



An tOmbudsman Seirbhís
Airgeadais agus Pinsean
Financial Services and
Pensions Ombudsman

Financial Services and Pensions Ombudsman publishes Digest of Decisions highlighting complaints from businesses

Digest of Decisions contains summaries of 12 decisions issued on business interruption insurance complaints

29 July 2021: The Financial Services and Pensions Ombudsman (FSPO) has published his sixth [Digest of Decisions](#), which focuses on legally binding decisions issued following complaints made to the FSPO by businesses. The Digest features summaries of 21 decisions which were issued during 2020 and 2021, including 12 decisions issued following the investigation of complaints relating to business interruption insurance. The decisions in the Digest highlight the issues leading to complaints from businesses, including sole traders, partnerships and companies that meet the eligibility requirement of having a turnover in the previous calendar year, of less than €3 Million, in order to bring a complaint to the FSPO.

Commenting on the publication of the Digest, the Financial Services and Pensions Ombudsman, Mr. Ger Deering, said:

“This Digest highlights the ability of businesses and organisations to bring complaints to the FSPO. When a complaint has been made to a financial service provider, about the conduct of that provider, and that complaint has not been resolved, my Office may investigate the conduct of the provider that gives rise to that complaint.”

This Digest shows the range of issues highlighted within the complaints featured. To date, we have received 1,051 complaints arising from the circumstances surrounding the COVID-19 pandemic, 180 of which related to business interruption insurance. During 2020, we put specific measures in place to ensure the efficient management of COVID-19 related complaints. These measures included the prioritisation of complaints concerning business interruption insurance, in recognition of the importance to policyholders of achieving a swift understanding as to whether they were entitled to benefits or payments from their insurer. To date, 760 of the total number of COVID-19 related complaints have been concluded, including 113 of the 180 business interruption insurance complaints we received.

The circumstances surrounding COVID-19 related business interruption claims were exceptionally difficult for many of those businesses that brought their complaints to us, with impacts including the loss of the ability to trade, loss of stock and loss of rental income. The decisions contained in this Digest highlight the crucial importance of understanding the extent of the cover provided by an insurance policy and any conditions or limitations to that cover. The decisions I issued highlight that in some complaints, I found that the specific wording of the policy did provide indemnity for such circumstances, while in other complaints there was clearly no indemnity available under the complainants’ policies of insurance.”

The Digest highlights the wide range of issues giving rise to complaints made by businesses to the FSPO and the outcome of the FSPO's investigations and decisions in relation to those complaints. Some examples of directions made by the Ombudsman in the decisions published include:

- Compensation of €20,000 and an advance payment of €28,500 in policy benefits to a publican whose business interruption claim had been refused. The insurance policy stated that the business would be compensated for an imposed closure of the business by order of the local or Government Authority following outbreaks of contagious or infectious disease on the premises or within 25 miles of the premises. The compensation directed in the Ombudsman's decision recognised that the publican had suffered great inconvenience as a result of the insurer refusing the claim for almost a year.
- €4,000 in compensation and €12,000 in advance payment of policy benefits to a printing shop that had made a claim for business interruption under its insurance policy. The policy included cover resulting from interruption of, or interference with the business in relation to an occurrence of a notifiable disease within a radius of 25 miles of the premises.
- Compensation of €20,000 to a business owner following the refusal of a claim arising from a personal injury on the premises. The insurer refused the claim on the basis that CCTV had to be retained and in his decision, the Ombudsman found that it was clear that the policy did not expressly require the maintenance of a CCTV system to record or to 'retain' footage. The Ombudsman also directed the insurer to pay all reasonable legal expenses already incurred by the complainant.
- Compensation of €750 to a bakery owner whose claim for business interruption had been declined. The business owner's policy did not include business interruption cover in relation to the circumstances surrounding the claim. However, the Ombudsman partially upheld the complaint on the basis that the insurer had not properly assessed the claim for loss of stock.
- Payment of €3,000 compensation to a farmer whose insurance policies had been cancelled following a fire caused by a malicious act. The Ombudsman found that it would have been more reasonable for the insurer to decide not to renew the policies when they expired or, at the very least, to better communicate the intention to cancel the policies.
- Payment of compensation of €3,000 and €15,000 in relation to two separate complaints concerning the aggregation of accounts. Aggregation is a policy whereby a provider makes linkages between accounts, of different account holders, for various reasons, including shareholders, partners, signatories, family connections, and common risk factors. In relation to these complaints, the aggregation had negative consequences for the complainants and in addition to directing compensation, the Ombudsman directed the providers to review their approach of not informing customers of the existence of this policy.

Mr. Deering noted, *"I believe the decisions featured in this Digest will assist businesses, and indeed individuals, to make more informed decisions in relation to insurance and banking products and services. Entering into an insurance contract or a banking relationship is an important decision that can have profound impacts. It is important for those entering into such arrangements to know their needs and to ensure that the contracts they enter into, meet those particular needs. I would encourage all businesses and individuals with insurance policies to ensure that they are aware of the obligations, processes and procedures set out in their insurance policy, in relation to, for example, the disclosure of information when incepting an insurance policy and the timeline, or other factors, relating to the notification of an insurance claim. The very serious consequences of not being aware of, or not meeting these obligations will be evident from some of the decisions summarised in this Digest."*

In addition to publishing the Digest of Decisions, the FSPO's [Database of Decisions](https://www.fspo.ie) on www.fspo.ie now has the full text of over 1,100 decisions and includes decisions issued up to the end of February 2021, and the decisions contained within the Digest published today, some of which were issued after February 2021. By publishing legally binding decisions and Digests of Decisions, the Ombudsman aims to enhance transparency and understanding of his powers and the services provided by the FSPO.

The full Database of Decisions can be accessed at <https://www.fspo.ie/decisions/>

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Tá an OSAP ar fáil le hagallaimh a dhéanamh trí mheán na Gaeilge.

Notes to Editor

- The Financial Services and Pensions Ombudsman Act 2017 (the Act) prescribes the manner in which the FSPO shall publish decisions.
- When the FSPO issues a legally binding decision, that decision is subject to a potential statutory appeal to the High Court within 35 calendar days from that date.
- The FSPO does not publish decisions before the elapse of the 35-day period available to the parties to make a statutory appeal to the High Court.
- Decisions which have been appealed to the High Court are not published, pending the outcome of any such Court proceedings.
- The FSPO publishes a list of active statutory appeals on its [website](#)
- Before any legally binding decision is published by the FSPO it undertakes a rigorous and stringent review to ensure that the non-identification requirements of the Act are adhered to in order to protect the confidentiality of the parties.
- The FSPO deals with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both. Informal mediation allows a faster resolution. When these early interventions do not resolve the dispute, the FSPO investigates the complaint and subsequently issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.
- The Ombudsman can direct a financial service provider to pay compensation of up to €500,000 to a complainant and/or to rectify the conduct that is the subject of the complaint. There is no limit on the value of the rectification that can be directed.
- Decisions issued by the Financial Services and Pensions Ombudsman are legally binding on both parties and can only be appealed to the High Court. Decisions are available at www.fspo.ie/decisions