

PSR Complaints Scheme

Updated February 2020

1 Definitions - an explanation of some of the terms we use in this document:

‘Complaint’ – any expression of dissatisfaction about the way the PSR has carried out, or failed to carry out, its functions.

‘Complaints Commissioner’ – the independent person appointed by the PSR to be responsible for the conduct of investigations in accordance with the Scheme.

‘FSBRA’ – the Financial Services (Banking Reform) Act 2013.

In this document “we”, “our” or “us” refer to the Payments Systems Regulator (PSR), but not the Complaints Commissioner.

2 About the Complaints scheme

2.1 The PSR maintains a complaints scheme (the “Scheme”) to investigate Complaints against them. This document sets out how the Scheme works.

2.2 The PSR will investigate any Complaint that meets the requirements of the Scheme and take whatever action to resolve the matter we think is appropriate. If the complainant is dissatisfied with the outcome of that investigation, they may appeal to the Complaints Commissioner who may undertake their own investigation.

2.3 The Complaints Commissioner is an independent person appointed by the PSR. The Commissioner ensures that the PSR carry out investigations into Complaints in the way the Scheme sets out. Further information about the Complaints Commissioner can be found in Annex A.

2.4 The Scheme is separate from, and is not an alternative to, the Financial Ombudsman Service (FOS) or the Financial Services Compensation Scheme (FSCS).

3 What we can investigate

3.1 The Scheme can deal with Complaints about PSR functions under (FSBRA) except our legislative (i.e. rule-making and guidance-giving) functions.

3.2 To make a Complaint under the Scheme, you must have been;

- a) directly affected by our actions or inactions; and
- b) be looking for a remedy the Scheme can provide, such as an apology and a commitment to put things right.

3.3 The Scheme can be used for Complaints that allege, for example:

- a) mistakes by us;
- b) a lack of care by us;
- c) unreasonable delay;
- d) unprofessional behaviour;
- e) bias; or
- f) lack of integrity

3.4 You should make a Complaint within 12 months of becoming aware of the issues you are complaining about. We will only investigate Complaints made later than this if there is a good reason for the delay.

- 3.5 Someone else can make a Complaint on your behalf as long as you send us proof that you have asked them to do this.

4 What we cannot investigate

- 4.1 We cannot investigate some types of Complaints under this Scheme. For example, we cannot investigate Complaints about:
- a) our relationship with our staff;
 - b) contractual or commercial disputes with us that have nothing to do with how we carry out our work as a regulator;
 - c) complaints about financial services businesses (which are dealt with by the FOS or the FSCS); or
 - d) any of our functions other than those set out in this Scheme (for example, our legislative functions)
- 4.2 We will not investigate a Complaint under the Scheme if we reasonably consider:
- a) it amounts to no more than dissatisfaction with our general policies or practices (i.e. no unreasonable, unprofessional or other misconduct is alleged); or
 - b) it would be better dealt with in another way – for example , by issuing legal proceedings.
- 4.3 We will usually delay the investigation of a Complaint if it relates to any form of continuing action by us or with any other non-regulatory proceedings (for example, criminal inquiries) until that action has completed. In exceptional circumstances, an investigation may start before the action is completed, but only if it would not be reasonable for you to wait for the conclusion of the ongoing action and the ongoing action would not be harmed by investigating the Complaint.
- 4.4 If we cannot, or decide not to, investigate your Complaint under the Scheme, we will write to you to explain why. If we believe that you should direct your Complaint to another organisation we will tell you which one and give you their details.

5 How to make a Complaint and how we will deal with it

- 5.1 If you want to make a Complaint. You can either:
- a) send a letter to us at: Complaints, Payment Services Regulator, 12 Endeavour Square, London, E20 1JN
 - b) email us at complaints@psr.org.uk

In response to this, we will acknowledge your communication within two working days of receipt.

- 5.2 We will assess whether your Complaint falls within the scope of the Scheme. If it does not, we will write to you within 20 working days of receipt to let you know and explain why. We will also explain to you how to refer your Complaint to the Complaints Commissioner if you are dissatisfied with our decision.
- 5.3 We will consider if the Complaint can best be dealt with by the department within the PSR that the Complaint is about (for example, if the Complaint is about a minor administrative mistake). If so, the area concerned will respond to you directly within 20 working days of receipt of your Complaint. Your Complaint will then be dealt with outside the Scheme by that department. You have the right to refer your Complaint

back to the Scheme if you believe it has not been satisfactorily resolved. If you choose to do this, we will acknowledge your Complaint within two working days of receipt.

- 5.4 If we do not consider your Complaint can best be dealt with by the department concerned, or you refer your Complaint back to the Scheme under paragraph 5.3 above, the Complaints Team in the PSR will investigate it.

6 Investigating your Complaint

- 6.1 We aim to resolve your Complaint as quickly as possible. Within 20 working days of receiving your Complaint, we will either complete our investigation or write to you to tell you how long we think our investigation will take.
- 6.2 If the subject of the Complaint is not an administrative or minor matter, a member of staff who has not previously been involved in the matter will be appointed as the investigator. In all other instances, section 5.3 above will apply. Our investigations are primarily desk-based and usually we do not interview complainants. The investigator may contact you or other parties (including other persons at the PSR) for further information or evidence that would assist with our understanding of your Complaint. If we request information but do not receive a timely response, we may not be able to progress our investigation. In such circumstances, we would close our file and let you know that we are doing so.
- 6.3 If your Complaint involves more than one regulator, for example the Financial Conduct Authority (FCA), the Prudential Regulation Authority (PRA) and the Bank of England (the Bank) the investigator will co-ordinate the investigation across each of the relevant regulators and respond from all of them. This person will be responsible for all communications with you about your Complaint.
- 6.4 After our investigation, we will write to you to tell you if we agree with your Complaint or not and explain our findings. If we do not agree with the Complaint, we will tell you why and remind you of your right to ask the Complaints Commissioner to review our decision.
- 6.5 We shall treat any finding of fact, or any decision, by a court, tribunal or regulatory body of competent jurisdiction in the UK, or elsewhere, as conclusive.

