

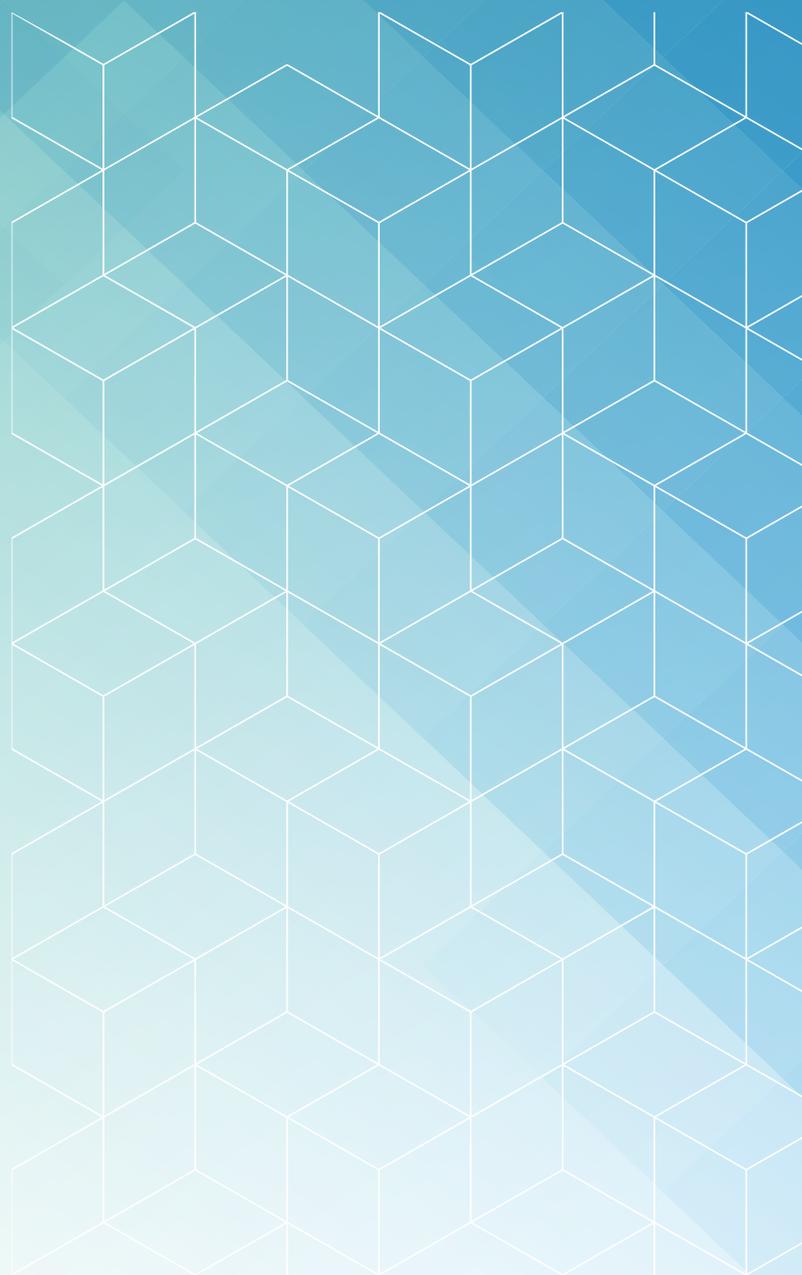


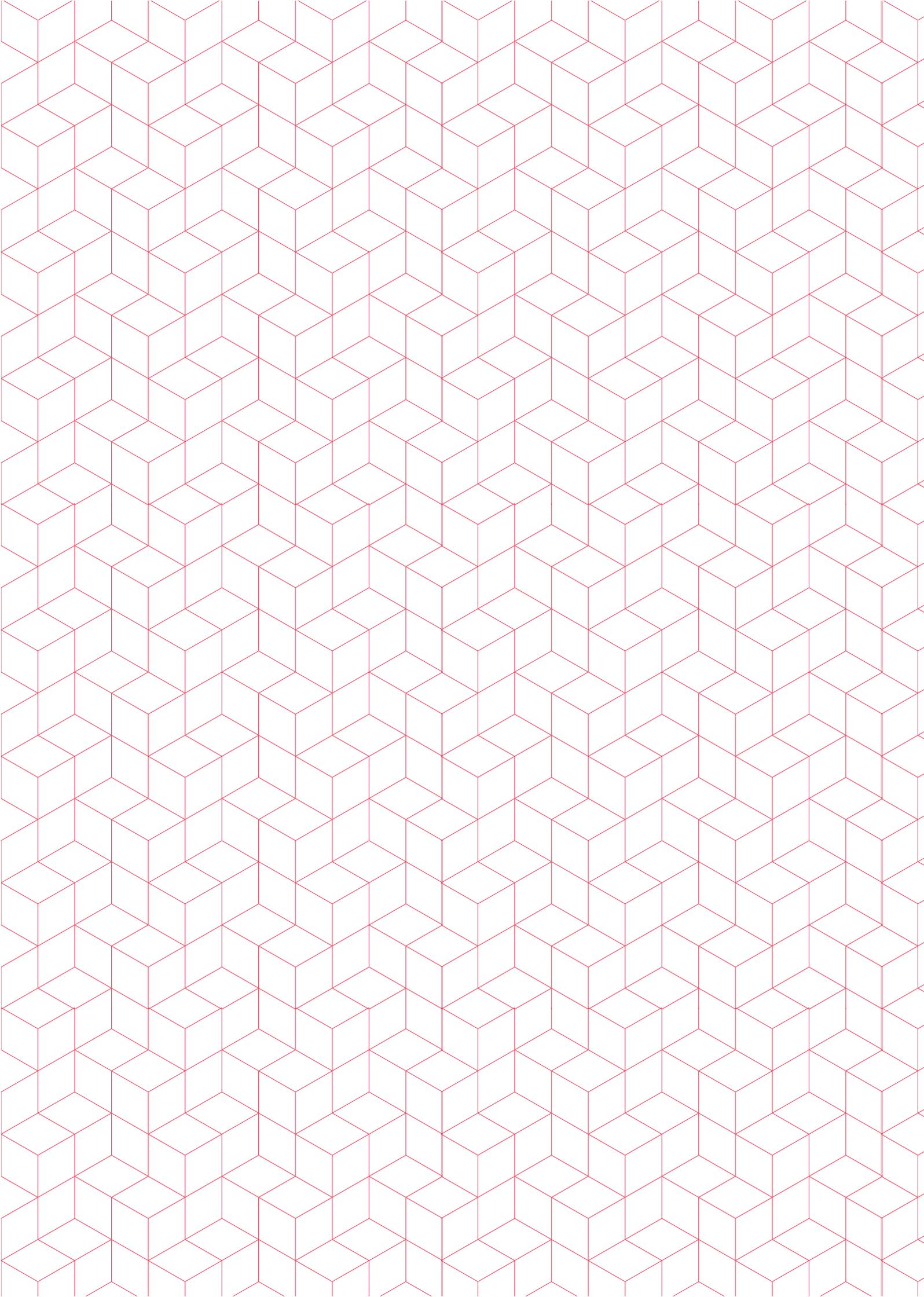
Ministry  
of Justice

# Claims Management Regulation

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ANNUAL REPORT  
2015/16





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# *Introduction from Head of Claims Management Regulation*

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“We will continue to retain a clear and undiminished focus on delivering robust regulation through the current regime, whilst helping to ensure the start of a smooth transition to the new.”



## Regulation in transition

The year has brought many difficult compliance and policy challenges and a fundamental examination of claims management regulation (CMR) and its future. Ever since regulation was established in 2007, CMR has endeavoured to protect the public from poor conduct by some claims management companies (CMCs) and other organisations providing regulated services. Over this time CMR has evolved, expanded its resources and obtained new powers to try to meet the ever increasing regulatory demands.

During the year we started to exercise the significant new power to sanction misconduct with financial penalties and this has proved to be a much needed additional, flexible enforcement tool. Much of our regulatory action using this new power has been focused on non-compliant direct marketing and misconduct in relation to claims handling in financial and personal injury claims. The action we take is robust but proportionate and those CMCs which operate compliantly have continued to benefit from a generally lighter touch approach.

We have stepped up our work to tackle unauthorised trading, including leading a more active campaign of unannounced physical interventions into businesses believed to be operating illegally without authorisation. Going forward, we expect to be making more such interventions into authorised businesses where we believe it to be necessary as part of the potentially more serious misconduct investigations.

One of CMR's particular strengths is its engagement with other regulatory agencies. We enjoy a close working relationship with the Solicitors Regulation Authority and I am pleased that this partnership was strengthened last year to help deal with the claims handling issues relevant to CMCs and solicitors, particularly in the injury, disease and PPI claims spaces. We have forged deeper links with those leading the fight against insurance fraud and contributed to the Insurance Fraud Taskforce's work. We also worked with Trading Standards and the Police to directly tackle claims management fraud against consumers.

