

# Finance Malta 9<sup>th</sup> Annual Conference

Presentation

By

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Irish Financial Services and Pensions Ombudsman

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An tOmbudsman Pinsean  
Pensions Ombudsman

Biúró an Ombudsman um  
Sheirbhísí Airgeadais



Financial Services  
Ombudsman

## Ireland and Malta - a Comparison

*Ireland - Central Bank and Financial Services Authority of Ireland Act 2004*

*Malta – Arbiter for Financial Services Act 2016*

Provision	Ireland	Malta
Independent	Yes	Yes
Information Role	Yes	Yes
Mediation	Yes	Yes
Investigation	Yes	Yes
Adjudication	Yes	Yes
Compensation	€250,000	€250,000 +
Rectification	No Limit	No Limit
Award Costs	No	Yes
Legally Binding Decisions	Yes	Yes

## Ireland and Malta – a Comparison

Provision	Ireland	Malta
Temporal Limit	Six Years to Ombudsman + Continuing Conduct	2004 – 2 years from first knowledge to FSP + continuing conduct
Appeal	High Court	Court of Appeal
Cost to Complainant	Free	Refundable - Charge
Written submissions	Yes	Yes
Oral Submissions/Hearing	Possible	Yes
Public/Private	All in Private	Hearings/Decisions Public
Class Actions	No	Yes
Targets/Time Limits set in legislation	No	Yes
Change a Practice	Yes	Yes

# The Irish Experience – Financial Service Providers

## Complainants' Experience of Irish Financial Service Providers



Complaint Handling Within Regulated Financial Services Firms – Consumer Research – Central Bank of Ireland

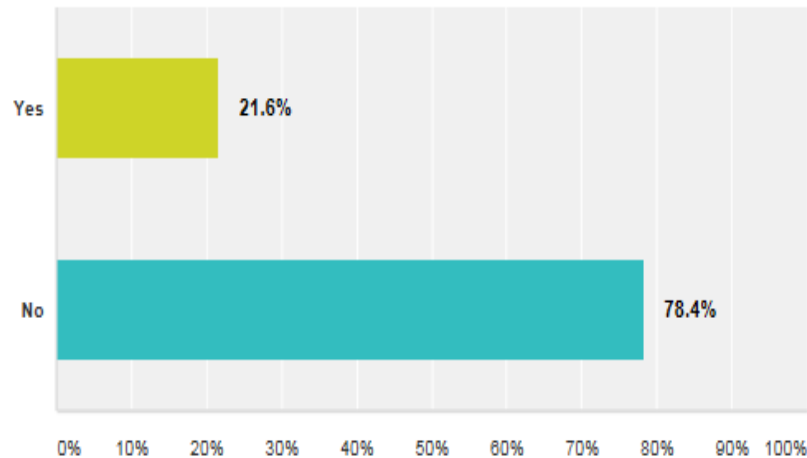
## Complainants' Experience of Irish Financial Service Providers

- *Only 41% said that they were treated fairly*
- *Only 39% were satisfied with how the complaint was handled*
- *52% were given a named contact*
- *70% who were given a named contact were satisfied with the outcome compared to 55% who were not*
- *62% who were given a named contact were satisfied that they were kept up to date compared to 24% who were not*
- *50% said timely resolution was among the three most important aspects*

# Complainants' Experience of Irish Financial Service Providers

Did your provider offer to meet / speak with you at any stage to discuss your complaint?

Answered: 439 Skipped: 17



- “**Complaint management** process appeared to be **totally automated** - by that I mean that [provider] appeared to issue standard replies to everyone within the required time frames”

- “Invariably I received a **pre-formulated answer** which did not address my concern. “

- “There **did not appear to be anyone to talk to** and I was never notified of any complaint process”

- “My provider **did not listen** to or seem to understand my issues”

- “I felt the Provider was **operating at arms length**. Everything was done by eMail. And the responses were very perfunctory”

# The Irish Experience – FSO



## Irish Financial Services Ombudsman Established in 2004 to Deal With...

*The CONDUCT of regulated financial service providers involving;*

- *The provision of a financial service,*
- *An offer to provide a financial service*
- *Refusal to provide a financial service*

