

Claims Management Regulation Review  
Ministry of Justice  
10<sup>th</sup> Floor (10,11)  
102 Petty France  
LONDON  
SW1H 9AJ

Thursday 29<sup>th</sup> October 2015

Dear Sirs

### **Review of Claims Management Regulation**

The Protection Specialist Limited, trading as The Fair Trade Practice has been regulated by the Claims Management Regulator to work in the Financial products/services sector since 20<sup>th</sup> July 2010. During that time we have maintained regular contact with our own regulator (CMR), the Financial Conduct Authority (FCA), more recently the Legal Ombudsman (LeO) and the Financial Ombudsman Service (FOS). We are proud of the communication channels we have developed with each body and we believe each would have reason to speak positively as to our role and our general performance in the sector, with particular reference to our handling of mis-sold Payment Protection Insurance complaints.

We have read the explanations for the Claims Management Regulation Review, as we see it the key negative drivers are:

- Tackling rogue companies
- Driving out malpractice
- Ensuring any leads firms received through telemarketing are legally obtained
- Preventing speculative unmeritorious claims for compensation
- Preventing unsolicited calls and texts
- Preventing misleading marketing and high charges
- Banning firms from taking fees from customers before a contract has been signed

The aims of the review include:

- Providing good news for reputable firms in this industry, as it will boost confidence in the services provided by the sector
- Improving the reputation for those who do follow the correct procedures
- Improving customer protection

- Ensuring consumers get a fairer deal

Our company has spoken with the CMR and we have discussed these and other issues candidly. We are confident in saying that none of the negative drivers that we have listed above apply to our company. At the same time we share the aims of the review but would offer the view that the review is approaching the problems within the industry from the wrong angle.

The CMR is not idle. In its most recent Bulletin (26) the CMR has issued the following warnings against malpractice within the industry:

- Companies will be subject to further financial penalties where they break the rules
- Personal injury claims companies were issued with a reminder re no cold-calling
- Companies to ensure they provide the correct information to the regulator
- They will stamp down on unauthorised activity
- Companies must co-operate with the Legal Ombudsman
- Companies must cease nuisance calls

Again we support each of these warnings. The issue in our opinion is the limitations of the regulator's remit and the resources available to it. We believe that the review should aim to empower the regulator further and it should look to continue to drive up standards amongst the firms subject to its regulation.

In our opinion, as well as driving up the standards of the CMC industry, more should be done to prevent the main offenders, the banks, from delivering further customer detriment. We believe it has been proven that the banks seek to avoid their liabilities wherever possible. The banks have proven time and time again they will do all they can to avoid awarding the compensation to unfairly treated clients. Companies like ours have been working with all parties within the industry and to prevent customer's vulnerability to bank malpractice.

We strongly oppose any proposal for a time bar for customer's PPI complaints. We strongly believe that, contrary to the CMR's 'Conduct of Authorised Persons Rules 2014', that we can prove that a client can and will achieve a 'more favourable outcome if he uses the services of the business' (CSR 12). It is not right that this is possible but we can demonstrate that it is. We believe that a deadline to this industry is ill advised, will only benefit the banks and will only increase the risk of greater customer detriment.

It is not only companies such as The Protection Specialist that believe this. In their joint letter of 13<sup>th</sup> August 2015 to the FCA, Martin Lewis and Richard Lloyd write of a time bar being 'to the detriment of customers and (providing) the banks with an undeserved resolution to an issue that is entirely of their own making...a time bar would therefore disproportionately benefit those banks that have been worst at resolving this problem....we urge you to redouble your efforts to ensure that all banks are handling complaints quickly and properly, and to make sure that consumers are given the compensation they are rightly due'.

In regards to the issue of a possible time bar we agree with Messrs Lewis & Lloyd as to how it would only further damage rather than ease customer detriment.

From our point of view much of the narrative leading up to the announcement of this review relies upon customers being able to trust the banks. If customers could trust the banks:

- Why would so many people be complaining, feeling that their trust in their bank has been taken advantage of in relation to the PPI that they were mis-sold?

- Why would in excess of £20billion have been repaid, so far, in compensation to clients where it has been proven that the banks abused their clients' trust?
- Why would so many clients be sufficiently mistrusting of their banks so as to feel it necessary to seek the assistance of companies such as ours?
- Why if clients could trust the banks complaints handling process, has our company managed to overturn so many original decline responses, to be replaced with compensation payments?
- Why if clients can trust the banks complaint handling process are so many cases referred to FOS?
- If the banks could be trusted, why would FOS still be overturning previous declines and instructing banks to compensate clients - FOS statistics for April-June 2015 state that the PPI '% of cases upheld' figure stood at 74%?