The year was of course also framed by the two Budgets presented by the Chancellor of the Exchequer. In the summer budget 2015 the government announced it had decided to introduce caps on the fees CMCs charge consumers in financial mis-selling claims and CMR was tasked with implementing this and a consultation was started in February. In addition the Chancellor announced an independent fundamental review of CMR led by Carol Brady, which started in September and reported in time for the March 2016 Budget. The government accepted Carol Brady's two key recommendations and also announced that the responsibility for CMR would transfer from the Ministry of Justice to the Financial Conduct Authority – a transition expected to be completed during 2018.

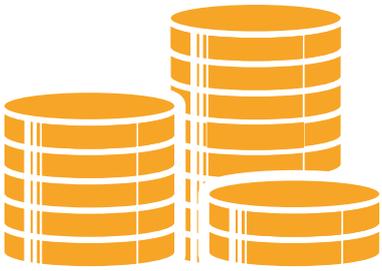
While these initiatives will present significant policy and delivery challenges for CMR, we will continue to retain a clear and undiminished focus on delivering robust regulation through the current regime, whilst helping to ensure the start of a smooth transition to the new. I have been impressed with the ongoing commitment and determination of CMR staff throughout the year and I am confident that this will continue. I am also grateful to Caroline Wayman and Carol Brady for their non-executive contributions to the CMR Board over the year – and of course to Carol for stepping outside of that role to lead the fundamental review.

**Kevin Rousell**

# *The year in numbers*

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01



Total fines issued  
**£1.7million**



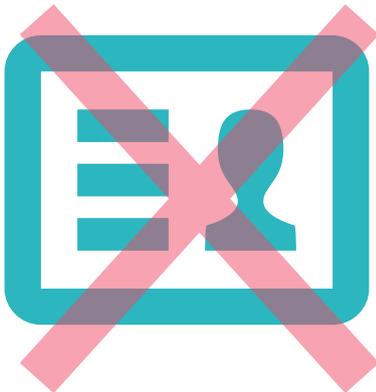
Warnings issued  
**247**



Audits  
conducted



Warrants  
executed  
to enter  
premises  
and seize  
evidence



**66**  
Licences  
cancelled



Numbers of CMCs  
**1,610**



Total reported  
industry turnover  
**£751  
million**



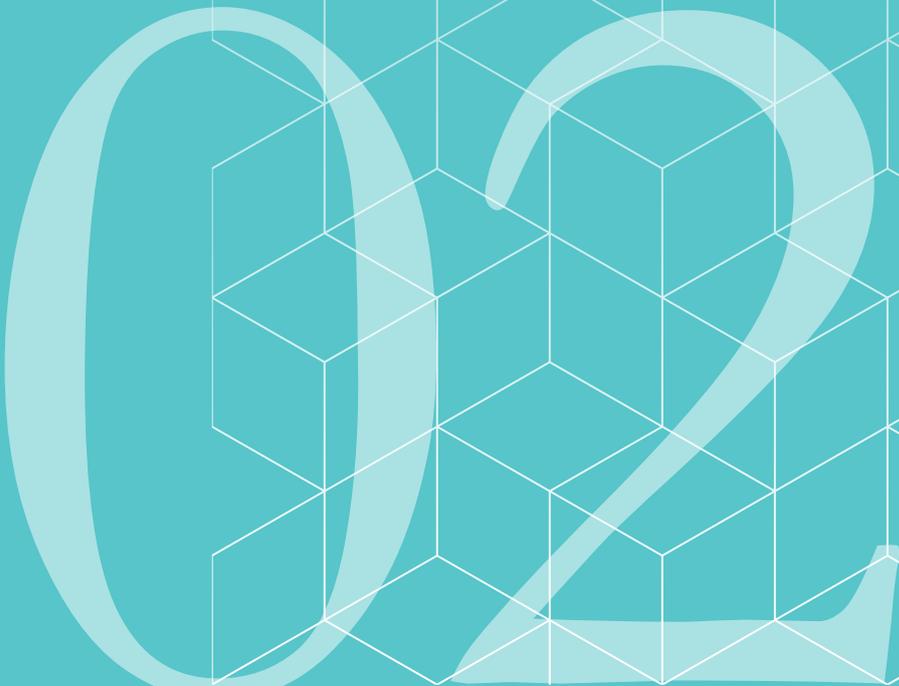
Media enquiries  
**over 300**



Contacts  
**over 13,000**

# *About Us*

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## What we do

1. The Ministry of Justice (MoJ) has been responsible for directly regulating the activities of businesses providing claims management services since April 2007 under Part 2 of the Compensation Act 2006. The Compensation Act defines claims management services as “advice or other services in relation to the making of a claim”. Secondary legislation defines the scope of regulation including the regulated sectors and the regulated activities subject to the authorisation regime.
2. Any business providing regulated claims management services in England and Wales is, unless exempt, required to be authorised irrespective of their registered address or location of the business. Exemptions under the Act include those already regulated, for example, solicitors and insurers – and independent trade unions. Businesses authorised under the Compensation Act are subject to a range of statutory conditions, including compliance with conduct rules geared firmly towards consumer information and safeguards. Businesses that do not comply with the conditions of authorisation (including the conduct rules) are subject to appropriate enforcement action.
3. Claims management regulation is delivered by the MoJ’s Claims Management Regulation (CMR) Unit. The CMR Unit is responsible for managing the policy and delivery of the regulatory system, which includes handling applications, monitoring compliance, investigating malpractice and taking enforcement action. Duties also include approving statutory decisions made on behalf of the Secretary of State in respect of authorisations, suspensions and cancellations, and managing policy, funding, communications, and stakeholder relations. MoJ has contracted Staffordshire County Council to provide our monitoring and compliance services. The CMR Unit is located in London and Burton-on-Trent, and operates on a self-funding basis with all operating costs recovered through regulation fees paid by CMCs.

## Our regulatory objectives

4. Our primary regulatory objectives in relation to claims management services are:
  - Protecting and promoting the interests of consumers
  - Protecting and promoting the public interest
  - Improving standards of competence and conduct of authorised persons

## Our remit

5. The claims sectors subject to regulation under the Compensation Act 2006 are:
  - Personal injury
  - Financial products and services
  - Employment
  - Industrial Injuries Disablement Benefit
  - Criminal injuries compensation
  - Housing disrepair
6. The types of claims management activities regulated:
  - Advertising for, or seeking out (for example direct marketing) persons who may have a cause of action
  - Advising a claimant or potential claimant in relation to his claim or cause of action
  - Referring details of a claim/claimant or cause of action for a fee to another person
  - Investigating or commissioning investigation of a claim with a view to using results in pursuit of the claim
  - Representing the claimant

## Governance

7. The CMR Board is made up of MoJ and Staffordshire County Council officials and two non-executive members, Carol Brady and Caroline Wayman. The non-executive appointments reflect internal governance arrangements that allow independent challenge and receipt of expert advice to enhance the delivery of regulation. The Board meets formally on a quarterly basis, with Board members also involved a number of other informal ad-hoc meetings during the year to discuss CMR related matters.