*S 57 BB Central Bank and Financial Services Authority of Ireland Act 2004*

## How the FSO is Required to Deal With Complaints

- *By mediation and, where necessary, by investigation and adjudication* S.57BK
- *On receiving a complaint , the Financial Services Ombudsman shall, as far as possible, try to resolve the complaint by mediation* S. 57 CA (1)
- *In an informal manner and according to equity, good conscience and the substantial merits of the complaint without regard to technicality or legal form* S. 57 BK (4)
- *In an informal and expeditious manner* S.57 BB (b)

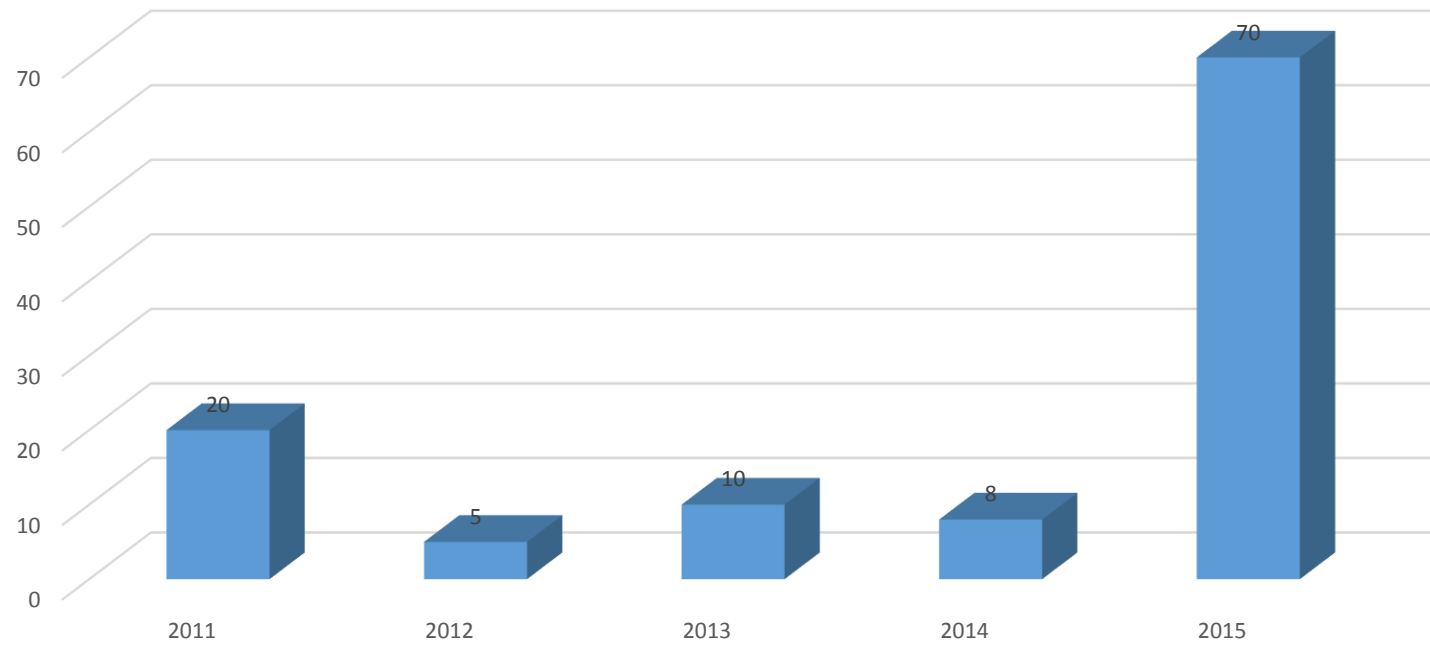
## Adjudication – Wide Range of Powers

*“although the conduct complained of was in accordance with a law or an established practice or regulatory standard, the law, practice or standard is, or may be, unreasonable, unjust, oppressive or improperly discriminatory in its application to the complainant”*

*S. 57CI – (2) (c)*

- *Award compensation up to €250,000*
- *Direct Rectification*
- *Change a practice*
- *Report to Central Bank*

