



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

Financial Services and Pensions Ombudsman **Annual Report** 2018



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Report to the Ministers

I hereby submit the Annual Report of the Financial Services and Pensions Ombudsman to the Minister for Finance and the Minister for Social Protection pursuant to Section 24(2) of the Financial Services and Pensions Ombudsman Act 2017.

This is the first annual report submitted in relation to the work of the Financial Services and Pensions Ombudsman since its establishment in 2018 and covers the period from 01 January to 31 December 2018.



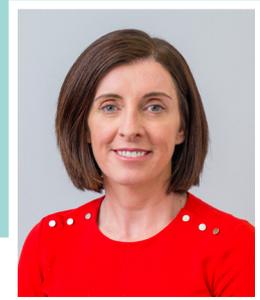
Maeve Dineen
Council Chairperson

12 December 2019

Mission Statement

The Financial Services and Pensions Ombudsman, as an independent public body, enhances the financial services and pensions environment, by using its powers to resolve disputes in a way which is fair, transparent and accessible to all.

Chairperson's Report



The year under review was busy, productive and important. It began on New Year's Day with the merger of the Financial Services Ombudsman Bureau and the Office of the Pensions Ombudsman into one single organisation. Later in the year, we formulated and published a strategic plan which lays out a roadmap for enhancing the customer experience which lies at the centre of what we all do.

Since then, the Minister for Finance, Paschal Donohoe T.D., has sanctioned a significant expansion of the staff of the Financial Services and Pensions Ombudsman (FSPO) which will ensure the FSPO is well placed to enhance protection for consumers and service providers in the years ahead. I would like to take this opportunity to personally thank the Minister for his decision to approve this significant investment and for his faith in the Ombudsman's staff, the merged organisation and the new strategic plan.

The FSPO is funded through two distinct sources; the financial services complaints are funded by a levy on the financial services industry and the pensions complaints are funded by the Exchequer, through the Department of Finance. For the first time in a decade, we undertook a very successful consultation with key stakeholders within the financial services industry and have agreed a revised model for future collection of the financial services industry levy.

These significant changes to cement the FSPO's long-term development were accompanied by a review of governance structures at Council level. As a result, we revised the terms of reference for both our Finance Committee and our Audit and Risk Committee, and we clarified the relevant roles and responsibilities within our governance structures in line with the Code of Practice for the Governance of State Bodies. It goes without saying that the FSPO must strive to lead by example. This includes good governance.

To this end, I am delighted to confirm that fees and expenses paid to Council members within 2017 were fully compliant with the provisions of the Code of Practice for the Governance of State Bodies, including the One Person One Salary (OPOS) principle.

It is with real pleasure and gratitude that I thank my fellow Council members for their continued support and guidance throughout this eventful year. The Council has been absolutely central to the long-term delivery of our new strategy.

That strategy depends, in turn, on the culture of the two organisations which merged in 2018. In 2018, a new mission, vision, and set of organisational values were agreed. Everything that has been done in the year under review has remained true to our culture and collective values, and the behaviours which underpin them.

Our vision for a financial services and pension environment where the relationship between parties is built on mutual trust, fairness and transparency is more relevant than ever. As financial and pension products continue to become more sophisticated, they also become more opaque.

We are here to protect consumers of such products, and, ultimately those who provide them. It is clear from recent history that a good customer experience together with products that are well regulated benefit the customer, the financial service or pension providers, and the taxpayer.

In every organisation, there are years that are especially important; vintage years that lay the foundations for future success. I would like to finally thank everybody who was involved in making 2018 one of those years.

Maeve Dineen
Chairperson

Financial Services and Pensions
Ombudsman Council

Role of Council

In 2018, the Financial Services and Pensions Ombudsman Council consisted of the Chairperson and six members, all of whom were appointed by the Minister for Finance following a recruitment process by the Public Appointments Service.

Part 4 of the FSPO Act sets out the role of the FSPO Council, which has two main areas of responsibility: firstly it is responsible under the legislation for setting the levy to be paid by financial service providers; and secondly it has certain oversight responsibilities in relation to the work of the Office, including its responsibilities in relation to:

- Approval of the Office's annual budget;
- Approval of the Office's strategic plan;

and

- Keeping under review the efficiency and effectiveness of the Ombudsman.

Biographies of each Council member, along with details of their attendance at meetings and fees and expenses received are featured on Page 41.



Don Gallagher, Valerie Bowens, Deborah Reidy, Ken Murnaghan, Dermott Jewel, Maeve Dineen - Council Chairperson and Elizabeth Walsh

Ombudsman's Message



I am happy to present to Council this Annual Report for our first year of operation 2018. The Office of the Financial Services and Pensions Ombudsman (FSPO) was established on 01 January 2018 on enactment of the Financial Services and Pensions Ombudsman Act 2017. Establishment of the FSPO involved the merger of the former Financial Services Ombudsman (FSO) and the Office of the Pensions Ombudsman (OPO).

In our first year of operation, the demand for our services was greater than the combined demand experienced by our two predecessor offices. In addition to the 3,178 complaints carried forward from our predecessor bodies, we received 5,692 complaints in 2018. Improving the quality and efficiency of our complaint management was a key focus in 2018.

This was evident in our first Strategic Plan, 'Enhancing the Customer Experience', launched in July 2018 by the Minister for Finance, Paschal Donohoe, T.D. It sets out the vision of the Council and the Office to 2021. The Plan commits us to improving the quality and efficiency of services, making better use of information technology and providing new and easier ways to interact with the FSPO.

We closed 4,443 complaints in 2018 leaving a balance of 4,427 complaints on hand at the end of 2018. Such high volumes cause us to be unable to process complaints as quickly as we would wish. In 2018, we prepared a Workforce Plan that identified the additional staff resources we require to deliver the objectives in our Strategic Plan. I am very pleased that the Minister for Finance responded positively and gave approval for the recruitment of a further 35 staff members.

This will allow us to deliver a better, faster, service for our customers, keep pace with the speed of change, tackle existing waiting times, and deliver the objectives in our Strategic Plan 2018 – 2021.

Of the 4,443 complaints closed in 2018, we resolved 2,331 complaints through our informal mediation process and we issued 234 legally binding decisions. In addition, we closed a further 1,639 complaints at registration and referral stage and 139 complaints were either settled or withdrawn during the adjudication process with 100 closed through Legal Services following consideration of jurisdictional issues. Further details of how we managed complaints in 2018 are set out in Section 1. I published full details in relation to complaints received and closed in 2018 in my *Overview of Complaints* in March 2019. This document, available on our website, includes case studies illustrative of complaints handled by the FSPO in 2018.

In January 2019, I published 228 legally binding decisions made by the Office during 2018, in respect of complaints against financial service providers. This was the first time that such decisions were published. I am confident that the publication of these decisions, which can be accessed in our online Database of Decisions (www.fspo.ie/decisions), will help to improve the quality of services and protections available to consumers. In addition to publishing the full decision, I also published a *Digest of 2018 Decisions* which is available on our website. It includes a short summary of selected decisions.

Complaints by consumers about the conduct of their financial service provider in relation to mortgages, made up the largest category (32%) of complaints received in 2018 at 1,766 complaints. Tracker mortgage complaints comprise a large element of these. In 2018, we received 723 complaints in relation to tracker mortgages. We closed 153 tracker mortgage-related complaints in 2018, which meant that at year-end we had 1,221 tracker mortgage complaints on hand. I expect this Office to close a significant number of tracker mortgage complaints in 2019.

We engaged with a wide range of stakeholders during 2018, including the Department of Finance, members of the Oireachtas, consumer representative bodies and advocates. We worked in close cooperation with the Central Bank of Ireland, with a particular focus on tracker mortgage-related issues. In addition, we engaged with consumer and industry representatives. As part of a European Commission initiative, FIN-NET, we cooperated with other financial services ombudsman schemes in the European Economic Area (EEA) to deal with cross border complaints across the EEA.

We also participated in the International Network of Financial Services Ombudsman Schemes (INFO Network) which is the worldwide association for financial services ombudsman schemes. We hosted the INFO conference 2018 which attracted over 100 delegates from around the world to Dublin in September 2018.

I want to thank all of my colleagues in the FSPO who have shown great commitment throughout 2018. I very much appreciate their continued dedication and commitment in the management of a very high volume of complaints. I would like to thank the Chairperson, Maeve Dineen, and members of the Financial Services and Pensions Ombudsman Council for their support, guidance and assistance throughout 2018. I am grateful also to the complainants and financial service and pension providers who cooperate with our processes on an on-going basis. Finally, I want to express my appreciation to the Minister for Finance and his officials for their ongoing support and cooperation.

We remain committed to providing a robust, independent and fair service to resolve disputes and to constantly improving the quality of our service.



Ger Deering

Financial Services and Pensions Ombudsman

Role of the Financial Services and Pensions Ombudsman

The Office of the Financial Services and Pensions Ombudsman (FSPO) was established on 01 January 2018 to resolve complaints from consumers, including small businesses and other organisations, against financial service or pension providers.

We provide an independent, fair, impartial, confidential and free service to resolve complaints through either informal mediation or formal investigation and adjudication. When a consumer is unable to resolve a complaint or dispute with a financial service or pension provider they can refer their complaint to the FSPO.

We deal with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by phone. For complaints where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.

The Ombudsman has the power to direct a provider to pay compensation of up to €500,000 to a complainant. He can also direct that a provider rectify the conduct that is the subject of the complaint. There is no limit to the value of rectification he can direct. During the formal investigation of complaints, documentary and audio evidence, and other material, together with submissions from the parties, are gathered by this office and exchanged between the parties.

Following detailed consideration of all of the evidence and submissions made, a preliminary decision is issued to the parties and they are advised that certain limited further submissions can be made prior to the issuing of a legally binding decision. The financial service or pension provider must implement any direction given by the Ombudsman in his legally binding decision.

Powers

The Oireachtas has given the FSPO statutory powers that are among the strongest in the world for any specialist ombudsman. These include the power to:

- Collect evidence, enter a business premises, summon witnesses and examine them under oath in order to investigate complaints and make legally binding decisions;
- Direct compensation of up to €500,000 for financial service complaints, €52,000 per year for complaints about annuities, and unlimited rectification for both financial service and pension complaints;
- Publish decisions in relation to financial service complaints and case studies in relation to pension complaints;
- Publish the names of financial service providers who have more than three complaints upheld, substantially upheld or partially upheld in a year;
- Bring matters of concern to the attention of the Central Bank of Ireland or the Pensions Authority.

Strategic Framework

Following extensive engagement and consultation with all of our stakeholders the office launched its three year Strategic Plan in July 2018. This builds on the comprehensive change programme undertaken jointly by the Financial Services Ombudsman (FSO) and the Office of the Pensions Ombudsman (OPO).

This Strategic Plan, 'Enhancing the Customer Experience', sets out the vision to 2021 and responds to an increasing number of complaints to the Ombudsman, with an expected further increase projected in coming years. The overall objective is to ensure that the organisation can deal efficiently with this increase and to enhance the experience of customers by delivering services faster and better.

Our strategic plan is purposefully aligned to the Government's new policy framework designed to build on recent public sector reforms and to focus on collaboration, innovation and evaluation, as set out in *Our Public Service 2020*. At the heart of our strategic framework are three key pillars which have been adapted as our strategic priorities for our first strategic plan:

- > **Delivering for Our Public**
- > **Innovating for the Future**
- > **Developing Our People and Our Organisation**

The Strategic Plan has set down clear priorities with a strong emphasis on improving customer service and awareness. From 2018 to 2021, the Strategic Plan aims to:

- > Improve the quality and speed of the management of existing and new complaints
- > Increase public awareness of the FSPO's role and simplify how people can access its services
- > Deliver the investigation and adjudication service as quickly as possible but without compromising on the quality of decisions or the requirement to follow fair procedures.

The Strategic Plan sets out a series of service level targets in terms of timescales within which complainants can expect to see their complaint dealt with, and also recognises the importance of internal staff development as a key goal.

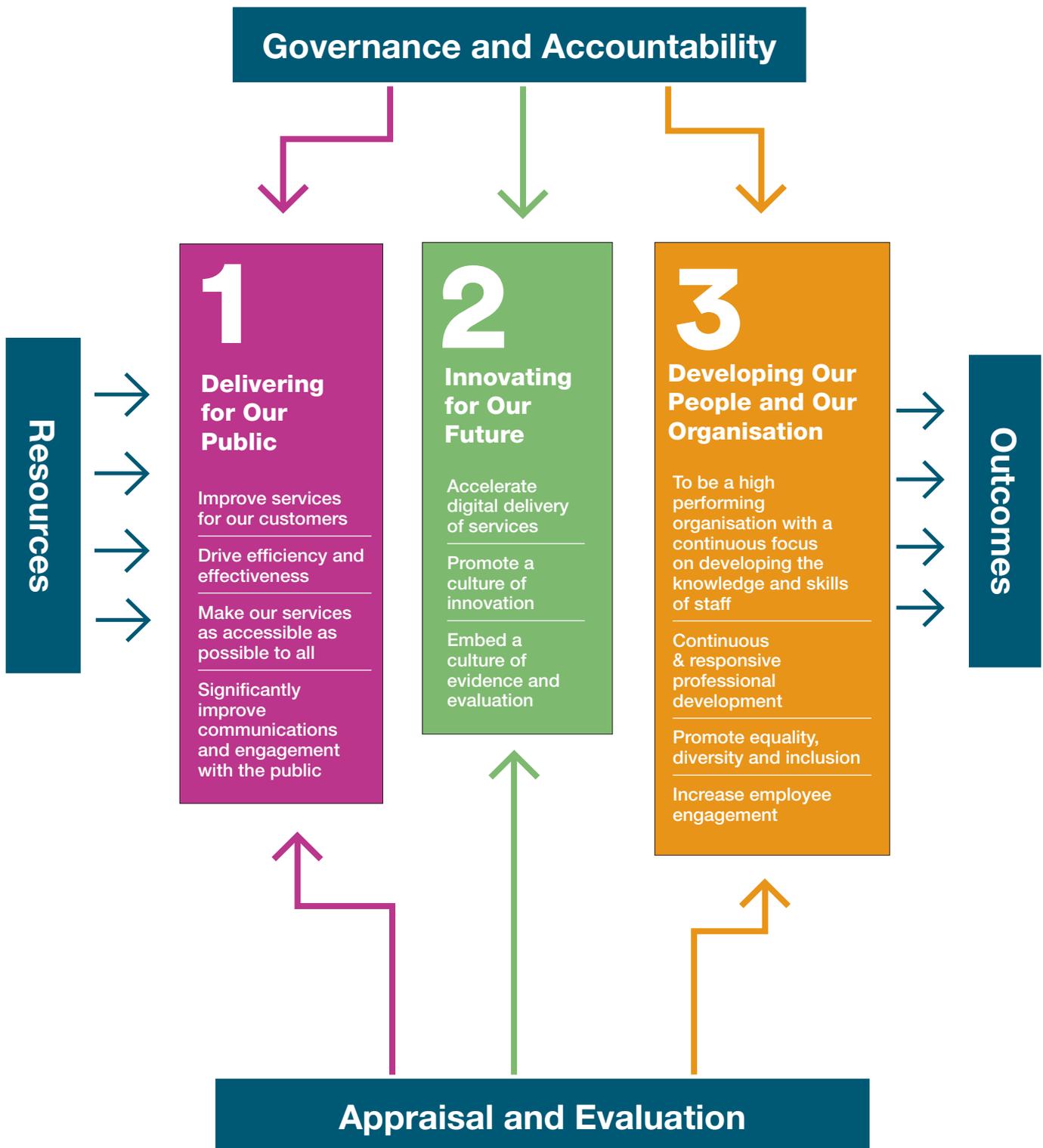


“The role of the Ombudsman is central in underpinning consumer confidence. With the ever changing environment in financial regulation the Ombudsman supports and complements the role of the Central Bank in safeguarding consumer interest”.