## CMR Board members

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### **Kevin Rousell**

Head of CMR Unit  
& Chair of Board

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### **Alison Wedge**

Deputy Director  
*(Ministry of Justice)*

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### **Caroline Wayman**

Non-executive  
Board member

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### **Sarah Mutton**

Deputy Head of  
CMR Unit

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### **Trish Caldwell**

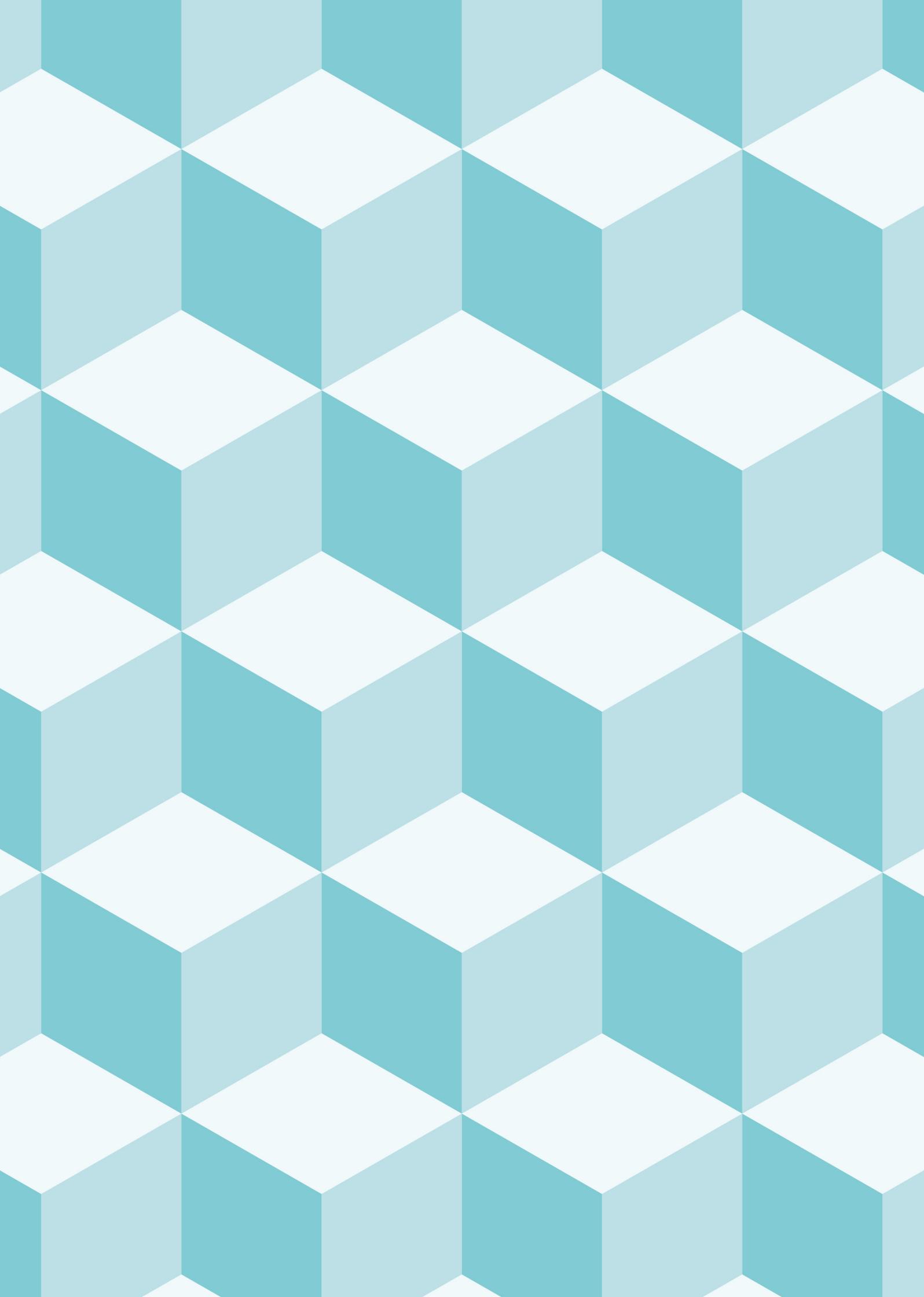
Regulatory Services  
Commissioner  
*(Staffordshire County  
Council)*

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### **Carol Brady**

Non-executive  
Board member

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# *Our Performance & Activities*

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“Four CMCs have been issued with financial penalties totalling more than £1.7 million.”

03

## Key developments

1. The last year has seen significant changes in the claims industry and we have started work in a number of areas that will help customers of CMCs and make regulation more effective. We began imposing financial penalties against non-compliant CMCs in August 2015, with the first financial penalty of £220,000 issued against a CMC making cold-calls for noise induced hearing loss claims. This was followed by further financial penalties issued in October and November 2015. During the period covered by this report, a total of four CMCs have been issued with financial penalties totalling more than £1.7million.
2. In July 2015 the government announced an independent review of CMR. This review was jointly commissioned by HM Treasury and the Ministry of Justice and reported in March 2016. The government welcomed the report and accepted the Review's principal recommendations in relation to the re-authorisation of all CMCs and holding managers of CMCs accountable for the actions of the business under a senior manager's regime. The government also announced its decision that CMR would be transferred to the Financial Conduct Authority.
3. As part of the summer 2015 Budget, the government announced its intention to cap the fees that CMCs charge customers in financial claims cases. The government launched a consultation in February 2016 that set out proposals. The consultation closed in April and the responses are being considered.
4. We have recruited extra staff to increase our enforcement capacity across the CMR Unit. This has enhanced our ability to tackle misconduct by CMCs and conduct more investigations – particularly with regard to tackling businesses providing claims management services without authorisation. We have run a number of large operations during the year that required search warrants which enabled us to enter business premises without notice where we believe unauthorised activity is taking place. We have done this with support from the local police and have seized documents and computer equipment which we suspect contain evidence of unauthorised activity.
5. We have placed increased focus on carrying out audits of CMCs operating in the personal injury claims sector, especially in relation to the referral fee ban and fraud. As a result CMCs that were failing to comply with the referral fee ban have amended their business models. We have also supported other organisations on multi-agency law enforcement investigations and provided evidence to help secure convictions for fraudulent activity.
6. We continue to work closely with stakeholders in the financial claims sectors, including the Financial Ombudsman Service (Financial Ombudsman), financial services providers and representative bodies to improve standards of service. We use information provided by stakeholders and consumers, to identify CMCs that are likely to be failing to comply with conditions of their authorisation. These CMCs are prioritised for audits or other actions to assess compliance so that we can advise or take further steps as appropriate. We also engage closely with a number of larger CMCs, using relationship management arrangements to try and pro-actively address issues and understand their operations and plans so that we can advise of any compliance risks.
7. The CMR Unit has published guidance and bulletins for CMCs and updates on enforcement activities on a regular basis. In January 2016 we hosted a workshop for newly authorised businesses to advise them of common compliance issues in order to assist them ensure their processes and procedures are compliant. We are planning to build on this and run similar exercises during this year. All guidance and information is accessible on the CMR part of the GOV.UK website which has received 236,895 visits (up 17% on last year).

## Key activity figures

8. The following data provides a summary of CMR activity over a period covering financial years 2013/14 to 2015/16. These statistics show the trends and the significant volume of work and the range of the tasks that have been undertaken and completed. Quarterly updates on CMR performance can be found on our enforcement web page at: [www.gov.uk/government/publications/claims-management-regulator-enforcement-actions](http://www.gov.uk/government/publications/claims-management-regulator-enforcement-actions).

ACTIVITIES	2013/14	2014/15	2015/16
Total authorised CMCs (at end March)	2,097	1,752	1,610
New applications for authorisation	227	304	186
Applications refused	2	2	7
Applications withdrawn	87	102	67
Authorisations surrendered	604	390	266
Authorisations suspended	2	0	4
Authorisations cancelled	198	105	66
Authorisations varied (with conditions)	1	0	2
Financial penalties	n/a*	n/a*	4
Warnings	240	296	247
Audits	152	454	306
Visits	1,196	100	1,172

\*The power to fine CMCs was introduced in December 2014

## Progress against priorities

9. We carried out the following key work to deliver against the compliance priorities as set out in last year's annual report:

### Nuisance calls and texts

#### *Working with partners to identify and tackle non-compliant marketing*

We have expanded our nuisance calls and unsolicited marketing team, allowing more effective targeted action in this area over the past year. We have worked in partnership with other regulators to take enforcement action against CMCs engaged in non-compliant marketing and continued to participate in multi-agency initiatives to tackle nuisance calls and texts. We have imposed large financial penalties on 3 CMCs, carried out 111 audits and issued 38 warnings for direct marketing breaches.

### Financial claims

#### *Managing the impacts of significant regulatory reform*

We tackle malpractice by CMCs on a risk assessed basis, and in particular where there is risk of substantial consumer detriment. We have continued to work closely with the financial sector and regulators to proactively address industry-wide issues. Intelligence received directly from consumers, the Legal Ombudsman (LeO), and financial services providers has been utilised to quickly stamp out rogue practices. We have audited 133 CMCs, and issued 39 warnings. We have also issued a financial penalty to one CMC, imposed strict conditions on the authorisation of another and several CMCs currently remain under investigation.

### Personal injury claims

#### *The ban on referral fees and support partners to combat fraud*

We have built on previous work to ensure business practices comply with the referral fee ban and other conditions of authorisation. We have carried out 1,044 visits, 177 audits, issued 53 warnings where breaches have been identified and executed a warrant at the premises of a personal injury call centre. We continue to contribute to the fight against fraud and other illegal activities by strengthened work with stakeholders and sharing intelligence and identifying targets for multi-agency enforcement. We have also provided evidence in a number of criminal investigations where convictions have been secured.