## Financial Service Providers Refused to Engage in Mediation



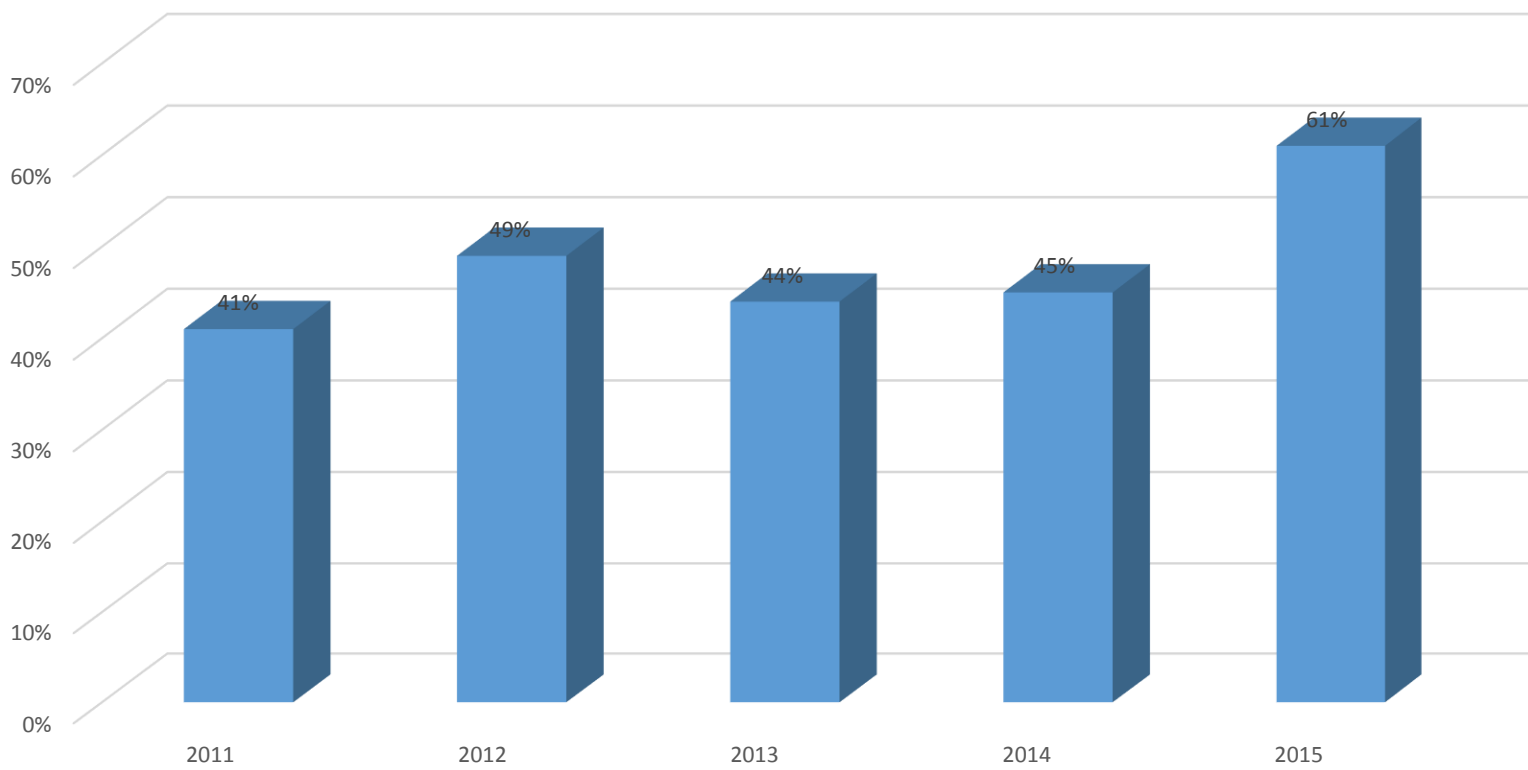
## Why did Providers Refuse to Engage in Mediation?

