are responsible for the other information, which comprises the Chairman's Statement and the Report of the Directors. Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusions thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements of this other information, we are required to report that fact.

We have nothing to report in this regard.

**Matters on which we are required to report by exception**

We have nothing to report in respect of the following matters where the terms of our engagement requires us to report to you if, in our opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records and returns; or
- we have not received all the information and explanations we require for our audit.

**INDEPENDENT AUDITOR'S REPORT TO THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE OF THE STATES OF JERSEY (THE "MINISTER") AND THE COMMITTEE FOR ECONOMIC DEVELOPMENT OF THE STATES OF GUERNSEY (THE "COMMITTEE") (continued)**

**Responsibilities of directors**

As explained more fully in the Directors' responsibilities statement set out on page 2, the directors are responsible for the preparation of the financial statements in accordance with United Kingdom Accounting Standards and for being satisfied that they give a true and fair view, and for such internal control as the directors determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the directors are responsible for assessing the Body Corporate's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the directors intend to cease operations of the Body Corporate.

**Auditor's responsibilities for the audit of the financial statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than the one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Channel Islands Financial Ombudsman's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the directors.
- Conclude on the appropriateness of the directors' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Channel Islands Financial Ombudsman's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Body Corporate to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities, outlined above, to detect material misstatements in respect of irregularities, including fraud. The extent to which our procedures are capable of detecting irregularities, including fraud is explained below.

We identify and assess the risks of material misstatement of the financial statements as a whole, whether due to fraud or error, and then design and perform audit procedures responsive to those risks, including obtaining audit evidence that is in our professional judgement sufficient and appropriate to provide a basis for our opinion.

We consider the Body Corporate's susceptibility to fraud and other irregularities, taking account of the business and control environment established and maintained by the directors, and the nature of transactions, assets and liabilities recorded in the accounting records. We enquire whether management have any knowledge of any actual or suspected fraud. The engagement team discuss potential indicators of fraud and how and where fraud might occur in the financial statements.

**INDEPENDENT AUDITOR'S REPORT TO THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE OF THE STATES OF JERSEY (THE "MINISTER") AND THE COMMITTEE FOR ECONOMIC DEVELOPMENT OF THE STATES OF GUERNSEY (THE "COMMITTEE") (continued)**

**Auditor's responsibilities for the audit of the financial statements (continued)**

Owing to the inherent limitations of an audit there is an unavoidable risk that some material misstatement of the financial statements may not be detected, even though the audit is properly planned and performed in accordance with ISAs (UK). However, the principal responsibility for ensuring that the financial statements are free from material misstatement, whether caused by fraud or error, rests with the directors who should not rely on the audit to discharge those functions.

**Use of our report**

This report is made solely to the Minister and the Committee in accordance with Schedule 2 Article (4)(1)(5)(a) of the Financial Services Ombudsman (Jersey) Law 2014 and Schedule 1(5)(4)(a) of the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 respectively. Our audit work has been undertaken so that we might state to the Minister and the Committee those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Body Corporate, the Minister and the Committee, for our audit work, for this report, or for the opinions we have formed.

**Phil Crosby  
For & on behalf of  
RSM Channel Islands (Audit) Limited  
Chartered Accountants  
Jersey, C.I.**

**21 April 2022**

**STATEMENT OF INCOME AND RETAINED EARNINGS**  
**for the year ended 31 December 2021**

	Notes	2021 GBP	2020 GBP
Revenue	3	<u>1,013,036</u>	<u>1,051,474</u>
<b>Gross surplus</b>		1,013,036	1,051,474
Administrative expenses	4	<u>(1,032,663)</u>	<u>(982,488)</u>
Operating (deficit) /surplus		(19,627)	68,986
Interest receivable		<u>35</u>	<u>523</u>
<b>Deficit / (surplus) for year</b>		(19,592)	69,509
<b>Retained earnings brought forward</b>		496,915	427,406
<b>Retained earnings carried forward</b>		<u>477,323</u>	<u>496,915</u>

All the items dealt with in arriving at the above results relate to continuing operations.

The accompanying notes on pages 10 to 20 form an integral part of these financial statements.