*Minister for Finance,
Pascal Donohue T.D*

Minister for Finance, Pascal Donohue T.D and Maeve Dineen, Council Chairperson

Overview of our Strategic Framework



Strategic
Priority

1

Delivering for Our Public



Over the course of our three-year Strategic Plan, we will focus on delivering better and more timely services to our customers. Throughout 2018, we worked on the development and initiation of a number of key projects which will use new technology and better data to drive internal efficiencies, which will in turn improve communication and engagement with the public and also improve our service quality and accessibility. A cornerstone of our Strategic Plan was the establishment, in June 2018, of our Customer Operations and Information Management team to ensure the customer is at the centre of all our processes, procedures and activities.

Strategic
Objective

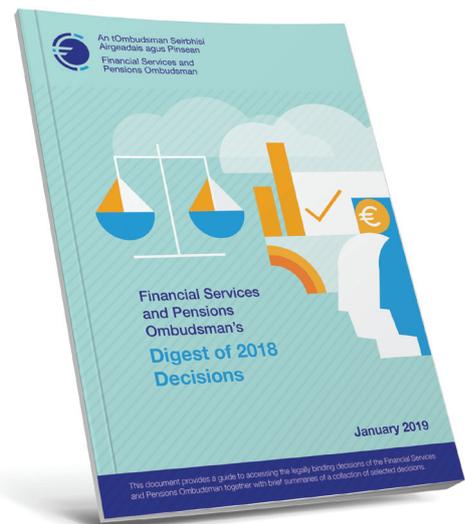
Improve Services for our Customers

Publication of Legally Binding Decisions

Section 62 of the Financial Services and Pensions Ombudsman Act 2017, provides the FSPO with the power to publish legally binding decisions in relation to complaints concerning financial service providers. The legislation provides that decisions should be published in a manner that ensures that a complainant is not identified by name, address or otherwise and a provider is not identified by name or address. Publication must also comply with Data Protection legislation and regulations.

The legislation also provides the FSPO with the power to publish case studies of decisions relating to pension providers, but not the full decision.

Our **Ombudsman's Digest** was a new addition to our suite of routine publications which provides a summary of some of 2018's decisions along with guidance on how to access the full text of all published decisions. Decisions relating to financial service providers are published in full but anonymised to protect identities. Case studies are provided for decisions relating to pension providers.



How to search our decisions on www.fspo.ie

Accessing our database of decisions

Our database of legally binding decisions is available online at www.fspo.ie/decisions. To refine your search, you can apply one or a number of filters, or alternatively you can search the entire database by keyword.

1 Applying **filters** to narrow your search

To filter our database of Decisions, you can firstly select the relevant sector:



Filter our Database
Financial Services Sector:
All
 Banking
Insurance
Investment
Product / Service:

2 Having filtered by sector, the search tool will then help you to filter our **Decisions** further by categories relevant to that sector such as:

- ▶ product / service
- ▶ conduct complained of



Sector

Filter our Database
Financial Services Sector:
All
 Banking
Insurance
Investment

Product / Service

To narrow your search, you can filter by:
Product / Service:
 All
Accounts
Commercial Banking
Consumer Credit
Foreign Exchange

Conduct complained of

Conduct complained of:
 All
Advice Incorrect/Unsuitable (p
Application of interest rate
Arrears handling
Customer Service
Disputed Fees and charges
Disputed Transactions
Failure to provide information/

3



You can also filter our database of Decisions by year, and by the outcome of the complaint, i.e. whether the Ombudsman Upheld, Substantially Upheld, Partially Upheld or Rejected the complaint.

OR



Outcome:
 All
Upheld
Substantially upheld
Partially upheld
Rejected

4 Search by **Word or Phrase**

If you are not sure what you are looking for, or wish to perform a broader search, you can also search the entire database by word or phrase.



Search our Database
You can search our database of decisions by:
Word or Phrase:

Credit Cards Decision Reference 2018-0002
Sector: Banking
Primary conduct complained of: Arrears handling
All conducts complained of: Arrears handling, Delayed or inadequate communication
Year: 2018
Product/Service: Consumer Credit
Outcome: Substantially upheld
[View Document](#)



Once you have found the Decision you are looking for, click **View Document** to download the full text in PDF.

To provide the maximum possible access to the Ombudsman’s decisions we also created an online database of legally binding decisions which can be accessed at www.fspo.ie/decisions. This database holds the full text of the Ombudsman’s decisions in relation to financial service complaints published since January 2018.

Publishing these decisions helps existing and prospective consumers as well as financial service providers to understand our reasoning. It plays an important role in providing enhanced protection for consumers, as these decisions are of assistance to consumers and their advocates and to financial service providers, in both avoiding and resolving disputes.

Revised Customer Service Charter

A key tool in the delivery of services across the public service is the Customer Service Charter. Following comprehensive consultation with internal and external stakeholders in 2018, we adopted a new charter which outlines the standard of service and behaviour which should underpin all our interactions. This revised charter outlines our intentions to deliver a service that is easily accessible, high quality and meets the needs of our customers.

Customer Service Charter



Quality Assurance Program

Central to improving our customer journey as envisaged in our Strategic Plan is the development of a customer centric quality assurance program with a defined measurement, monitoring, and action cycle.

In order to obtain regular feedback from our customers, all new customers to the FSPO were invited to opt in to an online customer satisfaction survey. Throughout 2018, customer satisfaction surveys were then routinely issued shortly after a complaint was closed which resulted in 1,039 customers being surveyed. A response rate of 30% was achieved in 2018.

Customer Satisfaction Survey



At the point of registration, all complainants are given a choice to opt in to a survey of our service quality. This resulted in 1,039 complainants being surveyed when their complaint closed. Of the 308 responses received:

92% said that all stages of the complaints process were clear.

82% felt our service was fair and impartial.

80% were satisfied with how the FSPO dealt with their complaint.

83% felt the individuals they dealt with were knowledgeable about financial products and services.

Strategic Objective

Drive efficiency and effectiveness

Refinement of Business Processes

On its formation, the FSPO inherited a large caseload of complaints from its predecessor organisations. Demand levels for the FSPO services have continued to increase, and the organisation has struggled at times to meet the existing and growing demand. Backlogs have developed in multiple areas of the organisation, with significant delays being experienced in issuing legally binding decisions, and an overall reduction in service levels. Customers expect an Ombudsman service to deal with their complaints swiftly and therefore the response time provided throughout 2018 represents a critical service failing. Indications to date suggest that the number of queries and complaints received by the FSPO will grow over the lifetime of the current Strategic Plan with an increase in awareness of the service.

The FSPO has successfully conducted a transformation of how it delivers its service following the Strategic and Operational Review, conducted of the FSO and the OPO

in 2015-16, which saw a radical re-design of complaint processing with an increased focus on the use of informal dispute resolution techniques. This has resulted in approximately 75% of the complaints referred for mediation being closed without the need for a formal investigation. This transformation programme commenced in the FSO in February 2016 and delivered re-designed processes, systems improvements, and improvements to reporting systems. Throughout 2018, the FSPO has continued to refine its internal business process engineering and a number of key projects, including advancements in its internal reporting system, have been initiated which will lay the groundwork for future progress.

While committed to making the best and most efficient use of technology in providing services, the FSPO acknowledges it operates in a context where complaint-handling and dispute resolution are human-resource intensive processes and therefore the scope for large scale automation is limited.

Overview of Complaints 2018

In accordance with Section 25(2) of the Financial Services and Pensions Ombudsman Act 2017 the FSPO published an **Overview of Complaints 2018** which analyses trends and themes from the Office's first year of operation. This **Overview of Complaints** provides a summary of the 5,588 complaints made to the FSPO in 2018 and details the complaints record of individual financial service providers against which three or more complaints were upheld, substantially upheld or partially upheld.

Key statistics for 2018 include:



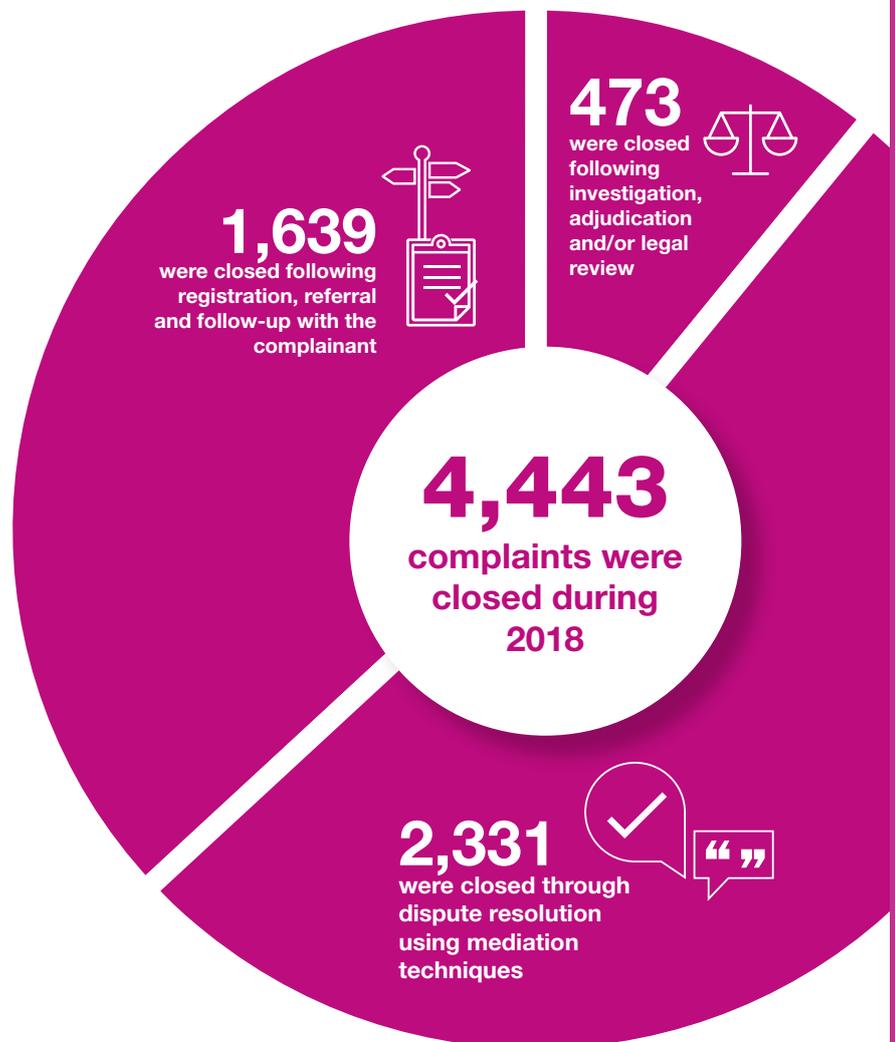
Complaints received

- > 5,588 complaints were received in 2018;
- > 3,104 (56%) complaints received related to banking products, with mortgage complaints accounting for 32% of all complaints received at 1,766;
- > 1,843 (33%) complaints received related to insurance products;
- > 363 (6%) complaints received related to pension schemes;
- > 278 (5%) complaints received related to investment products.

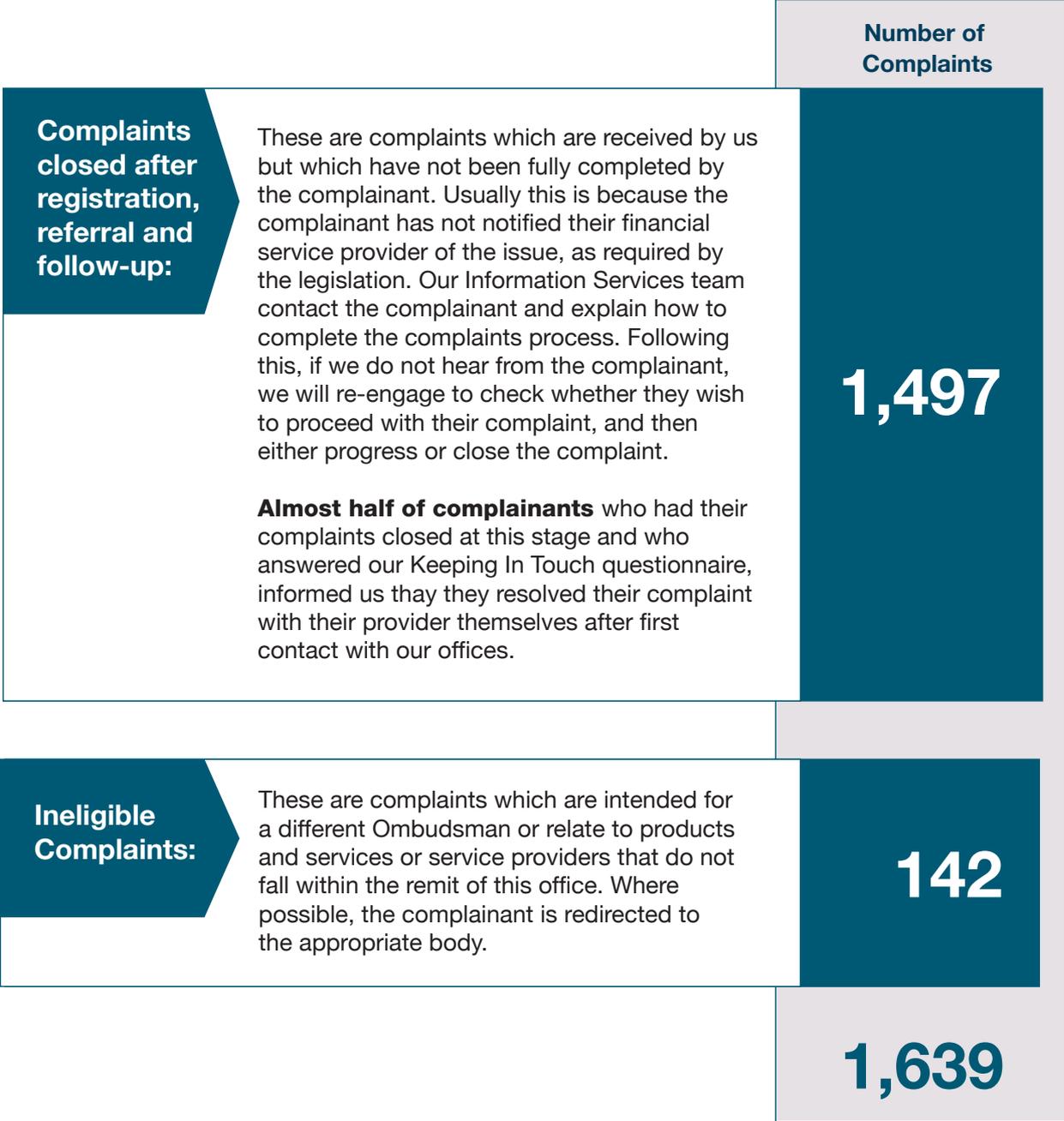
Complaints closed

- > 4,443 complaints were closed in 2018;
- > 2,331 complaints were closed using mediation techniques through the Dispute Resolution Service;
- > 234 legally binding decisions were issued following adjudication. Of these, 127 were fully, substantially or partially upheld while 107 were not upheld.

A comprehensive breakdown of complaint related activity in 2018 is set out in our Overview of Complaints 2018, which is available on www.fspo.ie/publications.