### Unauthorised activity

#### *Tackle with targeted enforcement action*

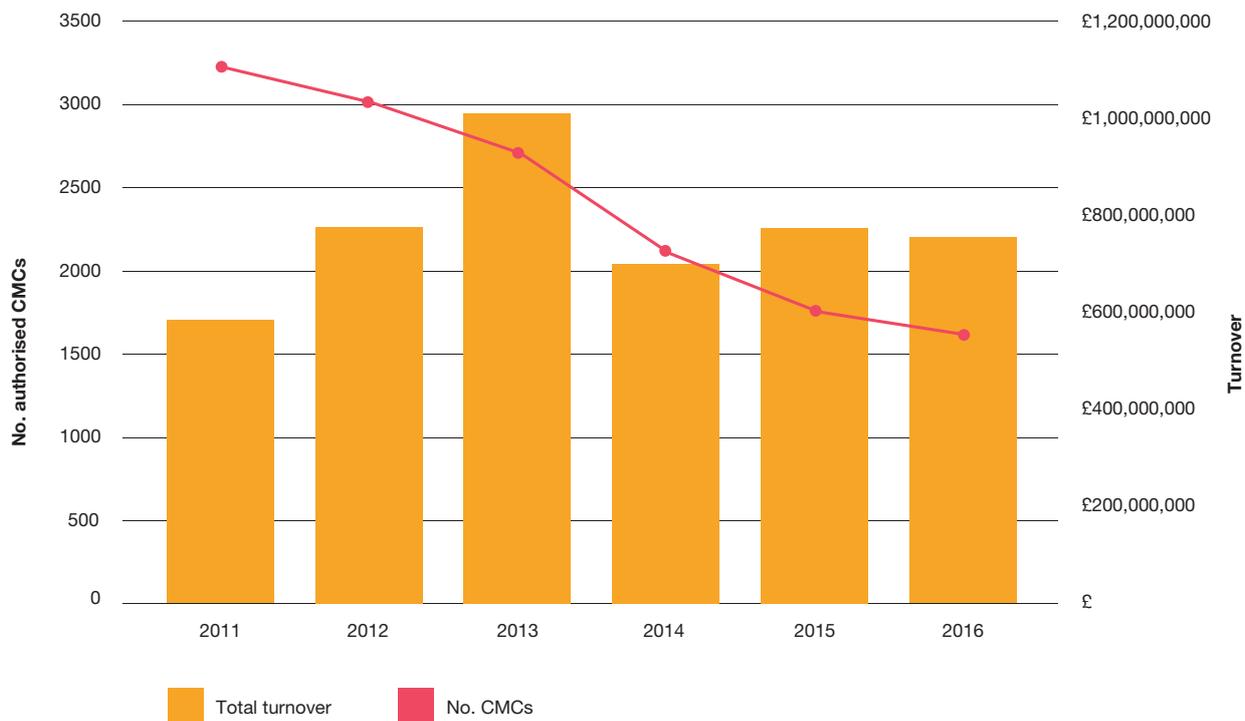
We have increased our capacity to identify, investigate and take enforcement action against unauthorised CMCs. In the past year we have carried out 4 raids on premises under warrants across the country and taken part in joint operations with other law enforcement agencies including the police and trading standards.

# *Claims management landscape*

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04

“The total number of authorised CMCs has fallen year on year from a peak of 3,213 CMCs in 2011 to 1,610 CMCs in 2016...”



1. Since 2011, there has been a steady decline in the size of the claims management industry as a consequence of major regulatory reforms and the evolving claims market. The total number of authorised CMCs has fallen year on year from a peak of 3,213 CMCs in 2011 to 1,610 CMCs in 2016, however the rate of decline has slowed in the last two years as the market began to show signs of consolidation. In what has previously been a volatile industry with many new entrants and exits, often remaining for only a short period in the market, now almost three quarters of CMCs have been authorised for more than 3 years.

**CMC turnover**

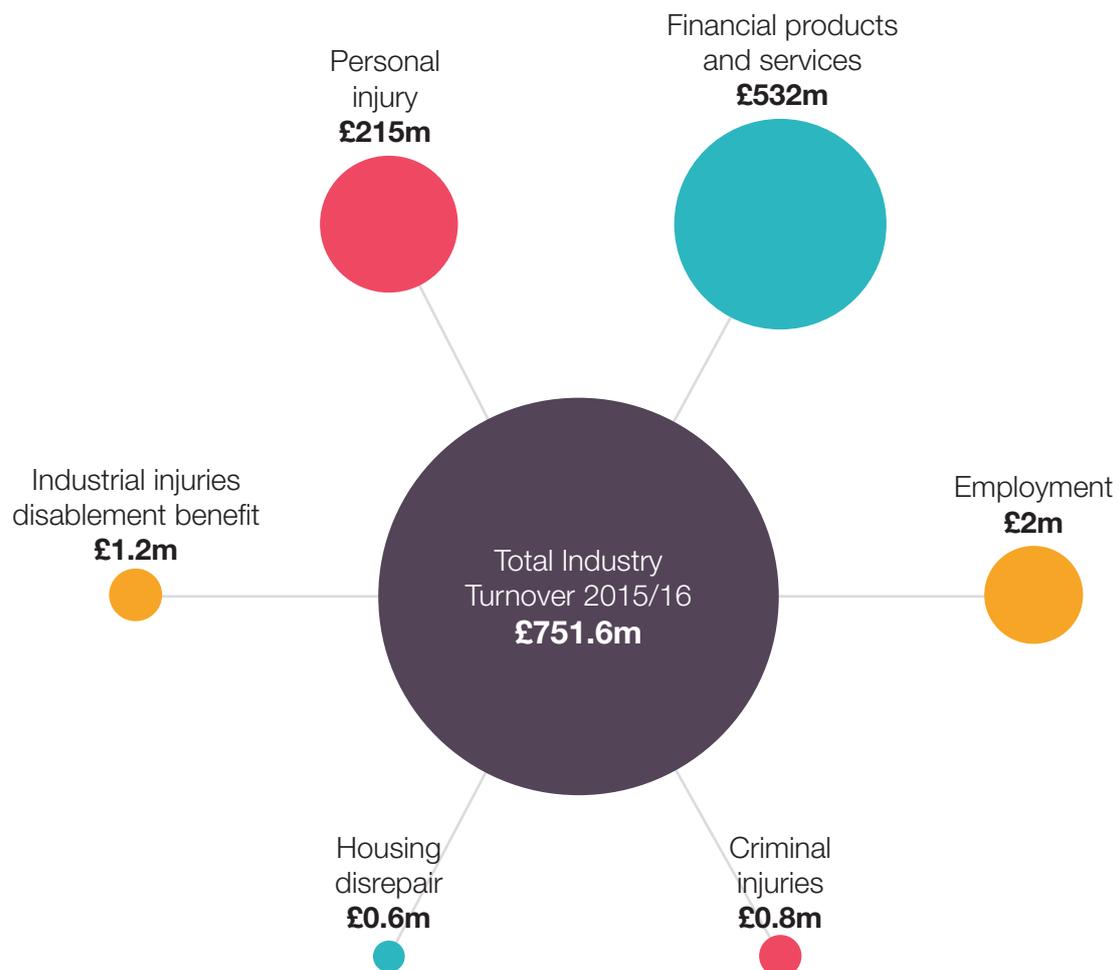
2. Although still fewer in number, those CMCs operating in the financial claims sector have generated more than twice the turnover of the personal injury sector for the first time. This is the fourth consecutive year that the financial claims sector has out-earned the once dominant personal injury sector. This correlates with a

strong payment protection insurance (PPI) claims market, which has not significantly declined since a high peak in complaint numbers and turnover in 2012/13.