**STATEMENT OF FINANCIAL POSITION**  
**as at 31 December 2021**

	Notes	2021		2020	
		GBP	GBP	GBP	GBP
<b>Fixed assets</b>					
Intangible assets	5		27,068		25,620
Tangible assets	5		<u>1,294</u>		<u>1,955</u>
			28,362		27,575
<b>Current assets</b>					
Unbilled case fees	6	115,200		99,100	
Debtors and prepayments	7	14,794		17,542	
Cash and cash equivalents	8	<u>373,430</u>		<u>403,338</u>	
		<u>503,424</u>		<u>519,980</u>	
<b>Creditors: Amounts falling due within one year</b>					
Creditors and accruals	9	<u>54,463</u>		<u>50,640</u>	
<b>Net current assets</b>			448,961		469,340
<b>Net assets</b>			<u>477,323</u>		<u>496,915</u>
<b>Capital and reserves</b>					
Accumulated surplus	11		<u>477,323</u>		<u>496,915</u>
			<u>477,323</u>		<u>496,915</u>

The financial statements were approved and authorised for issue by the board and were signed on its behalf on 21 April 2022

Director

The accompanying notes on pages 10 to 20 form an integral part of these financial statements.

**STATEMENT OF CASH FLOWS**  
for the year ended 31 December 2021

	Notes	2021 GBP	2020 GBP
<b>Cash flows from operating activities</b>			
(Deficit) / surplus for year		(19,592)	69,509
<b>Adjustments for:</b>			
Interest receivable		(35)	(523)
Depreciation / amortisation	5	12,715	11,559
Increase in unbilled case fees		(16,100)	(25,800)
Decrease / (increase) in debtors and prepayments		2,748	(11,758)
Increase / (decrease) in creditors and accruals		3,823	(13,026)
<b>Net cash (used in) / generated from operating activities</b>		<u>(16,441)</u>	<u>29,961</u>
<b>Cash flows from investing activities</b>			
Purchase of intangible assets	5	(13,502)	(4,390)
Purchase of tangible assets		-	(1,372)
Interest received		35	523
<b>Net cash used in investing activities</b>		<u>(13,467)</u>	<u>(5,239)</u>
<b>Net (decrease) / increase in cash and cash equivalents</b>		(29,908)	24,722
Cash and cash equivalents at the beginning of the year		403,338	378,616
<b>Cash and cash equivalents at the end of the year</b>		<u>373,430</u>	<u>403,338</u>
<b>Cash and cash equivalents at the end of the year comprise:</b>			
Cash and cash equivalents	8	<u>373,430</u>	<u>403,338</u>

**Net debt reconciliation**

	As at 1 Jan 2021 GBP	Cash flows GBP	As at 31 Dec 2021 GBP
<b>Cash and cash equivalents</b>			
Cash	403,338	(29,908)	373,430
Overdrafts	-	-	-
Cash equivalents	-	-	-
	<u>403,338</u>	<u>(29,908)</u>	<u>373,430</u>

The accompanying notes on pages 10 to 20 form an integral part of these financial statements.

## **CHANNEL ISLANDS FINANCIAL OMBUDSMAN**

### **NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021**

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#### **1 Accounting policies**

A summary of the principal accounting policies, all of which have been consistently applied throughout the period, and the preceding year, is set out below.

##### **1.1 Basis of preparation of financial statements**

The financial statements of the Channel Islands Financial Ombudsman are the combined financial statements of the Office of Financial Services Ombudsman Guernsey and the Office of the Financial Services Ombudsman Jersey, referred to in the body of the financial statements as the OFSOs.

The financial statements have been prepared on the historical cost basis and in accordance with United Kingdom Accounting Standards including Financial Reporting Standard 102 ("FRS 102"), The Financial Reporting Standard applicable in the United Kingdom and the Republic of Ireland.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires management to exercise judgement in applying the OFSOs' accounting policies (see note 2).

##### **1.2 Going concern**

The OFSOs continue to adopt the going concern basis in preparing their financial statements for the following reasons:

- All statutory aspects of the mandate are in place making the OFSOs mandatory;
- There is statutory ability to levy industry to cover operating costs;
- There is a strong cash position and prudent operating reserves;
- Case files and associated case fee income is in line with expectations; and
- As regards the pan-Channel Islands joint operation of the OFSOs, there is a Memorandum of Understanding in place between the Guernsey Committee for Economic Development and the Jersey Minister for Economic Development, Tourism, Sport and Culture.