- *Our final response letter is final*
- *We are satisfied that our resolution is as fair as possible....mediation would indicate that there is further room to discuss*
- *we do not see the point of mediation when a final response has been given*
- *Right is on our side...we are prepared to hold our position*

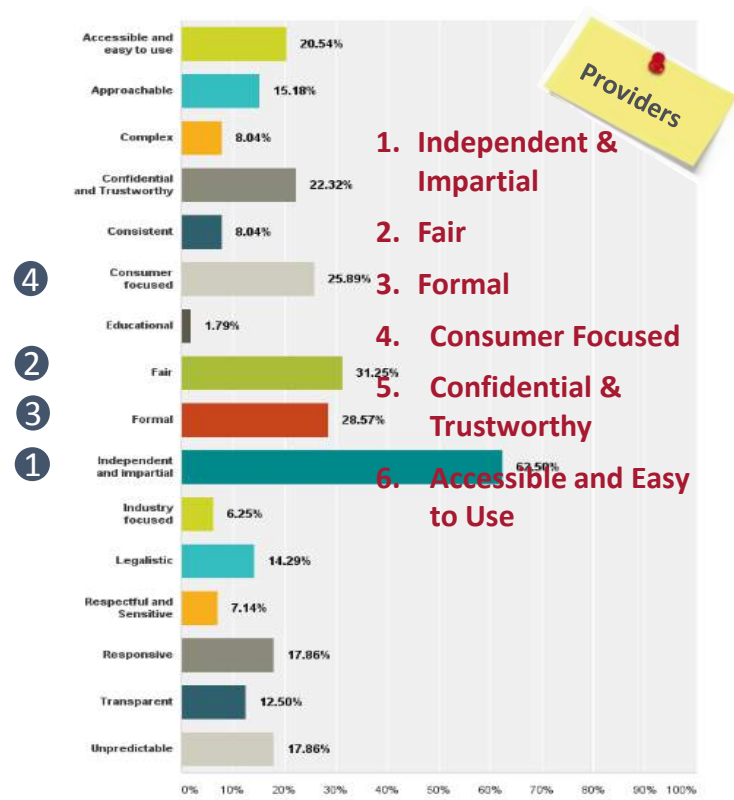
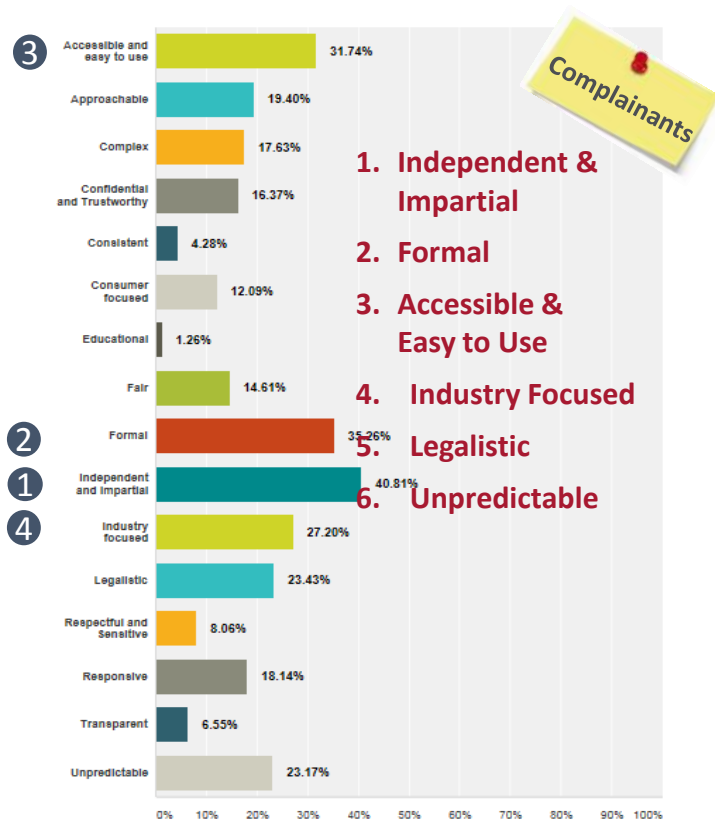
## Why did Providers Refuse to Engage in Mediation?