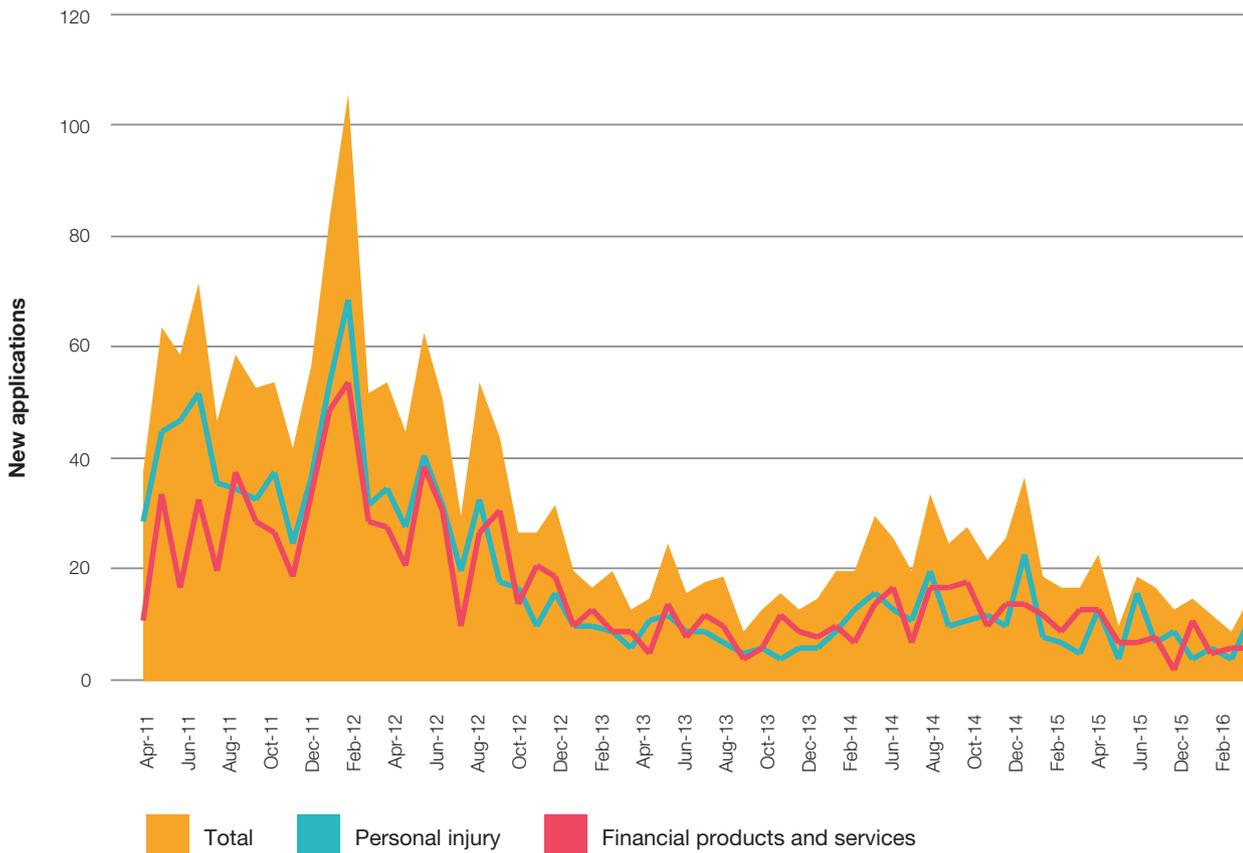
3. The total declared industry turnover for the 12 months to 30 November 2015 was £751 million, a decrease of 3% on the previous year. Turnover in the financial claims sector increased by 16% to £532 million. This corresponds with a slight increase in redress and refunds paid to customers who were mis-sold PPI for the same 12 month reporting period (to end November 2015) and growth in the mis-sold packaged bank account (PBA) market. The turnover for the personal injury sector decreased by almost a third to £215 million due to the ongoing challenges in the market following the 2013 reforms and reduction in the number of CMCs operating in the sector (which was larger than the financial claims sector). Overall the top 25 highest grossing CMCs accounted for 52% of the total turnover declared.

## Industry turnover since 2013/14

SECTOR	2015/16	2014/15	2013/14
Personal injury	£215m	£310m	£238m
Financial products and services	£532m	£458m	£453m
Employment	£2m	£2.7m	£3.8m
Criminal injuries	£0.8m	£0.5m	£0.5m
Housing disrepair	£0.6m	£0.2m	£0.1m
Industrial injuries disablement benefit	£1.2m	£0.3m	£2.2m
<b>Total</b>	<b>£751.6m</b>	<b>£771.7m</b>	<b>£697.6m</b>



## New applications for authorisation per-month

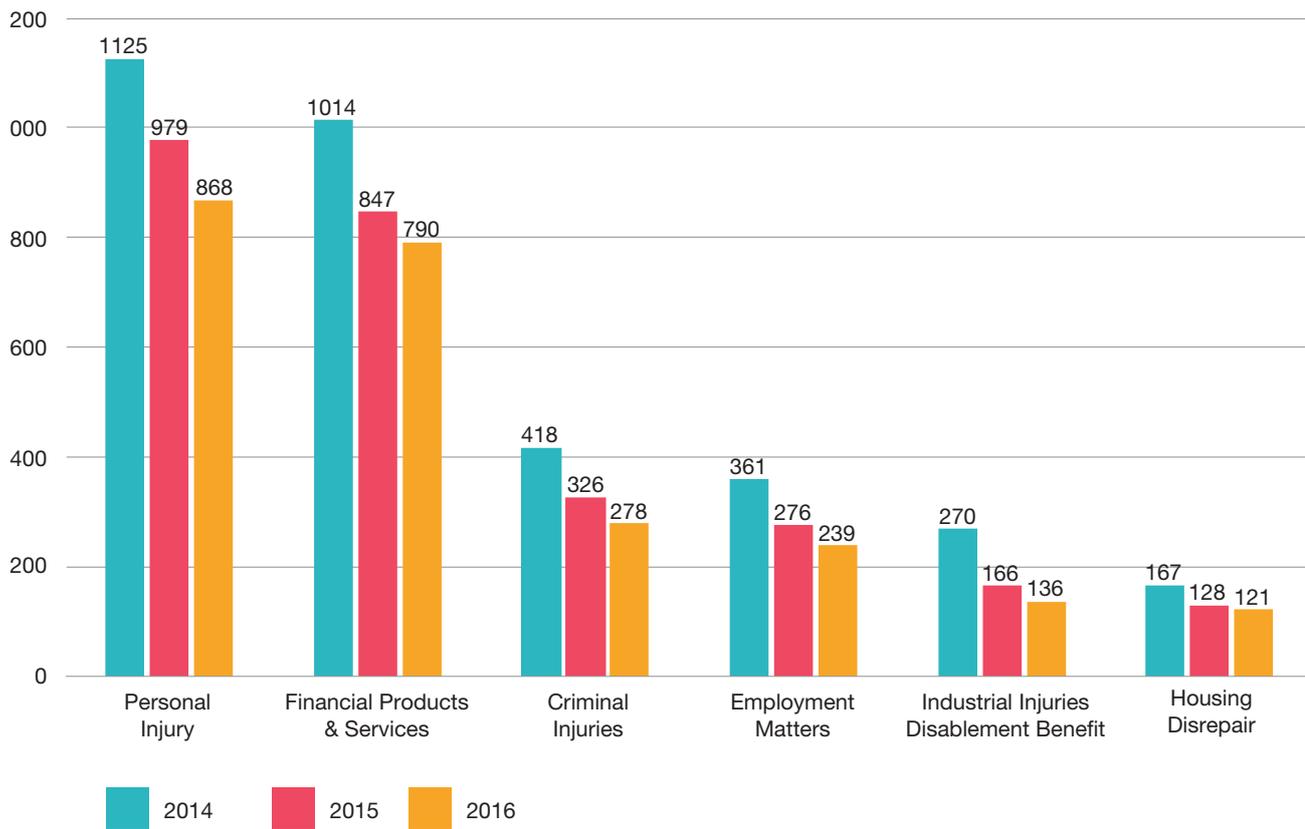


## Applications for authorisation

- Applications for authorisation fell this year to an average of 16 applications per month compared to 25 per month last year. This remains significantly lower than 2013 levels when we were receiving around 40 applications each month. Applications from businesses intending to operate in the personal injury sector were down by 39% and applications to operate in the financial products and services sector were down by 35%.
- This reduction in applications is largely due to the fact that relatively few businesses hold a significant market share in the two main sectors – meaning that it is increasingly difficult for newcomers to enter the marketplace. The reforms in the personal injury sector and potential changes in the financial claims market also make it less attractive for business start-ups in the claims management industry.



## Total authorised CMCs by sector



## Overview of claims sectors

### Personal injury

6. While personal injury remains the largest claims management sector, the number of CMCs in operation fell by 12% since last year to just over 850 CMCs, and it now accounts for just 29% of declared industry turnover. The market contraction that followed the implementation of the referral fee ban and other civil justice reforms in 2013, has continued but at a much slower rate during 2015/16. At its peak, 2,316 CMCs were in operation, just prior to the implementation referral fee ban in January 2013.
7. The sector remains polarised with a small number of large CMCs operating nationally retaining a dominant position in the market, while the majority of the sector is made up of small, locally operated CMCs who have worked with a solicitor to adapt their business model to comply with the referral fee ban. For many of these smaller CMCs, accident management activities, including recovery, storage, repair and vehicle hire, have become more profitable than injury claims. Such ancillary services have therefore become their main focus. Some CMCs have actively diversified into these areas while others already providing those services have seen these services become the primary income source.
8. The market has developed a number of models which are designed to comply with the ban on referral fees. This has enabled businesses which were willing and able to adapt their pre-ban models or enter the market with a compliant model. We continue to carefully test models during our audit programme and scrutinise proposed models at application to ensure that they comply with the ban. Where problems are identified, businesses are often able to make changes to their model, as appropriate by working with their solicitor.
9. The noise induced hearing loss claims market has experienced a number of fluctuations in the past year, with a sharp initial increase in activity followed by a gradual decline. Interest in this type of claim resulted in a large volume of direct marketing activity, principally through unsolicited telephone marketing. However, a combination of enforcement action against CMCs responsible for non-compliant marketing (by the CMR Unit and the Information Commissioner's Office) and a drop in demand for these type of cases meant that activity fell significantly during 2015/16.