##### **1.3 Revenue**

The intent under-pinning the design of the OFSOs' funding regime is to charge on a basis that is transparent, fair and simple to administer. A wide-ranging review of the funding approach was carried out from April 2017 to June 2018 and involved several stages of stakeholder consultation.

The Financial Services Ombudsman (Case-fee and Levies) (Bailiwick of Guernsey) Order 2015, as amended by the Financial Services Ombudsman (Case-fee and Levies) (Bailiwick of Guernsey) (Amendment) Order 2018 and the Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015, as amended by the Financial Services Ombudsman (Case-fee, Levy and Budget-Amendments) (Jersey) Regulations 2018, provided for the OFSOs to prescribe schemes for case fees and levies to be paid by certain financial services providers in respect of the expenses of the OFSOs.

## CHANNEL ISLANDS FINANCIAL OMBUDSMAN

### NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021

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#### 1 Accounting policies - continued

##### 1.3 Revenue - continued

###### Sources of revenue

The principal sources of revenue are annual levies and case fees.

###### Annual levy

The detail regarding the levies for 2021 is set out in the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2021 (the '2021 Guernsey Levy Scheme') and the Financial Services Ombudsman Levy Scheme (Jersey) 2021 (the '2021 Jersey Levy Scheme'). The detail regarding the levies for 2020 is set out in the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2020 (the '2020 Guernsey Levy Scheme') and the Financial Services Ombudsman Levy Scheme (Jersey) 2020 (the '2020 Jersey Levy Scheme').

The OFSOs' levies are payable by 'Registered Providers', as defined in the Financial Services Ombudsman (Case-fee and Levies) (Bailiwick of Guernsey) Order 2015 and the Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015. Broadly these are providers that are required to register with the Guernsey and Jersey Financial Services Commissions ("the Commissions") or are licensed or hold a certificate or a permit under the regulatory laws as specified. Data on registered providers is provided by the Commissions to the OFSOs, as set out in the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and the Financial Services Ombudsman (Jersey) Law 2014.

The 2021 levy was payable per sector of activity, for which, on 8 January 2021, a provider was registered with or held a licence, permit or certificate from the Commissions, unless the Registered Provider was entitled to zero-rating in accordance with the 2021 Guernsey Levy Scheme or 2021 Jersey Levy Scheme. Levy notices were sent out from March to July 2021 and Registered Providers were required to pay to the OFSOs the levy as specified in the levy notice, unless they have certified as zero-rated in accordance with the procedure specified in the levy notice.

The levies raised the funding required for the operation of the OFSOs in 2021. In setting the amount to be raised in levies the OFSOs' board was mindful of the need to minimise year-on-year variability of levy amounts and manage the reserves and expected case fee income to minimise the increases in the total levy amount. The total levy amount required was £943,382, a reduction of 3% of the total levy required for 2020.

Levy income is recognised in the period to which the levy relates. No adjustment is made in respect of any changes to providers' licences after 8 January 2021, with any changes in providers' licences coming into effect from the 2022 year of assessment.

Actual 2021 levy amounts per sector:

	<b>GBP</b>
Banking	435,420
Insurance and/or general insurance mediation business	152,256
Investment business and/or fund functionary	206,936
Money service business	53,664
Registered credit provider	56,160

## **CHANNEL ISLANDS FINANCIAL OMBUDSMAN**

### **NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021**

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#### **1 Accounting policies - continued**

##### **1.3 Revenue - continued**

###### **Case fees**

Case fees are set in the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2018 and the Financial Services Ombudsman Fee Scheme (Jersey) 2018. Case fees are charged on a fixed basis irrespective of the outcome and the time and other costs incurred relating to the specific case. Each financial services provider ("FSP") must pay to the OFSO a case fee for each complaint against the provider that is referred to the OFSO, unless, in the opinion of an ombudsman:

- on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or
- at any time the complaint is rejected as frivolous or vexatious.

The amount of the case fee for each complaint received on or after 1 April 2018 is:

- £nil for Community Savings Limited;
- £400 for any registered provider that is liable to pay a levy; and
- £900 for any other provider.