- *We cannot spare the manpower*
- *There is an expectation of payment to complainant*
- *The message was that it was fruitless unless we had money to offer*

# Complaints With Changed Outcomes as a Result of FSO Engagement



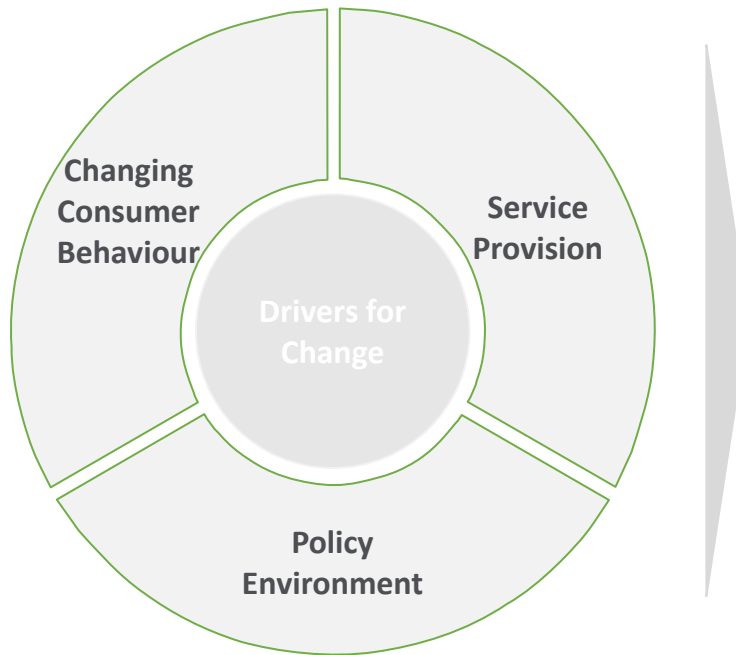
# Service Users Experience of the FSO





# The International Experience

# Internationally we are seeing three primary drivers to changes in how Ombudsman schemes are evolving

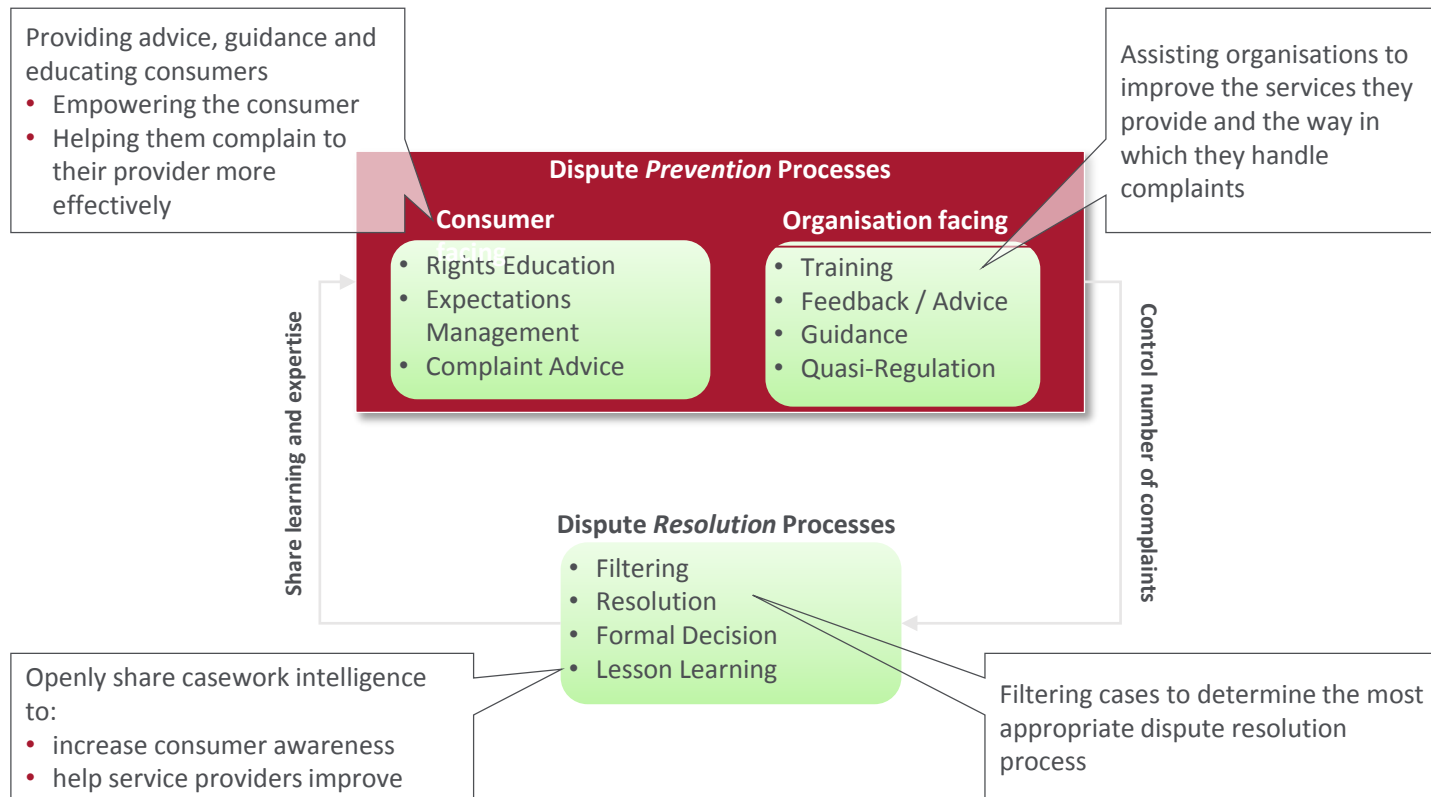


## Strategic Response Required

- Increase **consumer awareness** of schemes
- Improve **accessibility** of schemes
- Improve levels of **customer service** – more flexible, informal and speedy procedures
- Better use of **technology**
- Greater **sharing of learning** to improve provider complaint management processes
- Continued focus on **operational efficiency**
- Increase **strategic influence**

# Modern Ombudsman schemes focus on the prevention model which aims to reduce complaints by improving consumer and provider awareness

The model includes actions to both prevent disputes from occurring and resolve disputes



# International Financial Dispute Resolution

## *Australia*

- *Telephone Conciliation*
- *Fast Track Conciliation (1 Hour)*
- *Conciliation Conferences*
- *Workshops for Financial Service Providers*

## *New Zealand*

- *Facilitation (mainly recorded telephone calls)*
- *Infrequent use of face-to-face conciliation*

## *UK*

- *9 out of 10 cases resolved through informal means - mediation*

# Where The Irish FSO is Going

## Where the Irish FSO is going

- *Amalgamation of Financial Services & Pensions Ombudsman*
- *Strategic & Operational Review*
- *Preventative model*