10. Government proposals to remove the right to claim for cash compensation for minor whiplash claims and to raise the small claims limit for personal injury claims are likely to impact the sector in a significant way.

### Financial products and services

11. The number of CMCs operating in the financial claims sector is down 7% from last year with PPI remaining the largest and most active area. The sector has also remained top heavy with six CMCs handling around 50% of all PPI complaints and the 15 largest CMCs accounting for over 50% of total turnover. The number of consumers seeking PPI redress has only fallen slightly and settlement levels remain high. This has led to a stable and viable PPI market for CMCs, including established, smaller operators.
12. According to the Financial Conduct Authority (FCA), banks have so far paid out £24.2 billion since 2011 for mis-selling PPI.<sup>1</sup> Additionally, figures from the Financial Ombudsman suggest banks are still incorrectly turning away a number of PPI claims. In 2015/16, the Financial Ombudsman received 188,712 complaints, and found in favour of the consumer in 62%. 81.5% of PPI complaints were brought by CMCs on behalf of consumers.<sup>2</sup> CMCs are estimated to have received between £3.8 billion and £5 billion of the £23 billion paid out by banks in PPI compensation between April 2011 and November 2015, according to a report by the National Audit Office.<sup>3</sup>
13. The number of CMCs making claims for mis-sold Packaged Bank Accounts (PBAs) has continued to increase during the period covered by this report. According to the Financial Ombudsman, complaints about PBAs more than doubled (by 107%) in 2015/16. While some CMCs have been active in this area for the last few years, others have moved into the market for a short period of time, presenting large volumes of complaints before deciding to cease bringing new complaints for mis-sold PBAs. CMCs represent 61% of complainants taking their cases to the Financial Ombudsman, although this has declined during the course of the year. This is due to a number of factors, including the continued strength of the PPI market and lower

redress sums and uphold rates compared to PPI. Just 14% of PBA complaints reaching the Financial Ombudsman are upheld in favour of the customer.

14. A number of proposed reforms are likely to have a significant impact on the financial claims sector. These include proposals to place restrictions on the level of fees that regulated CMCs can charge consumers<sup>4</sup>; the FCA proposals on rule changes that include the introduction of a deadline for making PPI complaints<sup>5</sup>; and the handling of PPI complaints in light of the Supreme Court's decision in *Plevin v Paragon Personal Finance Ltd*.

### Other regulated claims sectors

15. There are four other regulated claims sectors – employment matters, criminal injuries compensation, industrial disablement benefit and housing disrepair. As in recent years, there are few CMCs that are actively operating in these sectors.
16. The employment sector is the most active among the smaller sectors, however the number of CMCs in operation has been decreasing year upon year. Those generating a turnover are far fewer than the 239 CMCs listed as operating in the sector – and less than 50 CMCs generate a turnover of more than £10,000. This is despite new claim types emerging in relation to overtime, holiday pay, and zero hours contracts.

1 <https://www.the-fca.org.uk/consumers/payment-protection-insurance/monthly-ppi-refunds-and-compensation>

2 <http://www.financial-ombudsman.org.uk/publications/annual-review-2016/ar16.pdf>

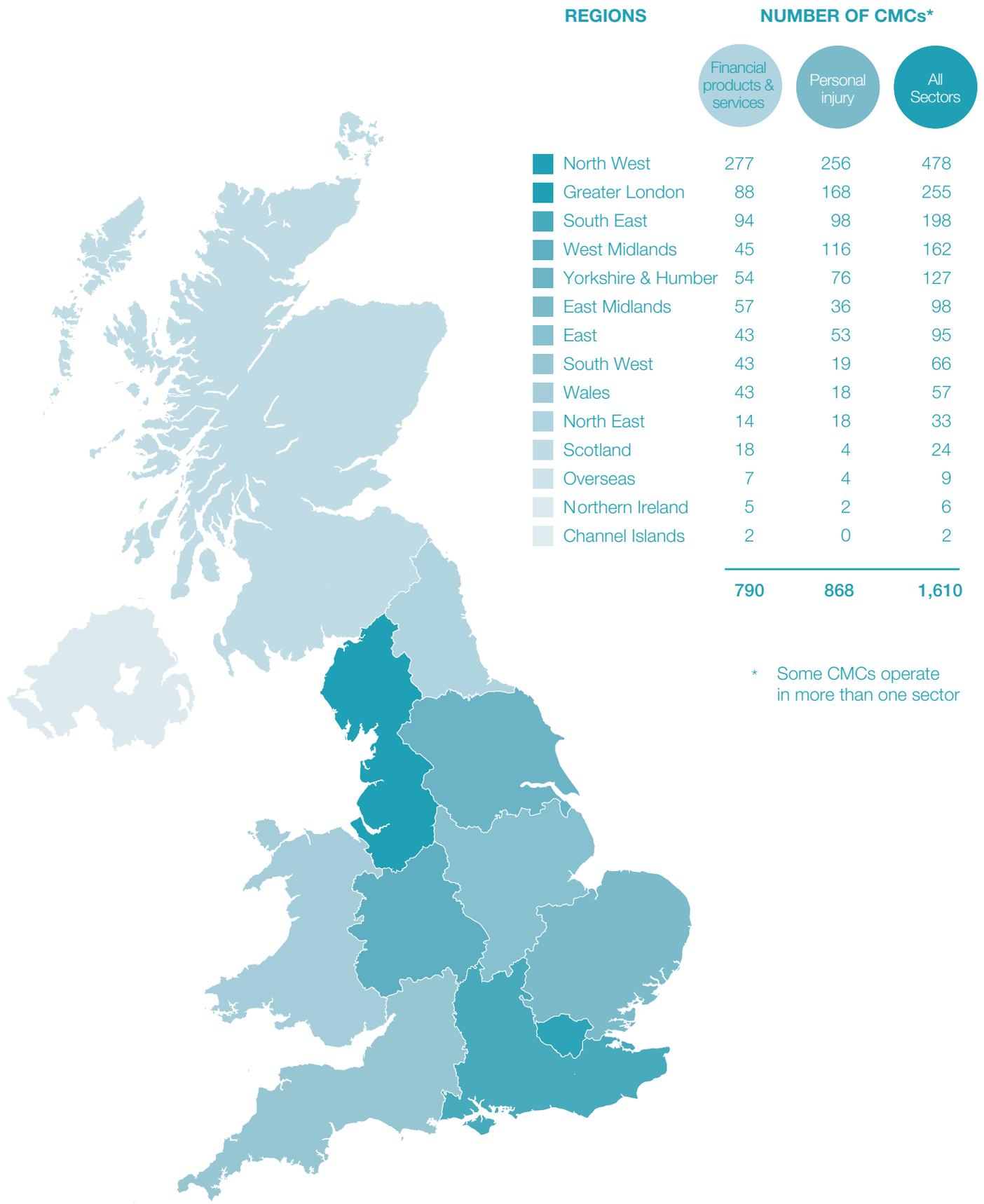
3 <https://www.nao.org.uk/report/financial-services-mis-selling-regulation-and-redress/>