Complaints closed through Information Services



Complaints closed after registration, referral and follow-up:

These are complaints which are received by us but which have not been fully completed by the complainant. Usually this is because the complainant has not notified their financial service provider of the issue, as required by the legislation. Our Information Services team contact the complainant and explain how to complete the complaints process. Following this, if we do not hear from the complainant, we will re-engage to check whether they wish to proceed with their complaint, and then either progress or close the complaint.

Almost half of complainants who had their complaints closed at this stage and who answered our Keeping In Touch questionnaire, informed us that they resolved their complaint with their provider themselves after first contact with our offices.

1,497

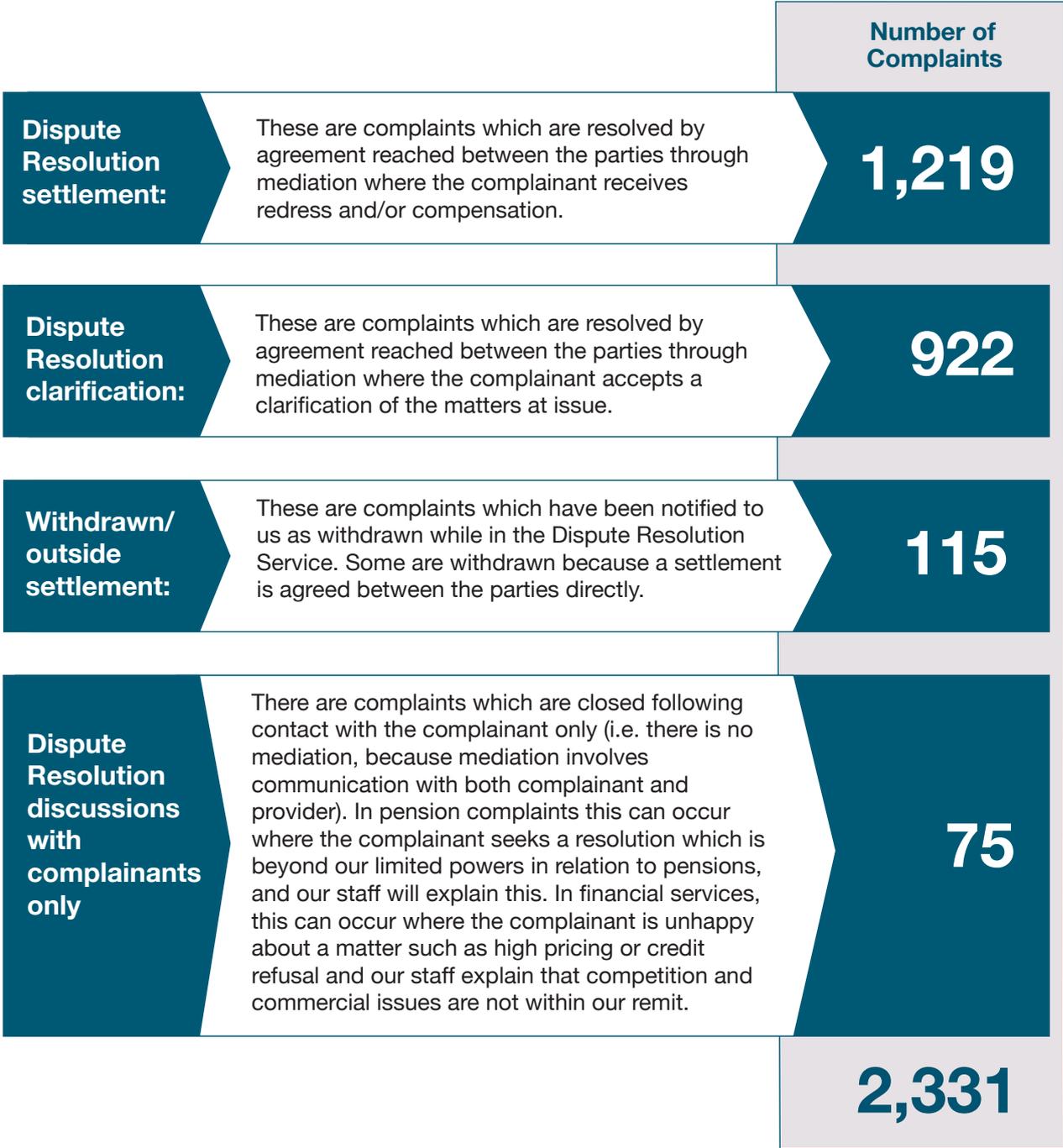
Ineligible Complaints:

These are complaints which are intended for a different Ombudsman or relate to products and services or service providers that do not fall within the remit of this office. Where possible, the complainant is redirected to the appropriate body.

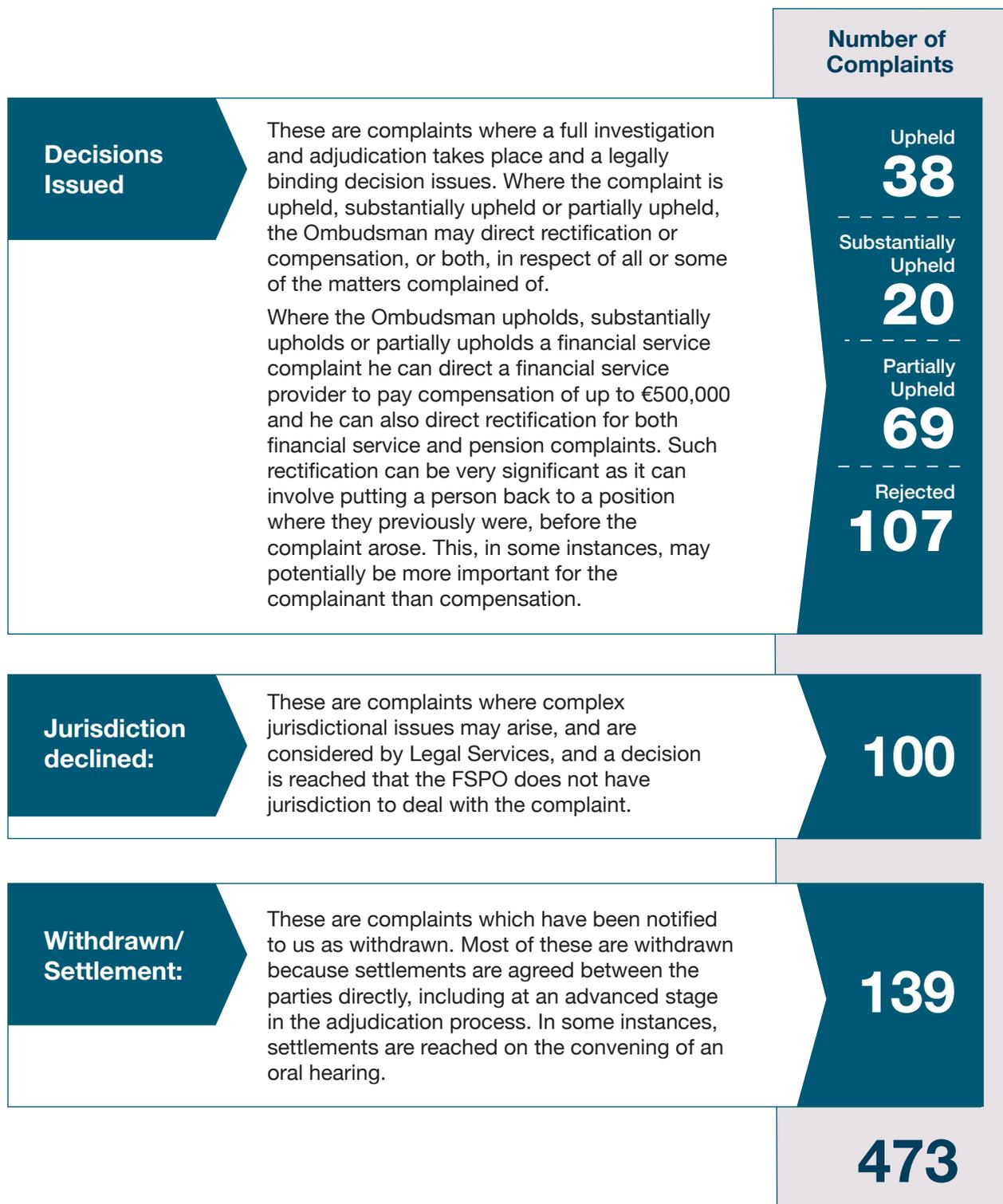
142

1,639

Complaints closed through Dispute Resolution Service



Complaints closed through Investigation, Adjudication and Legal Services



Strategic Objective

Make our services as accessible as possible to all

Make our Services as accessible as possible to all

As we continue to enhance our digital services we work hard to ensure that we don't inadvertently exclude those who are not online, those who are vulnerable or isolated, or those who would simply prefer to talk to someone in person. Notwithstanding our commitment to use online channels, the telephone remains the primary communication channel with service users. Throughout 2018, we have undertaken comprehensive training with our frontline staff to ensure we can respond appropriately to calls as they are received.

Within 2018, we developed and redesigned a new complaint form which addressed new obligations under the General Data Protection Regulations, and increased overall accessibility and ease of use. Additionally, consumers could now use the same complaint form to refer a complaint for both financial service providers and pension providers. The new streamlined form aims to improve the customer journey and qualitative feedback to date has indicated that this has had a positive impact on customer engagement.

All services provided throughout 2018 were available in both Irish and English, and where necessary we provided additional translation and interpretation services to users of other languages.

Strategic Objective

Significantly improve communications and engagement with the public

Information Provision

As 2018 was our first year of operation, we took the opportunity to put in place an initial website (www.fspo.ie) to reflect our new statutory functions and expanded mandate and to make it more accessible for customers and easier for our stakeholders to find information.

The implementation of our Strategic Plan will see the development of a more comprehensive online offering along with the use of social media as a communications tool.

Integrating the work of the FSO and the OPO required an overhaul of all existing marketing material, along with comprehensive training for our registration and support teams so that they could provide relevant and meaningful information over the phone and online to current or prospective customers. Throughout 2018, our information line was open to the public from 09:30 – 13:00 and 14:00 – 17:00 Monday to Friday. The FSPO responds to telephone, mail and email queries relating to our services and our corporate operation.

Our dedicated Information Services team responded to over 19,000 telephone enquiries in 2018.

Our telephone service continues to play an essential role in providing assistance to our customers by helping them understand how best to engage with their financial service provider to make a complaint, or by supporting them in the initial stages of preparing their complaint for submission to this office.



Telephone Enquiries:
19,000

We also handle a significant number of email queries – some 15,300 general information queries to info@fspo.ie were dealt with in 2018



Email Queries
15,300



Visits to www.fspo.ie
105,500
of these **73,290** were unique visitors.

Strategic
Priority

2 Innovating for the Future



The environment within which the FSPO operates is continually evolving and is becoming increasingly complex and challenging. This strategic priority supports innovation and collaboration in how we operate to make the most of the skills and expertise available to us to enable us to recognise and address the gaps in our service capabilities.

In 2018, we established a new unit focused on improving our ICT infrastructure and improving the customer journey which will ensure a sustainable system is put in place that will have a long-term positive impact on managing our workload. Additionally, we began the process of embedding a culture of evidence and evaluation by increasing our strategic engagement in public sector networks, international ombudsman fora and the sharing of best-practice research in complaint handling.

Strategic
Objective

Accelerate digital delivery of services

ICT Improvements

In order to enhance the digital delivery of our services to the public over the lifetime of the Strategic Plan, it is first necessary to ensure the robustness and resilience of our own internal systems. A comprehensive audit was undertaken in Q1 of 2018 to analyse the FSPO's current systems and practices in the areas of information systems, security, business continuity planning, recovery and backup processes. Arising out of this process, key aspects of the ICT policy framework were revised and a new ICT Acceptable Usage Policy and ICT Disaster Recovery Plan were effected, and we commenced the development of an ICT Strategic Framework to drive integration across the organisation and to enhance service delivery and accessibility.

In addition, the FSPO has procured, installed and tested hardware and cloud technology to enhance the security of the infrastructure in place, and reduce the risk of service or security events. ICT acceptable usage training was provided to all new employees in 2018 as part of the induction process.

Throughout 2018, significant steps forward have been taken to contribute to the overall enhancement of the security and effectiveness of the systems in place. A review of our Complaint Management System has been initiated to develop new processes and expand the FSPO's operational process map in order to improve the structure and resources available to staff and, to drive improvements in accessibility to the FSPO for customers and providers.

Reform of the Financial Services Industry Levy

Section 43 of the Financial Services and Pensions Ombudsman Act 2017 sets out how the Financial Services and Pensions Ombudsman Council may make regulations in order to collect a financial services industry levy. An independent examination of the levy system used by the previous body was commissioned by Council. The objective of the examination was to have a simple levy system that could be easily maintained and updated and that is acceptable and transparent to financial service providers.

As part of our commitment to accelerating the digital delivery of services, data analyses of trends and patterns in the making of complaints to the Ombudsman have underpinned this reform. The report yielded ten recommendations.

Five of those recommendations were included in a public consultation, which ran from July to August 2018 and views were sought from the public and particularly from financial service providers pertaining to the manner in which the FSPO collects its financial services levy.

Following the public consultation, the FSPO Council agreed a number of changes to the manner in which the financial services industry levy will be applied in future. The most significant changes to how the levy will be applied in future include:

- a rebalancing of the apportionment of the levy charged across sectors to reflect the recent complaints handling experience;
 - a change to the allocation base for specified categories of financial service providers;
- and
- a rationalisation of the flat fees and minimum levies.

Strategic Objective

Promote a culture of innovation

Innovation and Knowledge Sharing

To support our commitment to continuous innovation, improvement and service excellence we looked to best practice methodologies nationally and internationally.

Throughout 2018, we played an active role as a member of the International Network of Financial Services Ombudsman Schemes (INFO Network) which is a worldwide association for financial services ombudsman schemes and other independent offices operating as out-of-court dispute resolution mechanisms in the financial sector.

As a member of INFO network we were granted the opportunity to host the INFO 2018 conference, the highlight of the INFO Network's annual calendar, which attracted over 100 delegates from around the world to Dublin in September 2018. Hosting the INFO Conference presented an excellent opportunity for networking, learning, and sharing experiences and knowledge with members from Ombudsman schemes from around the world.

In February 2018, the FSPO hosted a delegation from the Bank of Zambia, who consulted with us in relation to best practice on complaint handling and levy structure, ahead of the establishment of their own Ombudsman Office.

In June, the FSPO also hosted a delegation from China representing the Guizhou Provincial Department of Finance. We also received a delegation from the Bank of Italy in December.



As part of a European Commission initiative, FIN-NET, we proactively cooperated with other financial services ombudsman schemes in the European

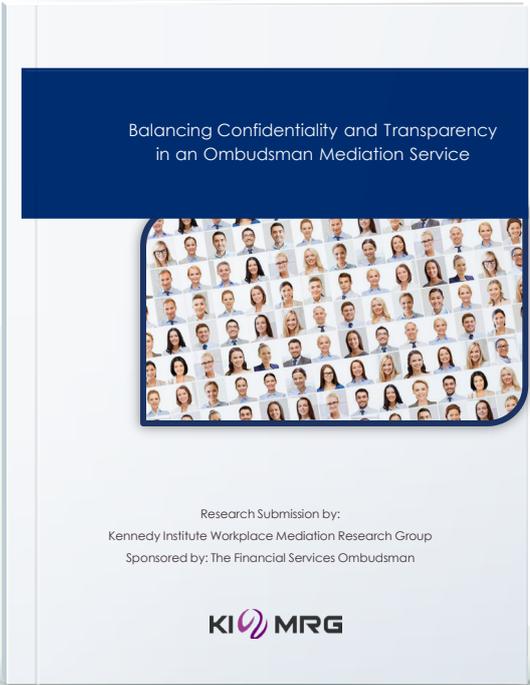
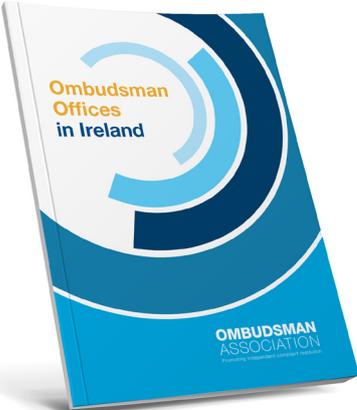
Economic Area (EEA) to provide consumers with easy access to out-of-court complaint procedures in cross border complaints across the EEA.