###### **Case fee income**

Case fee income is recognised when it is billable. A complaint becomes billable once it has completed the initial jurisdictional checks and has not been rejected as ineligible or for other reasons in accordance with the legislation. Ordinarily, the OFSO will invoice any case fees annually in arrears. For Registered Providers that are subject to the annual levy, the OFSO will invoice any case fees for the preceding year in conjunction with the levy for the current year. If any provider accumulates 10 or more cases since the previous case fee invoice (or since the OFSO opened for business) the OFSO may issue an interim case fee invoice.

## CHANNEL ISLANDS FINANCIAL OMBUDSMAN

### NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021

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#### 1 Accounting policies - continued

##### 1.4 Intangible and tangible assets

Intangible assets are predominantly the OFSOs' website and brand and its bespoke complaint management system ("CMS"). These assets are initially recognised at cost. After recognition, intangible assets are measured at cost less any accumulated amortisation and any accumulated impairment losses.

All intangible assets are considered to have a finite useful life. If a reliable estimate of the useful life cannot be made, the useful life shall not exceed 5 years.

The estimated useful lives for intangible assets are as follows:

Website and brand	5 years
Complaint management system	5 years

Intangible asset amortisation commences upon commissioning of the asset in question.

Tangible assets comprise computer equipment. These assets are initially recognised at their purchase price, including any incidental costs of acquisition. Depreciation is calculated to write down the net book value on a straight-line basis over the expected useful economic life of the asset.

The estimated useful life for tangible assets is 4 years.

The board's policy is only to capitalise costs over £1,000 in total per item.

##### 1.5 Cash and cash equivalents

Cash is represented by cash in hand and deposits with financial institutions repayable without penalty on notice of not more than 24 hours. Cash equivalents are highly liquid investments that mature in no more than three months from the date of acquisition and that are readily convertible to known amounts of cash with insignificant risk of change in value.

In the Statement of Cash Flows, cash and cash equivalents are shown net of bank overdrafts (if applicable) that are repayable on demand and form an integral part of OFSOs' cash management.

## **CHANNEL ISLANDS FINANCIAL OMBUDSMAN**

### **NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021**

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#### **1 Accounting policies - continued**

##### **1.6 Financial instruments**

Financial instruments are classified as basic or other financial instruments in accordance with Section 11 and 12 of FRS 102. Basic financial instruments include unbilled case fees, debtors and prepayments, cash and cash equivalents, creditors and accruals. There are no other financial instruments in these financial statements.

###### **(i) Financial assets**

Unbilled case fees and debtors are recognised initially at the transaction price adjusted for attributable transaction costs. Subsequent to initial recognition they are measured at amortised cost using the effective interest method.

Financial assets measured at amortised cost are assessed at the end of each reporting period for impairment. If objective evidence of impairment is found, an impairment loss is recognised in the Statement of income and retained earnings.

Financial assets are derecognised when the contractual rights to cash flows from the asset expire or are settled.

###### **(ii) Financial liabilities**

Creditors and accruals are recognised initially at the transaction price less attributable transaction costs. Subsequent to initial recognition they are measured at amortised cost using the effective interest method.

Financial liabilities are derecognised when the liability is extinguished, that is when the contractual obligation is discharged, cancelled or expired.

###### **(iii) Offsetting**

Financial assets and liabilities (and related income and expenses) are only offset and the net amounts presented in the Statement of financial position when there is a legally enforceable right to set off the recognised amounts and there is an intention to settle on a net basis, or to realise the asset and settle the liability simultaneously.

No financial assets and liabilities have been offset at the year end date.

###### **(iv) Amortised cost**

The amortised cost of a financial asset or financial liability is the amount at which the financial asset or financial liability is measured at initial recognition, minus principal repayments, plus or minus the cumulative amortisation, using the effective interest method, of any difference between the initial amount recognised and the maturity amount, minus any reduction for impairment.

## **CHANNEL ISLANDS FINANCIAL OMBUDSMAN**

### **NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021**

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#### **1 Accounting policies - continued**

##### **1.6 Financial instruments - continued**

###### **(v) Impairment of assets**

At each reporting date, assets are reviewed to determine whether there is any indication that those assets have suffered an impairment loss. If there is an indication of possible impairment, the recoverable amount of any affected asset is estimated and compared with its carrying amount. If the estimated recoverable amount is lower, the carrying amount is reduced to its estimated recoverable amount, and an impairment loss is recognised immediately in profit or loss.

