Explanatory notes concerning enforcement of an ombudsman's award

In almost all the cases upheld by the Financial Ombudsman Service, the financial business pays up without a problem. Unfortunately, your case is one of the few where the decision has to be enforced in court.


This note outlines what is involved. It is not an exhaustive explanation of the legal position, and is not advice. But, because ombudsman awards seldom have to be enforced in court, many courts and lawyers are unfamiliar with the process. So it may help to show them this note.

The United Kingdom has three separate legal systems – in England and Wales, in Scotland and in Northern Ireland. Enforcement proceedings can be started through:

- in England and Wales, the County Court
- in Scotland, the Sheriff Court
- in Northern Ireland, the Enforcement of Judgments Office or the County Court

You or your lawyer will usually need to start enforcement proceedings in the branch of the court that is local to the financial business, but you may be able to get help first from the branch of the court that is local to you.

Location of courts and enforcement offices:

- In England and Wales, [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)
- In Scotland, [www.scotscourts.gov.uk](http://www.scotscourts.gov.uk)
- In Northern Ireland, [www.courtsni.gov.uk](http://www.courtsni.gov.uk)

The court procedure differs according to whether the ombudsman has made a ‘money award’ or a ‘direction’ – our covering letter tells you which it is in your case.

A “money award” is where the ombudsman tells the financial business to pay a particular amount of money as compensation. The actual amount involved is either specified by the ombudsman directly or calculated by the business following instructions (or a “formula”) given by the ombudsman.

If it is a ‘money award’ in your case, you or your lawyer can:

- draw the court enforcement office’s attention to section 228(5) of FSMA 2000 which provides that the ombudsman’s decision is final and binding;
- draw the court enforcement office’s attention to paragraph 16 in schedule 17 of FSMA 2000, concerning the enforcement of ombudsman money awards, and ask:
  - in England and Wales, the County Court to order that the money award be recovered by execution issued from the County Court as if it were payable under an order of that court
in Scotland, the Sheriff to enforce the money award as if it were a judgment or order of the Sheriff (and whether or not the Sheriff could have granted such a judgment or order)

in Northern Ireland, the Enforcement of Judgements Office to enforce the money award as a money judgment under the Judgments Enforcement (Northern Ireland) Order 1981

A “direction” is where the ombudsman tells the financial business to take particular steps to put something right, other than paying compensation. If it is a ‘direction’ in your case, you or your lawyer can:

- draw the court enforcement office’s attention to section 228(5) of FSMA 2000 which provides that the ombudsman’s decision is final and binding; and
- draw the court enforcement office’s attention to section 229(9) of FSMA 2000, concerning the enforcement of ombudsman directions, and ask it to enforce the direction:
  - in England and Wales, by an injunction in the County Court or High Court
  - in Scotland, by an order under section 45 of the Court of Session Act 1988
  - in Northern Ireland, by an injunction in the County Court or High Court

It is important to note:

- The ombudsman decision can be enforced in the way described above. Do not just sue the financial business afresh in court, as that would enable it to reargue the merits of the case which the ombudsman has already decided.
- The proceedings should be brought by the complainant(s) named in the ombudsman’s final decision. For example, if the complainants in the final decision are Mr John Smith and Mrs Mary Smith, the enforcement proceedings should not be started just in the name of Mr Smith or Mrs Smith.

The ombudsman service is not allowed to give legal advice or help people through the courts. That is not what we were set up to do by Parliament. You should consider obtaining advice from your own lawyers, showing them this note. They will be able to tell you how far the financial business will have to meet any legal cost you incur.

Free sources of legal advice for consumers include:

- the Community Legal Service (www.clsdirect.org.uk)
- the Scottish Association of Law Centres (www.govanlc/salc)
- Citizens Advice (www.citizensadvice.org.uk)
- Citizens Advice Scotland (www.cas.org.uk)
- Advice NI (www.adviceni.net)

If you do not have your own lawyers, details of law firms are available from:

- for England and Wales: www.lawsociety.org.uk/choosingandusing/findasolicitor.law
- for Scotland: www.lawscot.org.uk/find
- for Northern Ireland: www.lawsoc-ni.org/cgi-bin/findafirm
If the financial business is one regulated by the Financial Conduct Authority (or was regulated by some of its predecessor regulators) and at any stage it turns out that the business simply cannot afford to pay, your claim can be referred to the Financial Services Compensation Scheme (FSCS).

The FSCS (www.fscs.org.uk) is the “final safety net” for customers of FCA-regulated financial businesses that are unable to pay what they owe.

The FSCS is entirely separate from the Financial Ombudsman Service and it has its own different rules. But we co-operate closely with the FSCS. And we aim to hand over any information to FSCS as promptly and efficiently as possible.