In September, the FSPO in collaboration with the Kennedy Institute Workplace Mediation Research Group (KIWMRG) hosted a conference **'Mediation: Enhancing Service-User and Organisational Outcomes'**.

The event launched a comprehensive report, commissioned by the FSPO, addressing the challenge of balancing confidentiality and transparency in mediation services, and also presented an account of the transition by the FSPO to mediation as the preferred option for resolving complaints.

The FSPO also intends to honour, as far as is possible, any Memoranda of Understanding which were agreed between the Financial Services Ombudsman and the Office of the Pensions Ombudsman before they were merged to form the FSPO. These all feed into a framework of consumer protection.

To support and demonstrate our commitment to the promotion, sharing and adoption of best practice in dealing with complaints the FSPO participated in conferences, seminars and meetings held by the Ombudsman Association, which is a professional association for ombudsman schemes and others interested in the work of independent complaint resolution. During 2018, the FSPO supported the production of a booklet entitled 'Ombudsman Offices in Ireland', which explained the role of each member ombudsman in Ireland and was later published in 2019.





Ger Deering, Financial Services and Pensions Ombudsman, INFO Conference 2018.

Stakeholder Engagement

The outreach programme pursued in 2018 included engagements with the following stakeholders and events:

- > Association of Chief Executives of State Agencies (ACESA)
- > Banking and Payments Federation
- > British and Irish Ombudsman Association
- > Brokers Ireland
- > Central Bank of Ireland
- > Chartered Institute for Securities and Investments
- > Credit Review Office
- > Credit Union Managers' Association
- > Department of Employment Affairs and Social Protection
- > Department of Finance
- > Department of Justice and Equality
- > Dublin Solicitors Bar Association
- > European Commission ADR Assembly
- > FIN-NET
- > Health Insurance Authority
- > Institute of Banking
- > Insurance Institute
- > International Network of Financial Service Ombudsman Schemes
- > Irish Banking Culture Board
- > Irish Ombudsman Forum
- > LIA
- > Network for Corporate Services in State Agencies
- > Oireachtas Committees
- > Pensions Authority
- > Project Managers' Network
- > Quality Customer Service Network



Delegates attending INFO conference at the Gibson Hotel, September 2018. Speaker: Ger Deering, Financial Services and Pensions Ombudsman.

Strategic Objective

Embed a culture of evidence and evaluation

Ongoing Quality Assurance

The Customer Operations and Information Management (COIM) directorate was established in 2018 with a dedicated focus on improving customers' experience, including the development of appropriate quality assurance procedures at various key stages within the customer journey.

COIM undertook an initial quality assurance review on a wide range of sample complaint files, and reviewed these from a customer experience perspective. A cross-functional working group was then established in order to implement the recommendations which arose following this review. COIM will continue to oversee ongoing quality assurance initiatives across all directorates.

Data Protection

In preparing for the commencement of the General Data Protection Regulation in May 2018, we undertook an extensive project to ensure our culture of protecting the privacy of our customers was fully compliant with the GDPR. Central to the GDPR are the key concepts of accountability and transparency, which are also central to the philosophy of the FSPO.

The FSPO necessarily holds a significant volume of personal data due to the nature of complaint resolution. As such, we hold a deep understanding and awareness of data protection issues, which allows the FSPO to deliver data protection by design and by default.

A GDPR Task Group was established in January 2018. Key to stitching the principles of the GDPR into the fabric of the organisation's every day work was the provision of adequate training to staff on data protection and information security, along with the appointment of a Data Protection Officer (DPO).

The GDPR Task Group was chaired by the Deputy Ombudsman, and regular updates were provided at routine all-staff meetings to ensure the entire FSPO team understood the steps being taken to ensure compliance, with each individual team member understanding and playing their own role in data processing.

Having developed a register of all personal data processed by the FSPO, the GDPR Task Group then co-ordinated an overall review of information security and updated procedures and policies to

ensure compliance with the new laws and to ensure high standards of physical and technical security were in place to protect the confidentiality of personal data.

We are fully committed to communicating with our customers about how we use their data and their rights in a concise, transparent, intelligible and easily accessible form, using clear and plain language. To this end, we reviewed and revised privacy statements and notices and issued the necessary communications to all relevant stakeholders.

Overview of Energy Usage

In accordance with Statutory Instrument 426 of 2014, all public sector bodies are required to report annually on their energy usage and any actions taken to reduce consumption. In 2018, the FSPO’s energy usage comprised 153,154kWh. The average energy use per staff member stands at 2,836kWh based on 49.2 staff members and 6 external contractors at 31 December 2018.

Energy efficiencies were gained through the installation of internal double-glazing on our fourth floor and in our public spaces and stairwells. Additionally, all computer monitors were replaced with 24” energy efficient models resulting in 70% energy savings in monitor usage.

Energy Type	Level of Consumption
Electricity	58,383 kWh
Fossil Fuels (Gas Heating)	94,771 kWh
Total	153,154 kWh

Freedom Of Information Act 2014

In 2018, we prepared a Publication Scheme in accordance with Section 8 of the Freedom of Information Act 2014. This scheme, which is available on our website, is designed to facilitate the proactive provision of information to make the delivery of our services and the operation of our organisation as transparent as possible.

The FSPO continues to meet its obligations in relation to responding to Freedom of Information requests, with 3 such requests received in 2018.

FOI Requests 2018	
Granted	1
Part Granted	1
Refused	1
Total	3

Types of FOI Requests	
Journalist	1
Member of the public	1
Business	1

Strategic
Priority

3

Developing Our People and Our Organisation



Education and continuous professional development is at the heart of the FSPO's strategic plan. The FSPO's commitment to upskilling staff was reflected in a range of training and professional accreditation courses and educational initiatives in 2018.

Additionally, focus was given to promoting equality, diversity and inclusion amongst our staff and increasing employee engagement across the organisation.

Strategic
Objective

To be a high performing organisation with a continuous focus on developing the knowledge and skills of staff

Workforce Plan

The FSPO is an integration of two previously existing organisations. As with any merger or amalgamation, there was an inevitable period of transition and evolution as practices and norms which existed in the two previous organisations were merged and blended to achieve maximum efficiencies and effectiveness. In our Strategic Plan for 2018-2021 we adopted the Government's *Our Public Service 2020* policy framework which focuses on collaboration, innovation and evaluation. Each theme was considered and addressed by the FSPO in order to foster and maintain a highly cohesive, team-oriented, collaborative environment, with a strong focus on performance management, staff coaching, motivation and development and knowledge transfer.

Both internal and external recruitment competitions were undertaken in 2018 to fill vacancies which arose across various grades. The structure of the staff was recalibrated in 2018, now operating under a four-team structure comprising: Corporate and Communication Services; Dispute Resolution Services; Investigation, Adjudication, and Legal Services; and Customer Operations and Information Management.

A Workforce Plan for the period 2019 to 2023 was submitted to the Department of Finance in December 2018, which included an objective analysis of the level of resources then available to the FSPO against both current and future demand for our services. This submission was supported by an independent evaluation of current staff grades, which was initiated in conjunction with the trade union Fórsa which assessed the appropriateness of staff grades to the work undertaken, having regard to the particular statutory mandate of the FSPO and by comparison to the wider Irish public service.

The Workforce Plan aims to address the large existing caseload which this Office inherited on 01 January 2018, along with the sustained pattern of increased demand which this office continues to experience. Sanction has since been received from the Minister for Finance for the recruitment of a further 35 staff. This will allow us to deliver a better, faster service for our customers, keep pace with the speed of change, tackle existing waiting times, and to deliver the objectives in our Strategic Plan 2018 – 2021.

Strategic Objective

Continuous and responsive professional development

Training

Throughout 2018, we aimed to enhance the overall level of core workplace skills and in turn the performance of the organisation. To support and promote our commitment to the ongoing training, up-skilling and development of staff, training and development opportunities were identified and made available to all staff during 2018.

Training opportunities in the specific areas of mediation, compliance, governance and Qualified Financial Advisor (QFA) were offered, to ensure that our teams were equipped with the necessary skills and knowledge to achieve and deliver the organisation's strategic objectives.

Strategic Objective

Promote equality, diversity and inclusion

Human Rights

Under Part 5 of the Disability Act 2005, public sector bodies are required to report on their level of employment of people with disabilities. A staff census was undertaken in March 2018 which indicated that, at 5.4%, the FSPO met the minimum of 3% for employment of people with disabilities. It also demonstrates that our recruitment policies have been effective in reaching the targets set out in the Comprehensive Employment Strategy for Persons with Disabilities.

As a public body, we are aware of our obligations under the Irish Human Rights and Equality Act 2014. We are committed to achieving and applying an equality and human rights approach to how we implement our functions and how we go about our daily work. Our principal function is to investigate complaints against financial service or pension providers in a manner proportionate to the nature of the complaint. We also have a role as an employer, a contributor to public policy and a procurer of services.

Number of Staff by Grade 31/12/2018	
Ombudsman	1
Deputy Ombudsman	1
Principal Officer	4
Assistant Principal	5
Higher Executive Officer	12
Executive Officer	23
Clerical Officer	3.2
TOTAL	49.2

Senior Management Team
Ger Deering , Financial Services and Pensions Ombudsman
Elaine Cassidy , Deputy Financial Services and Pensions Ombudsman
MaryRose McGovern , Director of Investigation, Adjudication and Legal Services
Diarmuid Byrne , Director of Dispute Resolution Service
Tara McDermott , Director of Customer Operations and Information Management
Kevin De Barra , Director of Corporate and Communication Services

In 2018, we conducted a high-level assessment of the equality and human rights issues relevant to the delivery of our functions and services, which included particular consideration of physical barriers to accessing our services.

This assessment led to the installation of mechanically propelled entrance doors to our shared building at Lincoln House and the integration of the concepts of universal design in the redevelopment of our facilities.

Our organisation is dedicated to ensuring our staff continues to reflect strong female representation. In 2018, gender balance among our senior management team was 50:50, and the balance between female and male employees on the overall staff was 60% female, 40% male. Through the performance of our functions, and through our recruitment strategies, we will continue to assess any gender equality issues in line with the National Strategy for Women and Girls 2017-2020.

Strategic Objective

Increase Employee Engagement

Employee Engagement

Throughout 2018, we endeavoured to offer staff opportunities for work-life balance in line with the Public Service Stability Agreement, and in Q3 of 2018 we introduced a suite of schemes to assist staff to balance their working arrangements with outside commitments and create a better work-life balance for employees, including a Shorter Working Year scheme, a Flexible Working Hours scheme, a Work Sharing scheme and a Career Break scheme.

An internal working group was established to lead a number of initiatives in support of increased employee engagement.

In May 2018, a *Well@Work* programme was launched to support staff in maintaining a healthy lifestyle and was based around the Five Pillars of Mental Health: *Connect, Be Active, Take Notice, Keep Learning and Give*. The *Well@Work* programme has been a significant and welcome contribution to overall employee engagement and wellbeing which was recognised in the achievement of the Bronze Active@Work Award in November 2018 awarded by the Irish Heart Foundation.



Members of our *Well@Work* Committee: Fionnuala McNamee, Martin Gordon, Frederica Doyle.

Case Studies and Decisions

One of the key objectives of our Strategic Plan 2018 – 2021, *Enhancing the Customer Experience*, is to improve communication and engagement with the public. Publication of our decisions is an important step in achieving this and will contribute to an enhanced consumer protection framework.

We are very conscious of the impact of the work of this office on the daily lives of consumers. The importance of resolving a contentious dispute, that is negatively affecting a person's life, cannot be overestimated.

We deal with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by phone.

For complaints where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.

Publication of a selection of our decisions in the *Ombudsman's Digest of 2018 Decisions*, along with the full database of decisions on our website at www.fspo.ie/decisions and examples of case studies from the mediations we facilitate which are published in our *Overview of Complaints 2018*, will help to improve the quality of services and protections available to consumers of financial services and pension products. Below are a selection of decisions and case studies from 2018.

Case Studies

Insurance claim rejected and policy voided

Susan bought a van directly from her brother. After the sale, she rang her insurance company to insure the van in her name. Several months after she had done this, the van was stolen and burnt out. Susan contacted the insurer to make a claim. The insurer investigated and decided to deny the claim, void the policy, and return all the premia paid, because the van was not registered in Susan's name. This caused her significant hardship. She was also denied further insurance cover until Insurance Ireland helped her get a quote from her original insurer who offered her third-party-only insurance at a cost of over €2,700 per annum.

During the FSPO mediation, the policy documents and terms and conditions were discussed, along with the contents of the phone call where Susan changed her insurance to cover her new vehicle.

The company accepted that neither the paperwork nor the questions asked of Susan when she changed vehicle made it sufficiently clear that the vehicle had to be registered into her own name. As a direct result of the mediation, the insurer reversed its decision, removed the void from record, upgraded Susan's level of cover from third party only to comprehensive at no extra cost, and admitted the claim for assessment, where the burnt out van had a pre-accident value of €8,000.

Serious illness policy claim rejected

Sebastian held a serious illness policy. Unfortunately, his mobility deteriorated to the extent that he could no longer undertake his employment. He made a claim under his serious illness policy. However, the insurance company refused the claim stating that Sebastian did not fulfil enough of the medical conditions. During the FSPO mediation, the company accepted the medical evidence provided and the benefit of €223,463 was paid to him.

Request to remove a person from a mortgage agreement

Ciarán had been awarded the family home by a judge in divorce proceedings. The judge instructed that his ex-partner waive her right to the home and be removed from the house deeds and mortgage. When Ciarán applied to the bank to have the mortgage transferred into his name only, the bank refused, stating that the mortgage had been approved on the income of both him and his ex-partner and that Ciarán could not demonstrate sufficient means to cover the mortgage on his own. Ciarán pointed out that he was in fact meeting the monthly payments on his own.

During the FSPO mediation, the bank explained that when Ciarán's income and expenditure was measured it didn't meet Central Bank guidelines for affordability. The bank stated that they could assess it again at a later date if Ciarán's financial situation changed but that for the moment it would not relinquish its contractual right to hold both parties liable. Ciarán accepted the bank's position.

Disagreement with investment company

Richard took out an investment bond in 1998 for an amount of £16,000 (sterling). Richard decided to make a second, additional investment to this bond of £5,000 (sterling) in 2017. However, Richard's investment company advised that they needed him to provide evidence of the identities of the bond's Trustees before they could add this investment to his bond.

Richard felt that there was no need to do this and asked his investment company to proceed in the absence of this proof. Relations between the parties broke down and the £5,000 was frozen in a holding account for over a year.

During the FSPO mediation, Richard accepted that his investment company needed him to provide the required documentation in order to comply with anti-money laundering legislation. The documentation was provided to the company. As a gesture of goodwill, the company agreed to treat the £5,000 as though it had been invested when given to the company in 2017. This meant that Richard's investment was restored to the position it would have been in, had the delays not occurred.