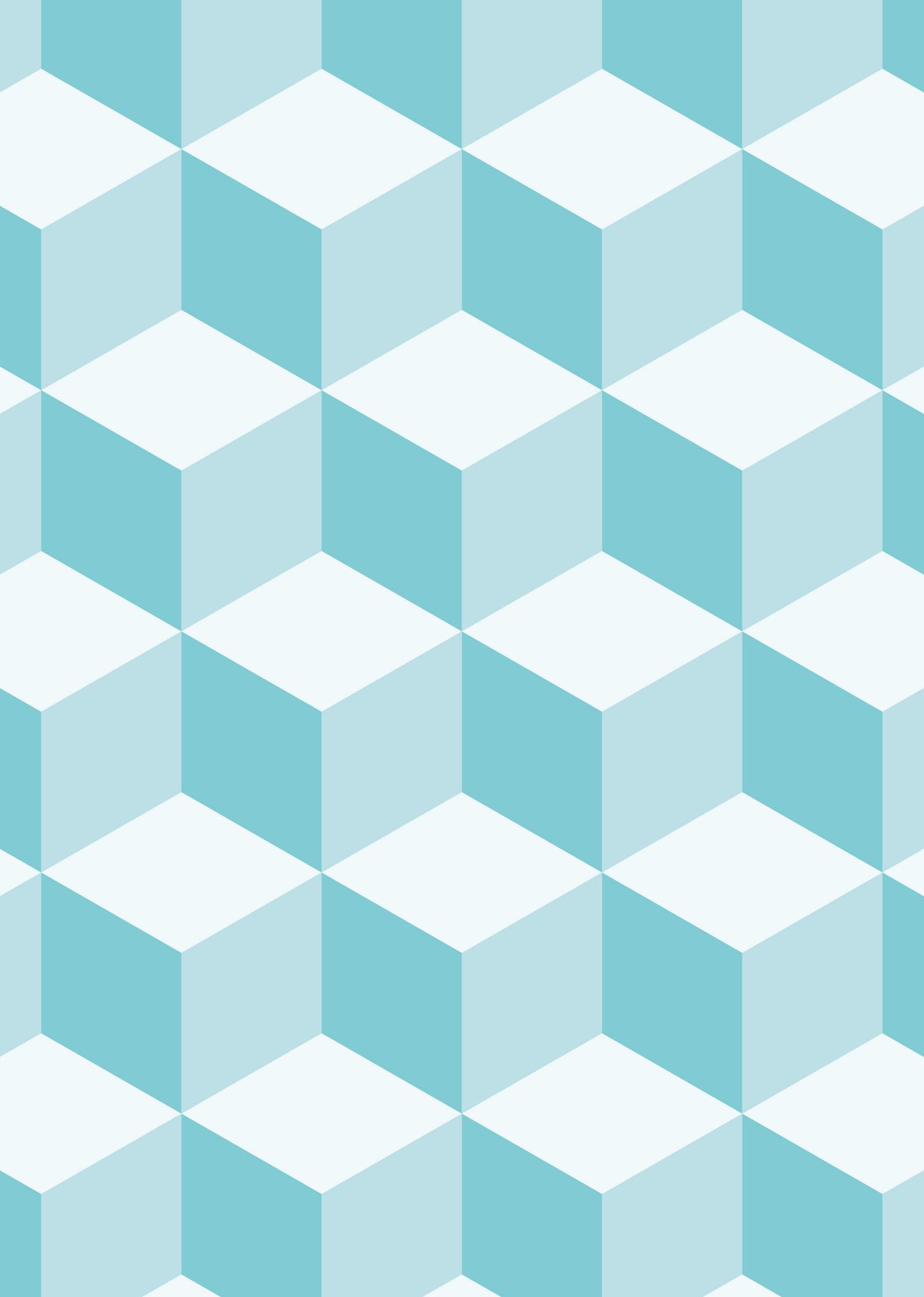
4 <https://www.gov.uk/government/consultations/cutting-costs-for-consumers-in-financial-claims>

5 <https://www.fca.org.uk/static/fca/documents/consultation-papers/cp-15-39-ppi-complaints.pdf>

## Regional distribution of CMCs

17. The North West and London remain the most popular locations for CMCs, with little change from the previous review period.





# *Enforcement*

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05

# “We issued 247 warnings to CMCs and advised hundreds more, often following the 306 audits we conducted and 1,196 visits we made.”

## Our approach

1. It is a condition of their authorisation that CMCs meet the standards of conduct set out in the rules. We take enforcement action when those standards are not met, and we expect the CMC to take effective remedial action in order to comply. For minor breaches we advise or warn CMCs about their conduct and plan follow up work to check that the CMC has made necessary changes and that these are effective. For serious breaches we will commence an investigation and where we find evidence of those breaches, we have a range of statutory enforcement powers available to us. We may apply additional conditions of authorisation to address misconduct, suspend or even cancel the authorisation of a CMC. Since late 2014 we have also had the power to impose financial penalties on CMCs.
2. During the year we investigated 41 authorised CMCs and also 47 businesses suspected of providing claims management services without authorisation. We issued 247 warnings to CMCs and advised hundreds more, often following the 306 audits we conducted and 1196 visits we made. We cancelled the authorisation of 66 CMCs, suspended 4, varied the authorisation of 2 and imposed financial penalties on 4 CMCs.

## Enhanced enforcement powers

3. The addition of financial penalty powers has provided more flexibility in the range of enforcement tools available to deal with misconduct. We have exercised this new power on four occasions during the year. We fined two CMCs £220,000 and £850,000 respectively for making millions of unlawful nuisance calls about noise induced hearing loss claims and issued another financial penalty of £567,423 to a CMC that had misled and coerced clients into signing contracts during PPI sales calls, without giving them enough time to understand the terms and conditions before taking unauthorised payments.

A financial penalty of £91,845 was also issued to a call centre for using personal data without consent for contacting consumers about potential personal injury claims.

## Building capacity

4. We re-structured the CMR Unit to align more closely with our compliance priorities, reallocating resources to the specialist nuisance calls, financial claims, personal injury and unauthorised activity enforcement teams. We moved some functions, including responsibility for CMCs operating in the employment sector, to our larger applications team, which also handles collection of fees and compliance with client account requirements. All of these teams are supported by a strengthened intelligence unit and other cross organisation teams, including a small contact centre.

## Improving detection and investigation

5. We continue to develop the intelligence held as we regularly receive data and other information from key stakeholders (such as LeO, the Financial Ombudsman, and financial services providers) which provides us with key insights into the activities of specific CMCs and other market developments. The current claims market has matured, with nearly three-quarters of CMCs authorised for over 3 years and almost half authorised for more than 5 years. We have built up a significant body of knowledge about the CMCs operating in the market and can use this to monitor and review intelligence to detect potential misconduct and react to market changes at an early stage.

## Promoting compliance and helping businesses

6. In the majority of cases, before we take enforcement action against CMCs, we try to support CMCs so that they can comply with

the conduct rules. We do this through our regulation bulletins, published guidance as well as bespoke advice to CMCs. We also operate a business advice line so CMCs can proactively contact us to obtain support and advice when they have a query. For some larger CMCs, we offer relationship management arrangements to facilitate closer engagement. The relationship manager will arrange regular telephone and face-to-face meetings to discuss market developments and any plans the CMC has, which assists us with horizon scanning.

7. At the beginning of 2016 we hosted a workshop for recently authorised CMCs to provide information and advice about common compliance issues we find with CMCs. We received positive feedback about the workshop and in 2016-17 we plan to arrange and promote further workshops. The Financial Ombudsman were guest speakers at the workshop and we hope to involve them and other stakeholders in future events.

## Compliance priorities

### Nuisance calls and texts

8. Nuisance calls, texts and emails remain a compliance priority with the public receiving millions of unwanted contacts each week. Most nuisance calls relate to potential personal injury or mis-sold PPI claims and although some of these calls are made from outside of the UK, there is often a CMC (or solicitor) in the UK that will receive the leads generated by this form of marketing. It is therefore important that we tackle

both ends of the supply chain, from those using and selling the data through to those live cases generated by this marketing.

9. The three main issues we find when scrutinising CMCs handling data and leads from direct marketing are reliance on inadequate third party consent, insufficient due diligence processes, and a failure to suppress details when requested by consumers. There are specific rules and regulations around what consent is required to call consumers - depending on the type of direct marketing activity and whether the claim is being passed to solicitors. Where a consumer has registered with the Telephone Preference Service (TPS), marketing firms should screen their data and remove TPS registered telephone numbers before making calls unless explicit consent to receive such calls has been given. Consent is often insufficient due to lack of clarity, age and on occasion is not clear, informed or specific enough to be relied upon.
10. We require CMCs in every part of the chain to have effective and robust due diligence procedures in place. This relates to the data they are receiving/using and the supplier of that data. We often find that CMCs are happy to accept assurances from data suppliers that the data being provided has been obtained and generated legitimately. However, this is insufficient and CMCs must be able to demonstrate to us that they have conducted their own checks to satisfy themselves that the data being used has been generated compliantly, and that they have sufficient consent to use it for their specific marketing campaign.

NUISANCE CALLS & TEXTS	2015/16	2014/15	2013/14
Audits conducted	111	102	45
Investigations commenced	10	9	5
Financial penalties	3	N/A*	N/A*
Warnings issued	48	30	5

\* The power to fine CMCs was introduced in December 2014

11. We work closely with other regulators to address these issues, which is often much wider than claims management. The Information Commissioners Office (ICO) and Ofcom are the primary regulators for the data and direct marketing industry, and we work closely and share intelligence with these organisations. We are also part of the “Operation Linden” stakeholder group that includes the ICO, Ofcom, and other market regulators, consumer groups and communication service providers. Annex A sets out the full list of regulatory responsibilities in respect of direct marketing.