- *Implement the simplest, most efficient, proportionate and effective complaint resolution processes*
- *Resolve disputes:*
  - *at the earliest possible stage*
  - *as informally as possible*
  - *as fast as possible*
- *Only when necessary, proceed to formal investigation, oral hearings and adjudication*
- *Major change in February 2016 - Early indications are very positive*

# The Arbiter for Financial Services Malta

An Opportunity and a challenge

## Customers / Complainants

- *Treat customers/complainants fairly*
- *Listen to and engage with them*
- *Provide and empower a single named person as contact*
- *Provide considered and accurate responses*
- *Only allow complaints to go to the Arbiter when absolutely necessary – Don't turn the Arbiter into your complaints department*



## Engaging with the Arbiter for Financial Services

- *The aim of all involved should be to resolve complaints referred at the earliest possible opportunity*
- *Seek information and Guidance*
- *Learn from previous decisions and feedback and avoid causing complaints*
- *Assign and empower a single point of contact*
- *Provide full information when asked – don't drip feed*
- *Engage meaningfully and listen to both the complainant and the Arbiter*

## Engaging with the Arbiter

- *Make best use of mediation and informal processes*
- *Retain ownership of your complaints – they are your customers!*
- *Only allow complaints to go to adjudication as a last resort*
- *Best outcome is an agreed resolution without the need for adjudication*
- *Don't try to game the system – do the right thing for the right reason*

# The Arbiter for Financial Services

An opportunity to improve customer service  
and  
to rebuild trust and confidence in financial service providers