Advice on pension entitlement

Piotr had not been well and started looking at the idea of retirement on grounds of ill health with the assistance of his employer. In order to assist his decision-making, he requested figures on his pension entitlement from his employer. He was told he could either have a short service, once-off gratuity and no monthly payment, or a much smaller once-off gratuity and a small monthly payment. He opted for the first option, took early retirement and the payment was formally confirmed by his employer. However, when the money did not arrive to his bank account as expected, he was told by his employer that someone at work had made a mistake and in fact, he did not have enough service to be eligible for the short service once-off gratuity.

The FSPO cannot instruct pension trustees to pay a member something they are not entitled to under the rules of the pension scheme. While it was acknowledged by all parties that Piotr had been provided with incorrect information by his employer, there was no redress available to him in relation to this matter.

Decisions

Decision Reference: 2018-0223

Engagement with customers who were in arrears on a mortgage loan

In 2006, Susan and Fergus took out a mortgage to purchase a buy-to-let property. In 2011, the couple began to experience difficulties in servicing this mortgage, as well as that of their family home. They then re-structured the mortgage on their family home.

Following a series of misunderstandings and miscommunications between the couple and the lenders, in January 2014, Fergus was informed that the mortgage account had been moved to the Arrears Support Unit and that the couple had been classified as 'non-co-operating'. The Ombudsman later found this decision was unreasonable.

In November 2015, Susan and Fergus reached 'sale agreed' on the property in order to clear outstanding arrears.

In late January, Fergus contacted the lender and received conflicting advice on two occasions. Firstly, that the lender intended to appoint a receiver to the property who would sell the property and secondly that the property had already 'been in the receivership process for 12 months'.

The Ombudsman noted that it was most unreasonable that having engaged in the challenging process of selling a property, Fergus was then informed that a receiver had been appointed 12 months before that. However, in reality, this process had only been considered, not actioned and the Ombudsman found that it was unacceptable that the lender did not admit this mistake.

The Ombudsman also found that the Arrears Support Unit legal department adopted an obstructive approach and treated the couple in an unreasonable and unjust manner.

The Ombudsman upheld the complaint and directed the lender to pay a sum of €90,000 in compensation to the couple.

Decision Reference: 2018-0100

Rejection of health insurance claim because of pre-existing condition

Ann-Marie and her family held a health insurance policy which they upgraded in September 2014. The upgrade included cover for additional hospitals. However, a two-year waiting period applied for treatment in these hospitals for any ailment, illness or condition that existed prior to the upgrade in cover.

Ann-Marie's daughter underwent surgery in May 2015 and Ann-Marie subsequently made a claim for the medical expenses incurred. The insurance company refused the claim on the grounds that the medical condition pre-existed the cover upgrade.

Ann-Marie had made contact with both the consultant surgeon and the insurance company before the treatment and checked that the procedure was covered. Although the insurance company explained that a pre-existing condition would not be covered, her consultant advised her that it was not a pre-existing condition. She was led to believe in her call by the company's agent that the consultant would have the final decision on whether it was a pre-existing condition.

However, when assessing the claim, the insurance company stated that its own medical advisers determine when a condition 'commenced' and that their decision is final. The Ombudsman noted that this was not properly communicated to Ann-Marie. The Ombudsman upheld the complaint and directed the insurance company to admit the claim.

Decision Reference: 2018-0021

Fees, charges and communications relating to an investment

A group of investors entered into an investment agreement with a fund management company, through an independent intermediary and money totalling €270,000 was invested into various funds in 1996. In December 2013, the intermediary provided the group with a valuation of €250,000 for their investment; however they later discovered from the fund manager that the total value of the investments was less than €2,000.

While the intermediary is under investigation by the Central Bank and is reported to have had its licence removed, the investors believe that the fund management company, against which they made the complaint to the Financial Services and Pensions Ombudsman did not do what it was authorised to do in terms of the payment of fees to the intermediary and the provision of fund updates to the investors.

The Ombudsman found that the fund management company should have exhibited greater oversight of the instructions provided to them by the intermediary. Furthermore, the Ombudsman found that oversight requirements, as per the company's own agreement with the investors, could have avoided or alleviated the alleged acts by the intermediary that are claimed by the complainants. However, he also pointed out that the investors themselves had general oversight obligations.

The Ombudsman partially upheld the complaint and directed the fund management company to pay the complainants €15,000 in compensation.

Decision Reference: 2018-0002

Underpayment of credit card debt

Pavel acquired a credit card in 1998 and accidentally underpaid the account by €19 in October 2012. A month later, he paid the €19, together with the late fee charge of €15.

Following the missed payment, the lender deemed the account to have fallen into arrears and withdrew the card and would not reinstate it.

Pavel states that when the card was blocked the balance outstanding stood at €14,166. He has paid €15,250 towards the outstanding balance. However, due to approximately €9,000 of that being interest, this has only reduced the balance by €6,250.

The Ombudsman found that the lender failed to fully maintain its records and that the blocking of the credit card was disproportionate and unreasonable. Furthermore, the Ombudsman found that the lender failed to comply with regulations by not unblocking Pavel's credit card once he had paid it off. However, the Ombudsman found the provider was entitled to charge the same interest on the account when it was blocked, as when it was active.

The Ombudsman substantially upheld Pavel's complaint and directed the lender to pay €10,000 in compensation. He also directed that the lender remove any adverse reports on Pavel's Irish Credit Bureau (ICB) record.

Value of the preserved benefit of a pension scheme

James became a member of a pension scheme in 1998. In 2013, his employer was advised that an additional lump sum payment of €800,000 would be required for the scheme, of which James was the only member, in order to meet the statutory funding standard. Following a consultative process, an agreement was reached with James to cap his benefits at their value as of 20 March 2014. The value of James' benefit was calculated at €2,776,548.

James left employment at the end of 2014 and, as per the agreement, no further benefits were accrued following the March date.

Sadly, in 2016, James passed away. As he passed away before reaching retirement age, the preserved benefit of the scheme became payable

to his wife Siobhán, who made a complaint to the Financial Services and Pensions Ombudsman, believing that the benefit should in fact amount to €3,758,000. She argued that the scheme capped the 'Member's entitlements' on 20 March 2014, but it did not extend the cap to the entitlements of other beneficiaries of the scheme.

The Ombudsman found that the letter of notification from 1998 clearly stated that if death occurred before the preserved benefit became payable, the benefit payable is the member's benefit and not the entitlement of some other beneficiary under the scheme.

The Ombudsman found that the amount payable to James' personal representative was €2,776,548 so he did not uphold the complaint.

Legal Overview 2018

Establishment of the Financial Services and Pensions Ombudsman

The governing legislation of the FSPO is the *Financial Services and Pensions Ombudsman Act 2017* (“the Act”), which was commenced with effect from 01 January 2018.

This legislation established the FSPO and sets out the jurisdiction of the office to deal with complaints against financial service providers and pension providers. The Act sets out a broad range of powers and functions and includes provisions in relation to time limits for making complaints, related legal proceedings and publication of decisions.

Time Limits for Making Complaints to the FSPO

Significant changes to the time limits for making a complaint to the Financial Services Ombudsman were made by the Oireachtas in July 2017. These changes were carried over to the FSPO as per Section 51 of the Act. As a result, any complaint about a “long-term financial service”, can now be made not only within a period of six years of the date of the conduct complained of, but also within a period of three years of a certain “date of knowledge” as prescribed within the Act. In addition, the Ombudsman has a statutory discretion, regarding such complaints, to extend the time if there are reasonable grounds for requiring a longer period and it would be just and equitable in all the circumstances to do so.

Considerable work has been undertaken by the FSPO in its interactions with complainants and providers, to assist them in understanding what constitutes a “long-term financial service”. Section 2 of the Act originally prescribed what a “long-term financial service” constituted.

That remained the position until 29 October 2018, when the definition of a “long-term financial service” was amended by Section 9 of the *Markets in Financial Instruments Act 2018* and the definition now includes additional provisions.

From 29 October 2018, this statutory amendment and the additional provisions became part of the FSPO’s consideration of its remit, in active complaints. In some instances the FSPO had to undertake considerable work in order to come to a determination as to whether the office had jurisdiction to deal with a complaint where a complainant and a provider were of differing opinions as to whether a complaint was made within the time limits laid down by statute.

You can read more about this somewhat complex statutory amendment which now forms an integral part of the FSPO’s remit at www.fspo.ie/timelimits.

Complaints to the FSPO and related Legal Proceedings

Section 50(3) of the Act, prevents the FSPO from investigating a complaint where the issues arising are, or have been, the subject of court proceedings. The Act however, also provides an avenue for one of the parties involved, to make an application to the Court, so that the FSPO can be permitted to proceed with the investigation of the complaint. Such a decision is entirely a matter for the Court and may involve the Court determining whether the issues raised in the litigation and the complaint are so enmeshed that it may be best for the Court to deal with all aspects of the matter. Alternatively, the Court may be willing to permit the investigation of the complaint by the FSPO, prior to the issues in the litigation then being progressed.

The FSPO has no discretion in this matter, as the governing legislation makes it clear that it is for the Court to make that decision.

Publication of Legally Binding Decisions

Section 62 of the Act provides the FSPO with the power to publish decisions. In January 2019, the FSPO published 228 of the 234 legally binding decisions issued during 2018. These decisions are available in our online Database of Decisions (www.fspo.ie/decisions). In addition to publishing the full decision, the Ombudsman also published a *Digest of 2018 Decisions* which includes a short summary of selected decisions.

Appeals to the High Court challenging a Legally Binding Decision of the FSPO

When a complaint proceeds to a formal adjudication and a decision is issued by the FSPO, the terms of that decision are legally binding upon the parties, subject only to an appeal to the High Court within a period of 35 calendar days.

In the event of an appeal to the High Court, all of the evidence put forward to the Ombudsman for the purpose of the adjudication is examined to assess whether the Ombudsman came to a decision correctly, and whether the procedures offered to the parties were fair, in the course of that decision-making process. Should the Court take the view that the decision of the Ombudsman is unsound, the decisions can be amended as considered appropriate by the Court, or the complaint can be remitted back to the Ombudsman for a fresh consideration of the issues.

On the commencement date of the FSPO, there were 10 existing FSO complaints under appeal to the Superior Courts which transferred to the FSPO. Nine of these matters were appeals to the High Court, with one additional matter which had been appealed to the Court of Appeal, in 2013.

	Complainant	Provider	Total
High Court Appeals			
At 31 December 2017	7	2	9
Initiated in 2018	2	-	2
Settled	0	2	2
Dismissed by the Court	5	0	5
At 31 December 2018	4	-	4

	Complainant		
Court of Appeal			
At 01 January 2018	1		
Initiated in 2018	-		
At 31 December 2018	1		

During 2018:

- > Two new appeals to the High Court were received from one Complainant.
- > The High Court refused to extend the time to enable a Complainant to bring an appeal to challenge the terms of a Finding which had been issued by the FSO in January 2013. Access to this High Court Judgment is available on our website or at this [\[link\]](#).
- > Two ongoing appeals from Providers were settled.
- > Four appeals were dismissed, by the High Court, with an order for costs in favour of the FSPO. These four appeals were from two different Complainants, each of whom had two complaints and therefore two appeals. Access to the two High Court Judgments are available on our website or at these links; [\[link A\]](#) and [\[link B\]](#).

On 31 December 2018, the FSPO had four remaining High Court appeals on hand, all from complainants, with no hearing date listed yet in three instances, and with judgment reserved in one matter. In addition, at the end of 2018, the FSPO was awaiting a hearing date in relation to the matter which had been appealed to the Court of Appeal, in 2013.

In any litigation, the FSPO in appropriate cases, seeks recovery of its legal costs by applying to the Court for an order for costs against the appropriate parties to the litigation. During 2018, the FSPO recovered €24,906 in legal costs, against a number of parties.

Financial Statements





Ard Reachtair Cuntas agus Ciste

Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Office of the Financial Services and Pensions Ombudsman

Opinion on the financial statements

I have audited the financial statements of the Office of the Financial Services and Pensions Ombudsman for the year ended 31 December 2018 as required under the provisions of section 20 of the Financial Services and Pensions Ombudsman Act 2017. The financial statements comprise

- the statement of income and expenditure and retained revenue reserves
- the statement of comprehensive income
- the statement of financial position
- the statement of cash flows and
- the related notes, including a summary of significant accounting policies.

In my opinion, the financial statements give a true and fair view of the assets, liabilities and financial position of the Office of the Financial Services and Pensions Ombudsman at 31 December 2018 and of its income and expenditure for 2018 in accordance with Financial Reporting Standard (FRS) 102 — *The Financial Reporting Standard applicable in the UK and the Republic of Ireland*.

Emphasis of matter - pension liabilities

I draw attention to note 10 to the financial statements, Superannuation – Staff and Ombudsman/Deputy Ombudsman superannuation schemes.

The recognition of a deferred pension funding asset of €454,000 in respect of the Single Public Service Pension Scheme reflects a statutory provision relating to the funding of that scheme.

The Financial Services Ombudsman Bureau Staff and Ombudsman/Deputy Ombudsman superannuation schemes were approved by statutory instrument in April 2016. Discussions are ongoing between the Office of the Financial Services and Pensions Ombudsman and the Department of Finance in relation to the funding arrangements in respect of the liabilities under these schemes. Pending the resolution of these discussions, the financial statements disclose the accrued pension liability for the relevant schemes only by way of note.

My opinion is not modified in respect of this matter.

Basis of opinion

I conducted my audit of the financial statements in accordance with the International Standards on Auditing (ISAs) as promulgated by the International Organisation of Supreme Audit Institutions. My responsibilities under those standards are described in the appendix to this report. I am independent of the Office of the Financial Services and Pensions Ombudsman and have fulfilled my other ethical responsibilities in accordance with the standards.

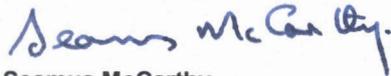
I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Report of the C&AG (continued)

Report on information other than the financial statements, and on other matters

The Office of the Financial Services and Pensions Ombudsman has presented certain other information together with the financial statements. This comprises the annual report, the governance statement and the statement on internal control. My responsibilities to report in relation to such information, and on certain other matters upon which I report by exception, are described in the appendix to this report.

I have nothing to report in that regard.



Seamus McCarthy
Comptroller and Auditor General
6 December 2019

Appendix to the report

Responsibilities of the Financial Services and Pensions Ombudsman

As set out in the governance statement the Financial Services and Pensions Ombudsman is responsible for

- the preparation of financial statements in the form prescribed under section 20 of the Financial Services and Pensions Ombudsman Act 2017
- ensuring that the financial statements give a true and fair view in accordance with FRS102
- ensuring the regularity of transactions
- assessing whether the use of the going concern basis of accounting is appropriate, and
- such internal control as he determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Responsibilities of the Comptroller and Auditor General

I am required under section 20 of the Financial Services and Pensions Ombudsman Act 2017 to audit the financial statements of the Office of the Financial Services and Pensions Ombudsman and to report thereon to the Houses of the Oireachtas.

My objective in carrying out the audit is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement due to fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs 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 the ISAs, I exercise professional judgment and maintain professional scepticism throughout the audit. In doing so,

- I 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 my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- I 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 internal controls.
- I evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures.

- I conclude on the appropriateness of the use of the going concern basis of accounting and, based on the audit evidence obtained, on whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office of the Financial Services and Pensions Ombudsman's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my report. However, future events or conditions may cause the Office of the Financial Services and Pensions Ombudsman's to cease to continue as a going concern.
- I 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.