If an impairment loss subsequently reverses, the carrying amount of the asset is increased to the revised estimate of its recoverable amount, but not in excess of the amount that would have been determined had no impairment loss been recognised for the asset in prior years. A reversal of an impairment loss is recognised immediately in profit or loss.

##### **1.7 Taxation**

The income of the OFSOs is not subject to income tax under the Income Tax (Guernsey) Law 1975 or the Income Tax (Jersey) Law 1961.

##### **1.8 Foreign currency translation**

###### **Functional and presentation currency**

The OFSOs' functional and presentational currency is GBP because that is the currency of the primary economic environment in which the OFSOs operate.

Foreign currency transactions are translated into the functional currency using the spot exchange rates at the date of the transactions.

At each period end, foreign currency monetary items are translated using the closing rate. Non-monetary items measured at historical cost are translated using the exchange rate at the date of the transaction and non-monetary items measured at fair value are measured using the exchange rate when fair value was determined.

Foreign exchange gains and losses resulting from the settlement of transactions and from the translation at period-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the Statement of income and retained earnings.

##### **1.9 Finance costs**

Finance costs are charged to the Statement of income and retained earnings over the term of the debt using the effective interest method so that the amount charged is at a constant rate on the carrying amount. Issue costs are initially recognised as a reduction in the proceeds of the associated capital instrument.



## **CHANNEL ISLANDS FINANCIAL OMBUDSMAN**

### **NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021**

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#### **1 Accounting policies - continued**

##### **1.10 Pensions**

The OFSOs provide membership to an outsourced defined contribution plan for its employees. A defined contribution plan is a pension plan under which the OFSOs pay fixed contributions into a separate entity. Once the contributions and administration fees have been paid, the OFSOs have no further payment obligations.

The contributions are recognised as an expense in the Statement of income and retained earnings when they fall due. Amounts not paid are shown within creditors as a liability in the Statement of financial position. The assets of the plan are held separately from the OFSOs in independently administered funds.

##### **1.11 Interest receivable and similar income**

Interest receivable is recognised in the Statement of income and retained earnings using the effective interest method.

##### **1.12 Borrowing costs**

All borrowing costs are recognised in the Statement of income and retained earnings in the year in which they are incurred.

##### **1.13 Rents**

Rentals under licence agreements are charged to the Statement of income and retained earnings on a straight-line basis over the term of the agreement.

##### **1.14 Expenses**

Expenses are accounted for on an accruals basis.

#### **2 Judgements in applying accounting policies and key sources of estimation uncertainty**

Recoverability of unbilled income and debtors are the key areas of judgement.

In assessing unbilled income recoverability, management have considered each entity's awareness of the OFSOs' case fee and levy schemes and whether the entity to be billed is still in operation.

In assessing debtor recoverability management have considered any certifications regarding zero rating, whether the entity is still in operation and whether the entity is still a Registered Provider (see note 1.3).

## CHANNEL ISLANDS FINANCIAL OMBUDSMAN

### NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021

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#### 3 Analysis of revenue

An analysis of revenue is provided below:

	2021 GBP	2020 GBP
<b>Case fees</b>		
Guernsey OFSO	47,700	34,400
Jersey OFSO	60,900	64,900
<b>Levies</b>		
Guernsey OFSO	459,590	467,292
Jersey OFSO	444,846	484,882
	<u>1,013,036</u>	<u>1,051,474</u>

#### 4 Administrative expenses

	2021 GBP	2020 GBP
Directors' remuneration	43,125	42,000
Staff salaries	516,163	579,351
Contract case handlers	58,822	-
Employer social security	25,853	29,258
Staff pension costs	47,763	50,791
Staff training	10,470	4,514
Hotels, travel, subsistence	1,549	3,208
IT costs	43,085	56,009
HR costs	2,400	9,297
Case-related costs	126,844	64,200
Auditor's remuneration	20,587	18,029
Bad debts	1,248	2,512
Reversal of bad debt	(1,256)	-
Rent and rates	55,755	55,755
Insurances	42,377	33,774
Recruitment and licence fees	6,208	4,191
Stationery	164	555
Postage	415	1,078
Telephone	1,615	1,106
General office expenses	3,155	2,657
Trade subscriptions and CPD	5,908	5,581
Bank charges	744	811
Line of credit charge	2,500	2,500
Administration costs	4,428	3,750
Depreciation / amortisation expense	12,715	11,559
Loss on forex	26	2
	<u>1,032,663</u>	<u>982,488</u>