We know that our company plays a crucial role within this industry. We achieve this by being both the advocate and protector of the customer's interests as well as holding the banks to account. Both of these objectives help us to ensure the 'right outcome'.

The banks have sought to discredit us, their motivations all too obvious. As examples of the role that our company serves in this industry we can prove the following:

- Banks have mis-reported information to the CMR regarding our conduct. In particular they have mis-represented our 'No PPI' figures. We have addressed these issues via the CMR and feel that our position has been fully vindicated. Do you believe that a customer receiving correspondence from their Bank stating that there was 'No PPI' would have the confidence to challenge the Bank's initial ruling?
- Banks report 'No PPI' on their pre-submission returns only for us to use proof that we have obtained to correct them and allow the complaint to proceed. Do you think that a client when told that there was 'No PPI' would have the courage of their convictions to challenge the Bank's verdict?
- Banks have provided contradictory information on their pre-submission processes to their complaints handling resulting in our taking cases to FOS where the Bank is unwilling to address the discrepancy. We have even had to challenge FOS on their assessment of these situations with most recently FOS agreeing that our approach was correct. How many customers would just accept what their Bank told them without taking the extra time and effort to refer matters to FOS?
- We identify more PPI following the processes that we have established than a customer would by making a direct approach to their Bank. What options do clients have to validate the information provided to them by their Bank? How many of those extra clients would pursue the compensation to which they were entitled?
- Banks sought to minimise their liabilities in relation to Single premium PPI policies by attributing their 'Alternative Redress' policy. Through our efforts we challenged this policy and have seen its removal as a factor from the complaints handling process. How many clients when in receipt of their complaint response would have challenged the Banks' rights to apply this policy?
- Banks continue to mis-handle complaints. We ensure that where a client has the right and wishes to challenge the Banks' decision that we facilitate the escalation of the case to FOS. Recent FOS statistics indicate that between 74% and 76% of the PPI complaints they receive are overturned in favour of the clients. How many clients would take

advantage of their right to refer their complaint response to FOS? How many clients would have missed out on the opportunity for their case to be adjudicated by FOS? How many clients would therefore have lost out on compensation they were entitled to?

If we were fully involved in this consultation process, if we were undertaking an impartial review we would be looking to challenge the Banks to prove the quality of their complaints handling. We would ask them to substantiate the claims that they make in an attempt to discredit CMCs. We would ask them to prove that there is no difference in the outcome to a client's complaint whether the client goes direct to the Bank or not.

We think it is clear that the Banks continue to mistreat their customers. We know that if it were not for the work of reputable CMCs such as ourselves that many clients would not recover the compensation to which they are entitled. The Banks approach to the whole mis-sold PPI scandal is to attempt to deflect the attention from them and shift the blame on to the CMC's and the clients. We would ask that you do not allow this to happen and instead of limiting our remit, you work with us to continue to play our role as the true supporters of the client's rights and to ensure the right outcome for the client.

We would gladly provide any further information that you require to substantiate any of these statements. Please note these issues are not just relating to one bank, there is widespread abuse of process and widespread examples of banks not treating their customers fairly.

The banks cannot be trusted and we can prove this. Our opinion is that it flies in the face of all common sense and current statistics in relation to the complaints handling performance of banks to base any strategic decision on data provided by the banks.

We have always stated that if banks were to co-operate and maintain consistently high performance in their complaints handling then there would be little need for companies such as ours to operate within this industry. However it has been proven time and time again that it is not in the banks' interest to co-operate with their clients and the only consistency that they have shown is in their blatant disregard for their client's rights.

In our recent exchange with FOS we were told that "we've made it clear to businesses what we need them to do to reassure us that they've adequately checked their records to see if a customer had PPI. And, from what we've seen, we're confident they'll have taken the necessary steps to check if a customer was sold PPI and paid premiums". Our position on this is that FOS are being incredibly naïve and this opinion is contrary to the experience of not only our customers and our company, but is also contrary to FOS's own statistics re the banks' current complaints handling performance.

The banks have created and continue to compound this situation with strategic and commercially driven decisions that they have made and continue to make. Targeting the reputable CMC's who seek to ensure the right outcome for clients will only result in fewer clients receiving the compensation to which they are entitled. Allowing the banks, the real offenders in our opinion, to influence the future of this industry, this review and the likelihood of customer's receiving the right outcome, is like allowing the fox to guard the hen house.

We hope that this submission is received in the spirit that was intended, that of co-operation and wanting to improve the quality of the response that is provided by the banks to a complaining client. We would welcome any opportunity to discuss these issues with you.

Yours faithfully

**Mark Lance**  
**Managing Director**