I 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 I identify during my audit.

Information other than the financial statements

My opinion on the financial statements does not cover the other information presented with those statements, and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, I am required under the ISAs to read the other information presented and, in doing so, consider whether the other information is materially inconsistent with the financial statements or with knowledge obtained during the audit, or if it otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

Reporting on other matters

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation. I report if I identify material matters relating to the manner in which public business has been conducted.

I seek to obtain evidence about the regularity of financial transactions in the course of audit. I report if I identify any material instance where public money has not been applied for the purposes intended or where transactions did not conform to the authorities governing them.

I also report by exception if, in my opinion,

- I have not received all the information and explanations I required for my audit, or
- the accounting records were not sufficient to permit the financial statements to be readily and properly audited, or
- the financial statements are not in agreement with the accounting records.

Governance Statement

The Office of the Financial Services and Pensions Ombudsman (FSPO) was established on 01 January 2018 by Section 7 of the Financial Services and Pensions Ombudsman Act 2017 (“the FSPO Act 2017”). Section 27 of the FSPO Act 2017 dissolved the Financial Services Ombudsman Bureau, the Financial Services Ombudsman Council and the Office of the Pensions Ombudsman. Section 28 of the FSPO Act 2017 transferred all functions which were previously vested in the Financial Services Ombudsman or the Pensions Ombudsman to the FSPO with effect from 01 January 2018.

The role of the Financial Services and Pensions Ombudsman is to resolve complaints from consumers, including small businesses and other organisations, against financial service or pension providers.

The Ombudsman and the senior management team are responsible for ensuring good governance and perform this task by setting strategic objectives and targets and taking strategic decisions on all key business issues. The regular day-to-day management, control and direction of the FSPO is also the responsibility of the Ombudsman and the senior management team. The Ombudsman and the senior management team follow the strategic direction agreed and ensure that all Council members have a clear understanding of the key activities and decisions related to the entity, and of any significant risks likely to arise. The Ombudsman and Deputy Ombudsman act as a direct liaison between the Council and the management team of the Financial Services and Pensions Ombudsman.

Statement of Responsibilities

Council Responsibilities

The statutory functions of the Council are set out in Part 40, Section 1 of the Financial Services and Pensions Ombudsman Act 2017. These functions are:

- To determine and prescribe by regulation, in accordance with section 43, the financial services industry levy,

- To keep under review the efficiency and effectiveness of the Ombudsman and advise the Minister, either at the Minister’s request or on its own initiative, on any matter relevant to the performance of the functions of the Ombudsman,
- To advise the Ombudsman on any matter on which the Ombudsman seeks advice (including advice in relation to the development and publication of guidelines and procedures in relation to the complaints process and investigations under the Act), and
- To carry out such other functions as are conferred on it by this Act.

Section 3 states that the Council shall have no role in the manner in which the Ombudsman deals with a particular complaint.

Financial Services and Pensions Ombudsman Responsibilities

Part 2, Section 20, of the Financial Services and Pensions Ombudsman Act 2017 requires the Ombudsman to keep in such form as may be approved by the Minister, all proper and usual accounts of all monies received or expended by the Ombudsman in performing functions under the Act, including an income and expenditure account and balance sheet, and in particular, shall keep all such special accounts as the Minister may direct from time to time.

The Ombudsman is also responsible for keeping, in such form as the Minister may approve, all proper and usual accounts and records of all monies received or expended by him or her. Within four months after the end of each financial year the Ombudsman is responsible for arranging the preparation and submission, to the Comptroller and Auditor General, of a statement of accounts for the financial year.

In preparing a statement of accounts, the Ombudsman is required to:

- Select suitable accounting policies and apply them consistently,
- Make judgements and estimates that were reasonable and prudent,

- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that it would continue in operation, and
- State whether applicable accounting standards had been followed, subject to any material departures disclosed and explained in the financial statements.

The Ombudsman is responsible for keeping adequate accounting records which disclose, with reasonable accuracy at any time, its financial position and enable him to ensure that the financial statements complies with Section 20 of the Financial Services and Pensions Ombudsman Act 2017.

Part 2, Section 19, of the Financial Services and Pensions Ombudsman Act 2017 requires the Ombudsman to arrange the preparation of a statement setting out estimates of the income and expenditure relating to the FSPO and the submission of the statement to the Council for approval.

Under Part 2, Section 26 of the Act, the Ombudsman is responsible for preparing a strategic plan for a three-year period and submitting it to the Council for approval. The Council is responsible for delivering the plan to the Minister for Finance, once it has approved the plan.

The Ombudsman is also responsible for safeguarding the assets of the FSPO and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Ombudsman considers that the financial statements of the Financial Services and Pensions Ombudsman give a true and fair view of the financial performance and the financial position of the Financial Services and Pensions Ombudsman at 31 December 2018.

Council Structure

The council consisted of a Chairperson and six members, all of whom were appointed by the Minister for Finance following a recruitment process by the Public Appointments Service. The members of the Council were appointed for a period not exceeding five years and met 6 times in 2018.

The table below details the appointment period of current members:

Council Member	Role	Date Appointed
Maeve Dineen	Chairperson	09 January 2017
Valerie Bowens	Member	20 January 2016
Ken Murnaghan	Member	20 January 2016
Deborah Reidy	Member	20 January 2016
Dermott Jewell	Member	09 January 2017 (Re-appointment)
Don Gallagher	Member	09 January 2017
Elizabeth Walsh	Member	09 January 2017 (Re-appointment)

The Council undertook a self-assessment evaluation in February 2019 in respect of the financial year January to December 2018.

In 2018 the Council comprised the following members:



Ms. Maeve Dineen – Chairperson

Ms. Dineen is a strategic communications consultant and works with a number of Ireland's most respected publicly listed companies. She holds an Agricultural Science degree from UCD and a Masters in Communications from Queens University/DCU. She attended Harvard University, Boston to complete its prestigious 'Women on Boards' executive programme. A former journalist, Maeve has spent a significant part of her career in the media and was Business Editor of the Irish Independent newspaper from 2008-2014.



Ms. Valerie Bowens

Ms. Bowens (B.Comm., Master of Business Studies, Diploma in Financial Services Law (UCD)) is a consultant with extensive compliance, risk, governance and regulatory experience over more than 20 years. She is also a member of the Board of the National Standards Authority of Ireland (NSAI), sits on its Governance Committee, and is a director of its US subsidiary, NSAI Inc. In addition, she is a Board member of the Investor Compensation Company DAC, and its Audit and Risk Committee. Until late 2014, she was Managing Director and Country Head of Compliance at BNY Mellon, prior to which she held roles as Senior Regulator – Central Bank and Senior Manager – AIB. She is a member of the Institute of Directors and the Association of Compliance Officers in Ireland.



Mr. Don Gallagher

Mr. Gallagher is Chief Executive of the Health Insurance Authority. Mr. Gallagher holds a M.Sc. in Management from Trinity College, Dublin and is an experienced international Chief Executive who has managed and served on the board of national and international insurance and wealth management companies. Most recently, Mr. Gallagher was CEO and Executive Director of the European subsidiary of a leading global life insurer. Previously Mr. Gallagher had been Senior Vice President and Managing Director with a major Canadian life insurer in both Ireland and Canada.



Mr. Dermott Jewell

Mr. Jewell (B.Sc. Mgmt. (Law)(Trinity College Dublin), CI Arb.) is Policy and Council Advisor to the Consumers' Association of Ireland. His representations include Chairperson/Director of the European Consumer Centre (ECC) Ireland, Director of the Investor Compensation Company Limited (ICCL) and member of the Banking Stakeholder Group of the European Banking Authority. He is Ireland's representative on the European Consumer Consultative Group (ECCG) of the European Commission. Mr. Jewell holds accreditations in both Employment Investigation and Mediation and is a member of the Mediators' Institute of Ireland (MII).



Mr. Ken Murnaghan

Mr. Murnaghan is a member of the management board of Finance Ireland, a privately owned financial services group specialising in property, motor, SME, and agri-finance. Previous roles include Head of Business Banking at Ulster Bank Group, and a number of other positions in France, Ireland, and Hong Kong with AIB, PWC, and EY. Mr. Murnaghan is a business graduate of University College Dublin, a fellow of Chartered Accountants Ireland, and a fellow of the Institute of Banking.



Ms. Deborah Reidy

Ms. Reidy has over 35 years' experience in the investment management and consulting industries in New York and Ireland. Most recently, she led the Investment Consulting practice at Aon Hewitt Ireland and was previously Head of Investment Manager Selection and Monitoring at the NTMA for the National Pensions Reserve Fund. She has substantial Board experience as an Executive Director of an Irish Limited Company, Independent Chairperson of a MIFID company, an INED Director on several Fund Boards as well as serving on The Financial Services and Pensions Ombudsman Council. Ms. Reidy obtained a Bachelor of Science degree from New York University in 1985 and an MBA from Fordham University in 1990.



Ms. Elizabeth Walsh

Ms. Walsh (BCL UCD) is a practising solicitor with over 30 years' experience in general practice. She is an accredited mediator and a mental health legal representative. She served as President of Limerick Solicitors' Bar Association from 2008-2010.

In 2018, the Council established two committees, as follows:

- 1. Audit and Risk Committee** comprised three Council members [Ken Murnaghan (Chair); Valerie Bowens, Dermott Jewell]. The role of the Audit and Risk Committee (ARC) is to advise the Council on the strategic processes in place for risk, internal control and governance. The ARC reported to the Council after each meeting and formally in writing annually.
- 2. Finance Committee** comprised three Council members [Deborah Reidy (Chair); Don Gallagher; Elizabeth Walsh]. The role of the Finance Committee is to advise the Council on the setting of the financial services levy and any issues in relation to its collection, and the ongoing financial position of the organisation. The Finance Committee reported to the Council after each meeting and formally in writing annually.

Schedule of Attendance, Fees and Expenses

A schedule of attendance at the Council and Committee meetings for 2018 is set out below, including the fees and expenses received by each member:

	Council	Audit & Risk Committee	Finance Committee	Fees €	Expenses €
Number of Meetings	7	3	4		
Maeve Dineen	6 of 6			21,600	-
Valerie Bowens	6 of 6	3 of 3		12,600	189
Dermott Jewell	6 of 6	3 of 3		12,600	-
Ken Murnaghan	6 of 6	3 of 3		12,600	-
Deborah Reidy	6 of 6		4 of 4	12,600	64
Elizabeth Walsh	6 of 6		4 of 4	12,600	178
Don Gallagher	5 of 6		4 of 4	0*	-

*One Council member, Don Gallagher, did not receive a fee under the One Person One Salary (OPOS) principle.

Key Personnel Changes

There were no personnel changes in relation to either Council Members or Statutory Office Holders during 2018.

Disclosures Required by the Code of Practice for the Governance of State Bodies (2016)

The Ombudsman is responsible for ensuring that the Financial Services and Pensions Ombudsman has complied with the requirements of the Code of Practice for the Governance of State Bodies ("the Code"), as published by the Department of Public Expenditure and Reform in August 2016. The following disclosures are required by the Code.

Employee Short-Term Benefits Breakdown

Employees' short-term benefits in excess of €60,000 are categorised into the following bands:

Range		Number of employees 2018
From	To	
€60,000	- €69,999	1
€70,000	- €79,999	3
€80,000	- €89,999	2
€90,000	- €99,999	-
€100,000	- €109,999	1
€110,000	- €119,999	2
€120,000	- €129,999	-
€130,000	- €139,999	-
€140,000	- €149,999	1
€150,000	- €159,999	-
€160,000	- €169,999	-

Note: For the purposes of this disclosure, short-term employee benefits in relation to services rendered during the reporting period include salary, overtime allowances and other payments made on behalf of the employee but excluding employer's PRSI.

Consultancy Costs

Consultancy costs include the cost of external advice to management and exclude outsourced 'business-as-usual' functions.

	2018
	€
Legal advice	246,424
Investigations	25,369
FSPO Code of Ethics and Practice	2,122
Other Consultancy	2,850
Total consultancy costs	276,765
Consultancy costs capitalised	-
Consultancy costs charged to the Income and Expenditure and Retained Revenue Reserves	276,765
Total	276,765

Legal Costs and Settlements

The table below provides a breakdown of amounts recognised as expenditure in the reporting period in relation to legal costs, settlements and conciliation and arbitration proceedings relating to contracts with third parties. This does not include expenditure incurred in relation to general legal advice received by the Financial Services and Pensions Ombudsman which is disclosed in Consultancy costs above.

	2018
	€
Legal fees - legal proceedings	89,974
Conciliation and arbitration payments	-
Settlements	-
Total	89,974

Travel and Subsistence Expenditure

Travel and subsistence expenditure is categorised as follows:

	2018
	€
Domestic	
– Council	431
– Employees	3,503
International	
– Council	-
– Employees	6,110
Total	10,044

Hospitality Expenditure

There was no hospitality expenditure for the year.

Statement of Compliance

The FSPO has adopted the Code of Practice for the Governance of State Bodies (2016), where applicable, and put procedures in place to ensure compliance with the Code. The FSPO was in compliance, as appropriate, with the Code of Practice for the Governance of State Bodies for 2016 with the exception of the non-compliant supply arrangements set out on page 47.



Ger Deering

Financial Services and Pensions Ombudsman

4 December 2019

Statement on Internal Control

Scope of Responsibility

On behalf of the Financial Services and Pensions Ombudsman, I acknowledge my responsibility as Ombudsman for ensuring that an effective system of internal control is maintained and operated. This responsibility takes account of the requirements of the Code of Practice for the Governance of State Bodies (2016).

Purpose of the System of Internal Control

The system of internal control is designed to manage risk to a tolerable level rather than to eliminate it. The system therefore can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded and that material errors or irregularities are either prevented or detected in a timely way.

The system of internal control, which was accorded with guidance issued by the Department of Public Expenditure and Reform, is in place in the FSPO for the year ended 31 December 2018.

Capacity to Handle Risk

The Financial Services and Pensions Ombudsman has an Audit & Risk Committee (ARC), comprising three Council members, with financial and audit experience, one of whom is the Chair. The Committee met three times in 2018.

The Financial Services and Pensions Ombudsman has also established an internal audit function which is adequately resourced and conducted a programme of work agreed with the Executive and the Council.

The Executive has developed a risk management policy which sets out its risk appetite, the risk management processes in place and detailed the roles and responsibilities of staff in relation to risk. The policy has been issued to all staff who are expected to work within the Financial Services and Pensions Ombudsman's risk management policies, to alert management on emerging risks and control weaknesses and assume responsibility for risks and controls within their own area of work.

Risk and Control Framework

The Financial Services and Pensions Ombudsman has implemented a risk management system which identifies and reports key risks and the management actions being taken to address and, to the extent possible, to mitigate those risks.

A risk register is in place which identifies the key risks facing the Financial Services and Pensions Ombudsman and these are identified, evaluated and graded according to their significance. The register is reviewed and updated by the Executive regularly and is subsequently reviewed by the ARC. The outcome of these assessments is used to plan and allocate resources to ensure risks were managed to an acceptable level.

The risk register detailed the controls and actions needed to mitigate risks and responsibility for operation of controls assigned to specific staff. I confirm that a control environment containing the following elements is in place:

- Procedures for all key business processes are documented;
- Financial responsibilities are assigned at management level with corresponding accountability;
- There is an appropriate budgeting system with an annual budget which is kept under review by senior management and Council/ Finance Committee;
- There are systems aimed at ensuring the security of the information and communication technology systems;
- There are systems in place to safeguard all assets.