# CHANNEL ISLANDS FINANCIAL OMBUDSMAN

## NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021

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### 5 Intangible and tangible assets

	<b>Tangible</b>	<b>Intangible</b>	<b>Intangible</b>	
	<b>Computer</b>	<b>Website</b>	<b>Complaint</b>	
	<b>equipment</b>	<b>and Brand</b>	<b>Management</b>	
	<b>GBP</b>	<b>GBP</b>	<b>system</b>	<b>Total</b>
			<b>GBP</b>	<b>GBP</b>
<b>Cost</b>				
At 1 January 2021	2,644	19,057	43,381	65,082
Additions in year	-	1,523	11,979	13,502
At 31 December 2021	2,644	20,580	55,360	78,584
<b>Depreciation / amortisation</b>				
At 1 January 2021	689	12,071	24,747	37,507
Charge for year	661	2,076	9,978	12,715
At 31 December 2021	1,350	14,147	34,725	50,222
<b>Net book value</b>				
At 31 December 2021	1,294	6,433	20,635	28,362
At 31 December 2020	1,955	6,986	18,634	27,575

### 6 Unbilled case fees

	<b>2021</b>	<b>2020</b>
	<b>GBP</b>	<b>GBP</b>
Case fees (see note 1.3)	115,200	99,100

### 7 Debtors and prepayments

	<b>2021</b>	<b>2020</b>
	<b>GBP</b>	<b>GBP</b>
Other debtors	-	2,747
Trade debtors	1,248	3,868
Bad debt provision	(1,248)	(1,256)
Prepayments	14,794	12,183
	14,794	17,542

During the year, the directors provided against the amounts disclosed below:

	<b>2021</b>	<b>2020</b>
	<b>GBP</b>	<b>GBP</b>
Balance at the start of year	1,256	-
Reversals (cash received)	(1,256)	-
Additions	1,248	1,256
Balance at end of year	1,248	1,256

The 2020 debt was recovered on 25 February 2021.

## CHANNEL ISLANDS FINANCIAL OMBUDSMAN

### NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021

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#### 8 Cash and cash equivalents

	2021 GBP	2020 GBP
Cash at bank	373,430	403,338

The OFSOs share one current account and one deposit account under the account name "The Offices of the Financial Services Ombudsman - CI". The current account has an unutilised overdraft facility of £250,000 (2020: £250,000).

The current account has a corporate card facility of £20,000 (2020: £20,000).

#### 9 Creditors and accruals: Amounts falling due within one year

	2021 GBP	2020 GBP
Accruals	35,347	22,130
Trade and other creditors	19,116	28,510
	54,463	50,640

No accrual has been made for unused annual leave as the directors do not consider it material.

#### 10 Financial instruments

	2021 GBP	2020 GBP
<b>Financial assets</b>		
Financial assets measured at amortised cost	503,424	519,980
<b>Financial liabilities</b>		
Financial liabilities measured at amortised cost	(54,463)	(50,640)

#### 11 Accumulated surplus

The accumulated surplus includes all current and prior period retained surpluses and deficits.

The Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 and the Financial Services Ombudsman (Jersey) Law 2014 states that the OFSO may, in accordance with any guidelines set by the Minister for Treasury and Resources;

- (a) accumulate a reserve of such amount as it considers necessary, and
- (b) invest that reserve and any of its other funds and resources that are not immediately required for the performance of its functions.

## CHANNEL ISLANDS FINANCIAL OMBUDSMAN

### NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2021

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#### 12 Other financial commitments