7 Remedies

- 7.1 If we uphold your Complaint we will tell you and propose an appropriate remedy, based on the individual features of your Complaint and what went wrong. We aim to take a consistent and fair approach to ensure remedies are appropriate and proportionate to any harm caused.
- 7.2 In many cases, an apology, together with reasonable steps to put things right, will be the most appropriate remedy. But the Commissioner has the ability to make recommendations to the PSR which can include process improvements or ex gratia payments to the complainant.

8 What to do if you disagree with our decision (the appeals process)

- 8.1 If you disagree with our decision, or are dissatisfied with our progress in investigating your Complaint, an appeal can be made to the Complaints Commissioner.
- 8.2 You will need to refer your Complaint to the Complaints Commissioner within three calendar months of the date of our decision letter unless there are good reasons why

it has taken you longer than this. It is for the Complaints Commissioner to decide whether a Complaint should be accepted after this date.

- 8.3 If a Complaint is referred to the Complaints Commissioner, we are not prevented from continuing to take any action (or such further action) that we may deem appropriate to continue to undertake our regulatory functions.
- 8.4 The Complaints Commissioner will investigate the Complaint independently of us, and may ultimately recommend that we remedy the matters complained of in a manner described in paragraph 7 above. In deciding whether a Complaint is upheld and, if so, what steps they will recommend we take, the Complaints Commissioner will have regard to matters such as the desire for us to be efficient and economical in the use of our resources.
- 8.5 The Complaints Commissioner will provide both you and us with a Preliminary Report, which sets out their preliminary findings. Both you and we will be given the opportunity to respond to this report. After taking account of any responses received from you and us, the Complaints Commissioner will produce a Final Report. The Final Report will conclude the investigation and the Complaint will then be considered as closed by both the Complaints Commissioner and us. There is no further right of appeal under the Scheme.
- 8.6 The Complaints Commissioner will usually publish their Final Report. However, you and we may make representations to the Complaints Commissioner that publication would either not be in the public interest or would be unfairly detrimental to your, or our, interests. It is for the Complaints Commissioner to consider these representations and decide whether it would be appropriate to publish in such circumstances. The Final Report will identify the PSR but will not mention your name or the name of any other person or contain details which are likely to identify any other person or firm unless:
- a) in the opinion of the Complaints Commissioner the omission of such would be likely to impair the effectiveness of the report; or
 - b) After considering the public interest, as well as your interests and the interests of other persons, the Complaints Commissioner considers it necessary to mention the name of that person or to include in the report those particulars. Where the Complaints Commissioner's Final Report upholds your Complaint or criticises us, we will tell you and the Commissioner what we will do in response.
- 8.7 We will subsequently inform you and the Complaints Commissioner of our progress with any such actions we have agreed to undertake.
- 8.8 When the Complaints Commissioner publishes the Final Report, we may choose to publish a response to the findings (and will do so if the Complaints Commissioner asks us to).

9 Will the Complaints Commissioner investigate a Complaint which we have not investigated?

- 9.1 If we cannot, or decide not to, investigate your Complaint we will write to you to let you know and explain the reason why. We will also notify the Complaints Commissioner. The Complaints Commissioner will not review our decision unless you request this. If you do request this, the Complaints Commissioner will decide whether your Complaint falls within the scope of the Scheme and, if so, whether they should investigate.
- 9.2 If you refer your Complaint to the Complaints Commissioner before we have had the opportunity to conduct or complete an investigation, the Complaints Commissioner will decide whether to allow us to do this before conducting their own investigation. This

also applies to a Complaint received by the Complaints Commissioner when they are investigating another Complaint you have made.

- 9.3 The Complaints Commissioner will not investigate any Complaint which is outside the scope of the Scheme, but it is for them to decide whether a Complaint is so excluded.

Annex A: Further information about the Complaints Commissioner

- 1 The Complaints Commissioner is appointed for a period of three years, which may be renewed, and may be dismissed from office only for the reason of becoming:
 - a) incapacitated by physical or mental illness; or
 - b) otherwise unfit to discharge the functions of their office;and subject, in either event to the approval of HM Treasury.
- 2 The Complaints Commissioner is independent of us and their staff must not be our employees and are required to act independently of, and without favouring, us.
- 3 We will provide the Complaints Commissioner with sufficient financial and other resources to allow them to fulfil their role under the Scheme properly.
- 4 The Complaints Commissioner may investigate in whatever manner they think appropriate including obtaining, at your expense, such external resources as may be reasonable. In considering what is appropriate, the Complaints Commissioner will consider the need to ensure that Complaints are dealt with fairly, quickly and cost effectively.
- 5 The Complaints Commissioner may appoint a person to conduct the whole or any part of an investigation on their behalf but subject to their direction. That person must not be an officer or employee of the PSR.
- 6 We will afford the Complaints Commissioner all reasonable cooperation, including giving access to their staff, records and other information. We may, in affording the Complaints Commissioner access to information, consider the need to maintain the confidentiality of certain kinds of information. This would include, for example, taking appropriate steps to ensure that the identity of an informant is not disclosed, or maintaining the confidentiality of information given to us under international arrangements. In any case where we decide that we should withhold information, we will inform the Complaints Commissioner of the nature of that information and our reasons for withholding it.