Ongoing Monitoring and Review

Formal procedures are established for monitoring control processes and control deficiencies. These are communicated to those responsible for taking corrective action and to management, and the Audit & Risk Committee and Council, where relevant, in a timely manner. I confirm that the following ongoing monitoring systems are in place:

- Key risks and related controls are identified and processes are in place to monitor the operation of those key controls and report any identified deficiencies;
- Reporting arrangements are established at all levels where responsibility for financial management has been assigned; and,
- There are regular reviews by senior management of periodic and annual performance and financial reports which indicate performance against budgets/ forecasts.

Procurement

I confirm that the Financial Services and Pensions Ombudsman has procedures in place to ensure compliance with current rules and guidelines. Matters arising regarding controls over procurement are highlighted under control issues below.

Review of Effectiveness

I confirm that the Office of the Financial Services and Pensions Ombudsman has procedures to monitor the effectiveness of its risk management and control procedures. The Financial Services and Pensions Ombudsman's monitoring and review of the system of internal financial controls is informed by the work of the internal and external auditors, the Audit & Risk Committee, and the senior management within the Financial Services and Pensions Ombudsman responsible for the development and maintenance of the internal financial control framework.

I confirm that I, as Ombudsman, conducted an annual review of the effectiveness of the internal controls for 2018.

Internal Control Issues

Non-Compliant Procurement

In 2018, I ensured that there was an appropriate focus on good practice in procurement and purchasing and that procedures were in place to ensure compliance with all relevant guidelines. The FSPO complied with the guidelines with the below exceptions:

- One supply arrangement to the value of €199,213 where a pre-existing contract for ICT support and maintenance was continued pending the completion of an ICT strategy that in turn will involve the procurement of ICT support services.
- One instance with expenditure of €43,609 where the physical office environment required immediate reconfiguration following changes to the organisational structure and the services of the existing general maintenance contractor were employed.
- Pending completion of the office reconfiguration, pre-existing contracts for cleaning services (€24,076) and alarm monitoring (€14,257) were continued.
- One instance with expenditure of €25,212 whereby a contract for business support services was continued in order to ensure that relevant experience was retained in a number of areas pending recruitment of roles in these areas.



Ger Deering

Financial Services and Pensions Ombudsman

4 December 2019

Statement of Income and Expenditure and Retained Revenue Reserves

For the year ended 31 December 2018

	Note	2018 €
INCOME		
Levy Income	2a	4,639,490
Exchequer Funding	2b	950,000
Total Income		5,589,490
EXPENDITURE		
Administration	4	5,370,394
Retirement benefit costs - Staff and Ombudsman Scheme	4d	373,728
Retirement benefit costs – Single Scheme	10a	128,036
Depreciation	5	297,874
Total Expenditure		6,170,032
(Deficit) for the Year Before Appropriation		(580,542)
Transfer from Capital Account	3	55,215
(Deficit) for the Year After Appropriation		(525,327)
Reserves transferred from legacy bodies		1,036,221
Balance Carried Forward at 31 December		510,894

The Statement of Cash Flows and Notes form an integral part of these Financial Statements.

On behalf of the Financial Services and Pensions Ombudsman:



Ger Deering

Financial Services and Pensions Ombudsman

4 December 2019

Statement of Comprehensive Income

For the year ended 31 December 2018

	Note	2018 €
(DEFICIT) AFTER APPROPRIATIONS		(525,327)
Experience (losses)/gains on retirement benefit obligations	10b	-
Changes in assumptions underlying the present value of retirement benefit obligations		31,000
Total actuarial gains/(losses) in the year		31,000
Adjustment to deferred retirement benefits funding		(31,000)
Other Comprehensive (Loss)/Income for the year		(525,327)

The Statement of Cash Flows and Notes form an integral part of these Financial Statements.

On behalf of the Financial Services and Pensions Ombudsman:



Ger Deering

Financial Services and Pensions Ombudsman

4 December 2019

Statement of Financial Position

As at 31 December 2018

	Note	As at 31 December 2018 €
FIXED ASSETS		
Property, plant & equipment	5	701,434
CURRENT ASSETS		
Cash and cash equivalents	6	6,517,146
Receivables	7	515,500
		<hr/> 7,032,646
CURRENT LIABILITIES (AMOUNTS FALLING DUE WITHIN ONE YEAR)		
Payables	8	(5,993,497)
Provision for Legal Services	9	(528,255)
		<hr/> (6,521,752)
NET CURRENT ASSETS		510,894
RETIREMENT BENEFITS		
Retirement benefit obligations	10d	(454,000)
Deferred retirement benefit funding asset	10c	454,000
		<hr/> 454,000
TOTAL NET ASSETS / (LIABILITIES)		1,212,328
REPRESENTING		
Capital Account		701,434
Retained revenue reserves		510,894
		<hr/> 1,212,328

The Statement of Cash Flows and Notes form an integral part of these Financial Statements.

On behalf of the Financial Services and Pensions Ombudsman:



Ger Deering

Financial Services and Pensions Ombudsman

4 December 2019

Statement of Cash Flows

For the year ended 31 December 2018

	Note	2018 €
Net Cash Flow from Operating Activities		
(Shortfall) in income over expenditure		(525,327)
Depreciation charge		297,874
(Increase) in receivables		(515,500)
Increase in payables		6,521,752
Interest received		-
Transfer to capital account		(55,215)
Net cash inflow from Operating Activities		<u>5,723,584</u>
Cash flows from Investing Activities		
Bank interest received		-
Capital disposal		-
Capital expenditure		(242,659)
Net cash flows from Investing Activities		(242,659)
Cash flow from Financing Activities		
Bank interest received		-
Reserves transferred from legacy bodies		1,036,221
Net cash flows from Financing Activities		<u>1,036,221</u>
Net (Decrease)/Increase in cash and cash equivalents		6,517,146
Cash and cash equivalents at the end of the year		<u>6,517,146</u>

Notes to the Financial Statements

For the year ended 31 December 2018

1. Accounting Policies

The basis of accounting and significant accounting policies adopted by the Financial Services and Pensions Ombudsman are set out below. They have all been applied consistently throughout the year and for the preceding year.

A) General Information

The Office of the Financial Services and Pensions Ombudsman (FSPO) was established on 01 January 2018 by Section 7 of the Financial Services and Pensions Ombudsman Act 2017 (“the FSPO Act 2017”). Section 27 of the FSPO Act 2017 dissolved the Financial Services Ombudsman Bureau (FSOB), the Financial Services Ombudsman Council and the Office of the Pensions Ombudsman (OPO). Section 28 of the FSPO Act 2017 transferred all functions which were previously vested in the Financial Services Ombudsman or the Pensions Ombudsman to the FSPO with effect from 01 January 2018.

The FSPO Act 2017 sets out a range of transfer provisions which include inter alia, the transfer to the FSPO of all land and property which, immediately before that date was vested in or owned by the Bureau and OPO. All rights and liabilities of the Bureau and OPO arising by virtue of any contract or commitment entered into before that date stand transferred to the Financial Services and Pensions Ombudsman.

The Act also contains provisions regarding the preservation of contracts, agreements or other arrangements made by the Bureau and OPO before its dissolution.

The following is a summary of the assets and liabilities that transferred to the Financial Services and Pensions Ombudsman.

	OPO	FSOB	Total
	€	€	€
Fixed assets	38,482	718,167	756,649
Cash at bank	852	7,665,491	7,666,343
Receivables	7,339	30,914	38,253
Current liabilities	(19,365)	(5,924,765)	(5,944,130)
Retirement benefit liability	(330,000)	(317,000)	(647,000)
Deferred retirement benefit funding	330,000	317,000	647,000
Provision for legal services	-	(724,245)	(724,245)
Value of assets transferred to Financial Services and Pensions Ombudsman	(27,308)	1,765,562	1,792,870
Capital and Reserves			
Capital accounts	38,482	718,167	756,649
Retained revenue reserves	(11,174)	1,047,395	1,036,221
	27,308	1,765,562	1,792,870

Pending a decision by the Department of Finance in relation to the funding arrangements for the pension scheme (see accounting policy h) the bank figure above includes €5.25 million representing employer and employee superannuation contributions being held for payment to the Department. The payable figures above includes the corresponding liability. In respect of both the staff and the Ombudsman/ Deputy Ombudsman schemes the actuarial retirement benefit liability at 31 December 2017 was €7.5 million. This liability was not included in the above figures.

Council and Financial Service and Pensions Ombudsman Expenses

The expenses of the Council are met from Financial Services and Pensions Ombudsman Funds (see note 15).

B) Statement of Compliance

The financial statements of the Financial Services and Pensions Ombudsman for the year ended 31 December 2018 have been prepared in accordance with FRS 102, the financial reporting standard applicable in the UK and Ireland issued by the Financial Reporting Council (FRC), as promulgated by Chartered Accountants Ireland except for the treatment of the pension liability (see accounting policy H).

C) Basis of Preparation

The financial statements are prepared under the accruals method of accounting and under the historical cost convention in the form approved by the Minister for Finance with the concurrence of the Minister for Public Expenditure and Reform. The Financial Statements are prepared in Euro which is the functional currency of the FSPO.

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the Financial Services and Pensions Ombudsman financial statements.

D) Levy Income

Council regulations made under the Financial Services and Pensions Ombudsman Act 2017, prescribe the amount to be levied for each category of financial service provider. Levy income represents the amounts receivable for each service provider calculated in accordance with the regulations and levied on providers identified by the Ombudsman and information supplied to it. Bad debts are written off where deemed irrecoverable.

E) Expenditure Recognition

Expenditure is recognised in the financial statements on an accruals basis as it is incurred.

F) Property, Plant and Equipment

Property, Plant and Equipment are stated at cost less accumulated depreciation, adjusted for any provision for impairment. Depreciation is provided on all property, plant and equipment, at rates estimated to write off the cost less the estimated residual value of each asset on a straight-line basis over their estimated useful lives, as follows:

i.	Leasehold Improvement category 1 (major refurbishment works on commencement of 20-year lease)	5% per annum
ii.	Leasehold Improvement category 2 (general improvements to office layout)	25% per annum
iii.	Computer Equipment	33% per annum
iv.	All other assets	25% per annum

Residual value represents the estimated amount which would currently be obtained from disposal of an asset, after deducting estimate costs of disposal, if the asset were already of an age and in the condition expected at the end of its useful life.

If there is objective evidence of impairment of the value of an asset, an impairment loss is recognised in the Statement of Income and Expenditure and Retained Revenue Reserves in the year.

G) Capital Account

The Capital Account represents the unamortised value of income used for capital purposes.

H) Employee Benefits

Short-term Benefits

Short-term benefits such as holiday pay are recognised as an expense in the year, and benefits that are accrued at year-end are included in the Payables figure in the Statement of Financial Position.

Retirement Benefits

The Ombudsman operated the following defined benefit pension schemes in respect of its employees:

For employees appointed prior to 1 January 2013:

Staff appointed prior to 1 January 2013 were members of the Financial Services Ombudsman Bureau Staff Superannuation Scheme and the Financial Services Ombudsman was a member of the Financial Services Ombudsman Bureau, Ombudsman & Deputy Ombudsman Superannuation Scheme. Both superannuation schemes were based on the Department of Public Expenditure and Reform (pre-single scheme) Model Public Sector Scheme (the "Model scheme") and were approved by statutory instruments on 28 April 2016.

In respect of both schemes, the Bureau proposed to the Department of Finance that the liability for retirement benefits paid under the Schemes should be assumed by the State in return for payment annually of a percentage of the salaries of the Schemes' members. The proposal was based on the premise that the employer and employee superannuation contributions would be at a level where the Exchequer would not be exposed to liabilities in excess of the revenues accruing over the years to the Exchequer. A legislative amendment was made in the Central Bank (Supervision and Enforcement) Act 2013 which provides for Oireachtas funding to be provided for these schemes. Discussions with the Department of Finance were continuing at the end of 2018 regarding the proposal.

Pending a decision by the Department of Finance regarding the proposed pension funding arrangements, the retirement benefit costs charge in the Statement of Income and Expenditure and Retained Revenue Reserves comprises the employer superannuation contributions in the year. The employer superannuation contributions are calculated as a percentage of relevant salaries and are being retained by the Bureau along with the employee superannuation contributions. The retirement benefits and lump sum payments of the schemes are set against the cumulative retained employer and employee superannuation contributions (see note 10).

For employees appointed after to 1 January 2013:

Employees appointed on/after 1 January 2013 were members of the Single Public Service Pension Scheme, which provides consumer price index-linked defined benefit pensions based on career-average pay (the “Single scheme”). The Bureau was designated as a Relevant Authority under S.I. 581 of 2012, for the purposes of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37 of 2012).

The Single Scheme is an unfunded scheme with pension benefits payable by the Exchequer. The contributions for the Single Scheme comprise an employee and employer element. The employer superannuation contributions were calculated as a multiple of the employee contribution and were being retained by the Bureau pending a decision by the Department of Finance on the funding arrangements of the staff and Ombudsman/Deputy Ombudsman superannuation schemes.

Since the dissolution of the Financial Services Ombudsman Bureau, the employee and employer superannuation contributions to date, including years 2013 – 2017 inclusive, were paid over to the Department of Finance, per Section 16(6) of the Public Services Pensions (Single Scheme and Other Provisions) Act 2012.

Pension costs of the Single Scheme employees reflect pension benefits earned by them and are shown net of staff pension contributions which are being retained by the Bureau pending a decision by the Department of Finance on the proposed funding arrangements of the Bureau’s staff and Ombudsman and Deputy Ombudsman superannuation schemes. Actuarial gains or losses arising on scheme liabilities are reflected in the Statement of Comprehensive Income, and a corresponding adjustment is recognised in the deferred retirement funding asset in the Statement of Financial Position.

The financial statements reflect, at fair value, the assets and liabilities arising from Financial Services Ombudsman’s pension obligations in respect of the Single Scheme staff and any related funding and recognises the costs of providing pension benefits in the accounting periods in which they are earned by these employees. Retirement benefit scheme liabilities are measured on an actuarial basis using the projected unit credit method.

Defined contribution pension scheme

There were two staff members who were members of a defined contribution private pension scheme. The Bureau made employer superannuation contributions in respect of this scheme. These amounts were charged to the Statement of Income and Expenditure and Retained Revenue Reserves as they fell due (see note 4d). Once employer contributions were paid over, the Bureau had no further liability in respect of this scheme.

I) Receivables

Receivables are recognised at fair value, less a provision for doubtful debts. The provision for doubtful debts is a specific provision, and is established when there is objective evidence that the Financial Services and Pensions Ombudsman will not be able to collect all amounts owed to it. All movements in the provision for doubtful debts are recognised in the Statement of Income and Expenditure and Retained Revenue Reserves.

J) Operating Lease

Rental expenditure under operating leases is recognised in the Statement of Income and Expenditure and Retained Revenue Reserves over the life of the lease. Expenditure is recognised on a straight-line basis over the lease period, except where there are rental increases linked to the expected rate of inflation, in which case these increases are recognised when incurred. Any lease incentives received are recognised over the life of the lease.