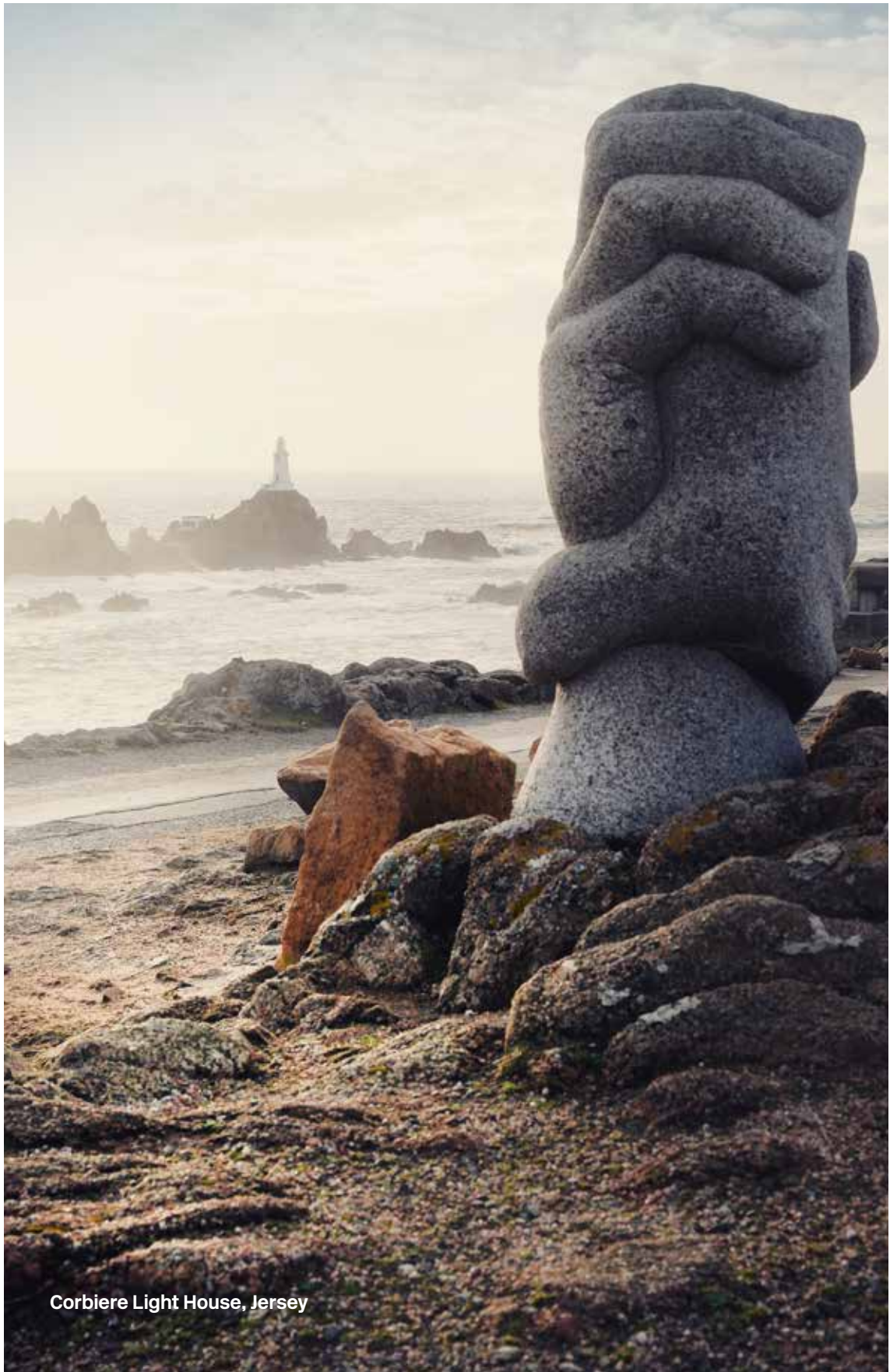
On 24 May 2019 the OFSOs entered into an office licence agreement with Vantage Innovation Limited with a commencement date of 1 June 2019, fixed until 31 December 2021 (£4,646 per month). A new licence agreement was entered into on 14 December 2021 with Polygon Services Office Limited (previously Vantage Innovation Limited) at the same rental, fixed until 31 December 2023. The agreement has been classified as an operating lease. The future commitments are as follows:

	2021 GBP	2020 GBP
Due within one year	55,752	55,752
Due 1 - 5 years	55,752	-
	<u>111,504</u>	<u>55,752</u>

#### 13 Related party transactions

During the year, board remuneration of £24,000 (2020: £24,000) was paid to David Thomas, the chairman, and £19,125 (2020: £18,000) was paid in aggregate to the three non-executive directors. No amounts were outstanding at the year end (2020: £nil).

The principal ombudsman is considered to be key management personnel. Remuneration in respect of the principal ombudsman is £186,875 (2020: £174,125). No amounts were outstanding at the year end (2020: £nil). Insurance costs recoverable at year end £nil (2020: £2,747).



Corbiere Light House, Jersey



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