K) Critical Accounting Judgments and Estimates

The preparation of the financial statements requires management to make judgements, estimates and assumptions that affect the amounts reported for assets and liabilities as at the Statement of Financial Position date and the amounts reported for revenues and expenses during the year. However, the nature of estimation means that actual outcomes could differ from those estimates. The following judgments have had the most significant effect on amounts recognised in the financial statements.

i. Impairment of Property, Plant and Equipment

Assets that are subject to amortisation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less cost to sell and value in use. For the purpose of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash flows (cash generating units). Non-financial assets that suffered impairment are reviewed for possible reversal of the impairment at each reporting date.

ii. Depreciation and Residual Values

The Ombudsman has reviewed the asset lives and associated residual values of all fixed asset classes, and in particular, the useful economic life and residual values of fixtures and fittings, and have concluded that asset lives and residual values are appropriate.

iii. Provisions

The Ombudsman has reviewed provisions for legal and constructive obligations, that probably require settlement by a transfer of economic benefit and a reliable estimate can be made of the amount of the obligation. These provisions are generally made based on historical or other pertinent information, adjusted for recent trends where relevant. However, they are estimates of the financial costs of events that may not occur for some years. As a result of this and the level of uncertainty attaching to the final outcomes, the actual out-turn may differ significantly from that estimated.

iv. Retirement Benefits

In respect of both of the aforementioned retirement benefit schemes, the Financial Services and Pensions Ombudsman proposed to the Department of Finance that the liability for retirement benefits paid under the Schemes should be assumed by the State in return for payment annually of a percentage of the salaries of the Schemes' members. Until such time that the liability is transferred to the State, the Bureau recognised this liability in its Statement of Financial Position (see note 10).

2. Income Receivable

A) Income Levy

Section 43(4) of the Financial Services and Pensions Ombudsman Act 2017 provides for the payment of an income levy by financial service providers to the Financial Services and Pensions Ombudsman on terms determined by the Financial Services Ombudsman's Council with the consent of the Minister for Finance. The actual rate for the year ending 31 December 2018 is set out in the Financial Services and Pensions Ombudsman Act 2017 [Financial Services and Pensions Ombudsman Council] Financial Services Industry Levy Regulations 2018 (Statutory Instrument 214 of 2018).

Income for the period is as follows:

	2018
	€
Levy Income	
Insurance Undertaking	2,562,871
Credit Institutions	989,270
Credit Unions	440,725
Retail Intermediaries and Debt Management Firms	507,424
Investment Firms	122,539
All other categories	16,661
Total	4,639,490

B) Exchequer Funding

Oireachtas funding of €950,000 was received in 2018 from Vote 7 - Office of the Minister for Finance subhead B5.

3. Capital Account

	2018
	€
Transferred from legacy bodies	756,649
Funds allocated to acquire fixed assets	242,659
Amortisation in line with depreciation	(297,874)
Transfer from/(to) Income and Expenditure account	(55,215)
Balance at 31 December	701,434

4. Administration Costs

	Note	2018 €
Salaries and Staff Costs	4a	2,905,315
Contractors		288,416
Legal Fees	4c	768,739
Rent		264,978
Other Administration Costs	4e	140,270
Membership Fees & Subs & Communication		73,514
Council Remuneration		84,600
External Mediators		63,552
Bad Debts Provision		11,476
Bad Debts Written Off		1,175
Accounting Fees		155,775
Professional Fees		43,932
Staff Training		27,828
Maintenance		69,598
Information Activities		83,505
External Support		16,493
Stationery Costs		66,414
Insurance		28,876
Cleaning		25,208
Council Legal & Consultancy		3,690
Recruitment		28,112
Travel and Subsistence and Meeting Room Hire		17,754
International Network of Financial Services Ombudsman Schemes (INFO Conference)		27,322
Other Staff Related Costs	4f	19,403
External Audit		17,000
Oral Hearing		6,342
Internal Audit		23,385
Council Expenses		4,006
External Case Handlers		103,716
		5,370,394

a) Salaries and Staff Costs

	2018 €
Salary	2,652,896
Employer PRSI Costs	252,419
	<hr/> 2,905,315 <hr/>

Staff Numbers

The number of Whole Time Equivalent (WTE) employed as at 31 December 2018 was 49.2.

Pension Related Deductions

€107,739 pension levy has been deducted from staff members.

b) Salary Costs of the Ombudsman and Deputy Ombudsman

	2018 €
Ombudsman commenced 20-04-15	
Salary	154,202
Pension Contributions	38,550
Pension Contributions - Arrears (2015 to 2018)*	29,441
	<hr/> 222,193 <hr/>

	2018 €
Deputy Ombudsman commenced 22-01-16	
Salary	120,585
Pension Contributions	25,769
	<hr/> 146,354 <hr/>

Additional Payments

The above salary payments represent the total remuneration received by the Ombudsman and Deputy Ombudsman, no other payments were received by them. The Ombudsman is a member of the Office of the Financial Services and Pensions Ombudsman, Ombudsman and Deputy Ombudsman Scheme 2016. See note 10. As the current Deputy Ombudsman is on secondment from the Department of Business, Enterprise & Innovation, she remains a member of her parent Department's Superannuation Scheme.

** Following a payroll review conducted in 2019, it was established that the Ombudsman's superannuation contributions had been calculated on an incorrect PRSI class which resulted in underpayment of superannuation contributions. Employer contributions for the period 2015 to 2018 were underpaid by €29,441. Necessary arrangements have been put in place to collect the underpayments and regularise matters following the review.*

The key management personnel comprises:

- > Ger Deering, Financial Services and Pensions Ombudsman
- > Elaine Cassidy, Deputy Financial Services and Pensions Ombudsman
- > MaryRose McGovern, Director of Investigation, Adjudication and Legal Services
- > Diarmuid Byrne, Director of Dispute Resolution Service
- > Tara McDermott, Director of Customer Operations and Information Management
- > Kevin De Barra, Director of Corporate and Communication Services

The total remuneration paid to key management personnel was €664,777.

Termination Payments

There were no termination payments in the year.

c) Legal Fees

Legal Costs recovered included in legal fees were €24,906.

d) Retirement Benefit Costs

As outlined in accounting policy 1(h) the Financial Services and Pension Ombudsman does not recognise the retirement benefit liability in respect of the defined benefit schemes for staff and for the Ombudsman. The table below sets out the liability in relation to the necessary costs associated with funding the pension schemes:

	2018
	€
Employer Contribution Staff Superannuation Scheme	362,925
Staff Pension Costs Defined Contribution Scheme	10,803
	373,728

e) Other Administration Costs

	2018
	€
Service Charge	67,346
Storage Charges	44,974
IT Purchases	21,323
Courier	1,880
Bank Charges	4,747
	140,270

f) Other Staff Related Costs

The related expense of providing canteen supplies (€11,533) and staff welfare (€7,870) are included in Other Staff Related Costs.

5. Property, Plant and Equipment

	Computer Equipment	Office Fitting, Furniture & Equipment	Leasehold Improvements	Total
	€	€	€	€
Cost				
At 1 January 2018	499,814	261,900	1,228,449	1,990,163
Transfer Pensions Ombudsman	4,631	-	52,263	56,894
Additions during period	73,799	30,601	138,259	242,659
Disposals during period	(330,188)	(23,871)	-	(354,059)
At 31 December 2018	248,056	268,630	1,418,971	1,935,657
Accumulated Depreciation				
At 1 January 2018	461,392	233,684	576,920	1,271,996
Transfer Pensions Ombudsman	2,733	-	15,679	18,412
Charge for period	54,423	19,575	223,876	297,874
Disposals during period	(330,188)	(23,871)	-	(354,059)
At 31 December 2018	188,360	229,388	816,475	1,234,223
Net Book Value				
At 31 December 2018	59,696	39,242	602,496	701,434

Leasehold improvements were carried out to facilitate, inter alia, the amalgamation with the Pensions Ombudsman's Office.

6. Cash at Bank

	2018 €
Current Account	1,207,103
No.2 Pension Account	4,972,175
Demand Deposit Account	38,506
Platinum 3 Months Deposit Account	300,997
Petty Cash	6
Credit Cards	(1,641)
	6,517,146

7. Prepayments and Accrued Income

	2018
	€
Debtors	491,428
Bad Debt Provision	(95,087)
Prepayments	119,159
	<hr/> 515,500 <hr/>

8. Current Liabilities

	2018
	€
Amounts falling due within one year:	
Creditors	341
Accrued Expenses	412,842
PAYE	80,183
Payroll Deductions	111,640
Professional Services Withholding Tax	53,493
Other Creditors	(6,276)
Pension Contributions	5,341,274
	<hr/> 5,993,497 <hr/>

9. Provision for Legal Services

PROVISION	2018
	€
<u>Legal Costs</u>	
Provision transferred from legacy bodies	724,245
Additions to provision	25,826
Amounts charged against the provision	(102,610)
Adjustment to transferred provision	(119,206)
Amount at the end of the year	<hr/> 528,255 <hr/>

10. Superannuation – Staff and Ombudsman / Deputy Ombudsman Superannuation Schemes

In respect of both the staff and Ombudsman/Deputy Ombudsman superannuation schemes, the Financial Services and Pension Ombudsman proposed to the Department of Finance that the liability for retirement benefits paid under the schemes should be assumed by the State in return for payment annually of a percentage of the salaries of the schemes' members. The proposal is based on the principle that the employer and employee superannuation contributions would be at a level where the Exchequer would not be exposed to liabilities in excess of the revenues accruing over the years to the Exchequer. A legislative amendment, enacted and signed into law on 11 July 2013, was made in the Central Bank (Supervision and Enforcement) Act 2013 which provides for Oireachtas funding to be provided for these two schemes. In 2018 the Financial Services and Pensions Ombudsman made a formal request to the Department of Finance to consider a transfer of liabilities for both Schemes. The Department responded with requests for further information which the FSPO provided. Discussions with the Department of Finance are continuing in regard to the aforementioned proposal.

Pending a decision by the Department of Finance in regard to the proposed pension funding arrangements, the retirement benefit costs in the Statement of Income and Expenditure and Retained Revenue Reserves comprise the employer's superannuation contributions in the year. The employer's superannuation contributions are calculated as a percentage of relevant salaries, an amount of €333,484.

The pension liability for these two schemes at 31 December 2018 is €7,673,000. The pension liability for these schemes is not reflected in these financial statements. An estimate of the liability is provided below. This is based on an actuarial valuation carried out by a qualified actuary using the financial assumptions below for the purpose of FRS 102.

	31-Dec-18	31-Dec-17
Discount rate	2.20%	2.10%
Rate of increase in salaries	3.20%	3.30%
Rate of increase in pension	2.70%	2.80%
Inflation	1.70%	1.80%

The employer and employee superannuation contributions and amounts received in respect of entitlements surrendered by transferred employees for these superannuation schemes are being retained by the Financial Services and Pension Ombudsman pending a decision by the Department of Finance on the funding arrangements of the schemes. The retirement benefits and lump sum payments of the schemes are set against the cumulative retained employer and employee superannuation contributions. The cumulative amount of retained superannuation contributions less pension benefits and lump sum payments at the end of December 2018 was €5,341,274 which is recorded as a current liability (see note 8).

Creditor Pension Account

Pending a decision by the Department of Finance in relation to funding arrangements as outlined above, amounts being held for payment to the Department of Finance are analysed as below. Payments in respect of SPSPS staff have been made to DPER:

	2018 €	2017 €
Transfer from legacy body	5,257,119	4,844,500
Employee Contributions	152,091	120,845
Employer Contributions	506,975	443,544
Bank interest	-	293
less: pensions paid	(152,058)	(152,063)
less: transfer out	(74,794)	-
less: DPER payments - SPSPS	(348,059)	-
	5,341,274	5,257,119

10a Superannuation - Single Scheme Staff

Analysis of total retirement benefit costs charged to the Statement of Income and Expenditure and Retained Revenue Reserves in respect of the staff who are members of the Single Scheme.

Single Pension Scheme	2018 €	2017 €
Total Employer Contributions	128,036	83,370
Current Service Costs*	158,000	140,000
Interest Costs	10,000	6,000
Adjustments to Deferred Exchequer Pension Funding	(168,000)	(146,000)
Total charged to Statement of Income & Expenditure & Retained Revenue Reserves	128,036	83,370

*Employee contributions have been included in the calculation of the current service costs figure.

The Minister for Public Expenditure and Reform, based on actuarial considerations and pursuant to section 16 (4) of the Public Service Pension (Single Scheme and Other Provisions) Act 2012 has decided that:

- an employer contribution is to be paid in respect of certain members of the Single Public Sector Pension scheme and
- the rate of that Employer contribution is equal to three times the employee contribution paid by the single scheme member.

Employer contributions must be paid by public service bodies who are “wholly or mainly from sources other than directly or indirectly out of the Central Fund”. As a self-financing public body, the sum of €128,036 represents the FSPO’s liability for employer contributions to the Single Public Service Pensions scheme. The amount due has not yet been paid over to DPER and is included in payables (Note 8).

10b Movement in net retirement benefit obligations (SPSPS) during the financial year

	2018 €	2017 €
Net Pension Liability at 1 January	317,000	155,000
Current Service Costs	158,000	140,000
Interest Costs	10,000	6,000
Experience losses/(gains) on scheme liabilities	-	27,000
Changes in assumptions	(31,000)	(11,000)
Net Pension Liability at 31 December	454,000	317,000

10c Deferred funding for retirement benefits

The Financial Services and Pension Ombudsman recognises these amounts as an asset corresponding to the unfunded deferred liability for retirement benefits on the basis of the set of assumptions described above and a number of past events. These events include the statutory basis for the establishment of the retirement benefit scheme, and the policy and practice currently in place in relation to funding public service pensions including contributions by employees and the annual estimates process.

10d Defined benefit obligations (SPSPS)

	2018	2017
	€	€
Defined benefit obligations	454,000	317,000

11. Financial Commitments

There are no capital commitments for capital expenditure at 31 December 2018.

12. Contingent Liabilities / Legal Actions

Decisions of the Ombudsman are legally binding upon the parties to a complaint but can be appealed to the High Court by either the complainant or the respondent financial service provider. A decision may also be challenged in the High Court by way of Judicial Review. The Council has provided for expected costs in respect of all appeals notified to it, as at 31 December 2018 (see Note 9). The Council has not provided for any further appeals or Judicial Review proceedings that may be notified to it in the future, in respect of decisions issued up to 31 December 2018. It is not possible to reliably estimate the expected level of such court proceedings or the related legal costs.

13. Council Members – Disclosure of Interests

The Council adopted procedures in accordance with guidelines issued by the Department of Finance in relation to disclosure of interests by Council members and these procedures have been adhered to in the period. There were no transactions in the year in relation to the Council's activities in which the Council members had any beneficial interest.

14. Lease Commitment

Lease Commitment	2018
	€
Payable within one year	333,940
Payable within two to five years	1,335,760
Payable after five years	758,034
	2,427,734

Accommodation

The Financial Services and Pension Ombudsman operated from a single premises on the 3rd and 4th floor (from March 2013) of Lincoln House, Lincoln Place, Dublin 2. The office space on the 3rd floor has a 20 year lease (commenced 2006). The office space on the 4th floor has a 11 years 1 month and 15 day lease (commenced March 2015).

The annual cost of the leases excluding service charge is €333,940

15. Council Remuneration

		2018
		€
Maeve Dineen	Chairperson	21,600
Dermott Jewell	Council Member	12,600
Elizabeth Walsh	Council Member	12,600
Ken Murnaghan	Council Member	12,600
Deborah Reidy	Council Member	12,600
Valerie Bowens	Council Member	12,600
Don Gallagher	Council Member	-
		<hr/> 84,600 <hr/>

15(a) Council Travel and Expenses

Travel and meeting expenses paid to the Chairman and Council Members are broken down as follows:

		2018
		€
Travel Expenses		431
Meeting Expenses		3,575
		<hr/> 4,006 <hr/>

16. Related Party Transactions

No related party transactions were noted during the year under review.

17. Approval of Financial Statements

The financial statements were approved by the Financial Services Pension Ombudsman on 04 December 2019





An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

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