## CASE STUDY 1 – NUISANCE COLD CALLING

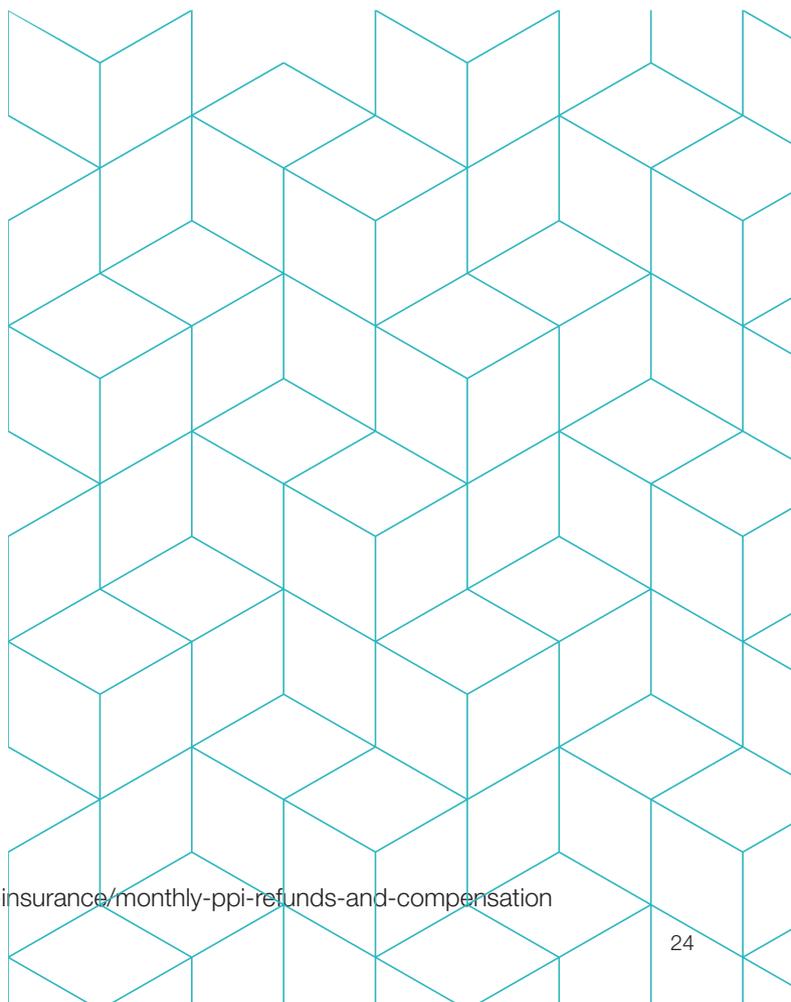
We received a number of complaints that consumers had been cold called by a particular CMC and information from Ofcom suggested that this included hundreds of Telephone Preference Service (TPS) registered consumers. The CMC was failing to TPS screen their data and we were able to establish that they did not hold the necessary consent to override TPS registration. The CMC also failed to maintain records as to the due diligence carried out on the data they purchased. We warned the CMC that they were in breach of the rules and The Privacy and Electronic Communication (EC Directive) Regulations 2003, but despite this action we continued to receive notifications that TPS numbers were continuing to be called. We commenced an investigation and imposed a financial penalty on the CMC for £220,000.

12. The Department for Culture Media and Sport (DCMS) leads the government policy on nuisance calls, and various new measures to address challenges in the industry have been implemented or announced in the past year. The threshold for the ICO to take action against businesses was lowered, and changes such as mandatory caller-ID were introduced. Further changes to third party consent are anticipated.
13. We are anticipating a potential increase in direct marketing activity ahead of proposed reforms such as a ban on up-front fees, capping of CMC charges, whiplash reforms and any possible deadline on PPI claims. With the significant progress made in tackling CMCs guilty of the worst conduct and with further strengthening of the resource, development of intelligence and

improvement of enforcement processes, we are confident that we will be in a good position to quickly and robustly deal with any developments around this topic.

## Financial claims

14. Complaints about mis-sold PPI continue to dominate the financial claims sector with £24.2 billion having been paid in redress since January 2011.<sup>6</sup> Over £4.5 billion of this was paid out to customers during the last year, only slightly down from the previous 12 month period. The longevity and lucrative nature of this market means that CMCs remain active in this area. It has therefore been necessary for us to continue to prioritise and tackle malpractice in the market and seek to support CMCs wishing to operate compliantly.
15. We continue to use our relationships with the Financial Ombudsman, LeO, financial services providers and representative bodies to help identify misconduct. We also use data from these organisations to risk assess businesses in order to identify CMCs for potential audit. Data provided by financial services providers continues to prove particularly useful in recognising possible changes to practices which may indicate breaches of rules. We are then able to make enquiries with those CMCs or arrange audits to test the information and where misconduct is identified we take appropriate and proportionate enforcement action.



6 <https://www.the-fca.org.uk/consumers/payment-protection-insurance/monthly-ppi-refunds-and-compensation>

FINANCIAL CLAIMS SECTOR	2015/16	2014/15	2013/14
Audits conducted	133	157	112
Investigations commenced	9	13	35
Financial penalties	1	N/A*	N/A*
Warnings issued	49	53	144

\* The power to fine CMCs was introduced in December 2014

16. We have expanded and developed our relationship management programme with the largest CMCs. This enables open, pro-active engagement with CMCs with significant market share so that potential issues can be addressed earlier. It also helps us understand and respond to wider developments within the financial claims market. This level of engagement has facilitated open dialogue about plans and a forum where regulatory and best practice advice can be given. This also helps to minimise any adverse impacts on consumers and other parties involved in the claim process.

17. We have stepped up our work in dealing with CMCs charging upfront fees. We have commenced several investigations into CMCs operating this model and have cancelled authorisations, imposed conditions and issued financial penalties to CMCs charging up-front fees. We routinely find CMCs operating this model are in breach of rules relating to other conduct. This conduct typically involves:

- calling consumers registered with the TPS without overriding consent
- misleading consumers during sales calls including suggesting consumers are guaranteed a pay-out, sometimes of a specific amount
- taking payment from the customer without obtaining their authority
- failing to allow customers sufficient time to consider pre-contract information before contracting with them
- making it difficult for customers to cancel the agreement
- failing to provide refunds within a reasonable time or at all
- poor complaint handling

## CASE STUDY 2 – UPFRONT FEES TAKEN WITHOUT AUTHORITY

We were receiving an increasing number of complaints about a CMC making outbound sales calls and taking up-front payments over the telephone. Consumers were told that they had a £4,000 settlement waiting to be claimed, and had been asked to provide credit card details to verify their identity. Payments were then taken without their authority and they were also pressured into signing documentation electronically without having time to read it. We found the CMC in breach of numerous rules and imposed a financial penalty of over £565,000 and varied their authorisation.

18. We actively monitor developments in other financial claim areas and have audited CMCs helping customers make complaints about their packaged bank accounts (PBAs) during the year. In response to common breaches we were finding, we published a special PBA claim bulletin in July 2015 to highlight issues to CMCs. During the year we have also noted interest in other financial claims areas such as mis-sold investments, pensions and payday loans. Where we identify such emerging activity and any associated issues, we conduct thematic work to identify concerns and plan audits in order to address any misconduct.

### Personal injury claims

19. Authorised CMCs in this sector have more than halved from 1,900 when the referral fee ban was implemented to 868. CMCs often surrender their authorisation prior to or shortly after an audit taking place. We have taken enforcement action against three CMCs responsible for millions of nuisance calls that encouraged consumers to make claims about noise induced hearing loss

(NIHL). Consumers were in receipt of these calls even if they had never previously worked in an environment where NIHL may have occurred. Two of these CMCs were issued with financial penalties and the third has had its authorisation cancelled. As a result of this action, nuisance calls about NIHL have been significantly reduced.

PERSONAL INJURY SECTOR	2015/16	2014/15	2013/14
Audits conducted	165	116	58
Investigations commenced	1	4	1
Warnings issued	53	229	99
Visits conducted	1,042	121	845

20. We have also been targeting CMCs operating call centres identified as misleading consumers and encouraging them to make a personal injury claim even though they have not been injured in an accident. Information provided by consumers suggest that in such cases they are typically pressured and told that money has already been set aside for them to claim.

### CASE STUDY 3 – PRESSURED INTO MAKING A PERSONAL INJURY CLAIM

We obtained a court warrant which we executed at premises where a CMC operated a call centre. Complaints and reports we received suggested that consumers were told that thousands of pounds had been set aside waiting to be claimed following an accident they had. They used high pressure selling techniques to encourage the consumer to agree to make a claim and gave them details of the symptoms they should be suffering and claiming for. Under the warrant we were able to seize documentation used by staff during calls and this formed evidence we used to cancel the CMCs authorisation.

21. We also continue to identify suspected fraudulent and other criminal activity through intelligence provided to us and/or during audits. Where we find this, we refer matters to the relevant partner law enforcement agencies to consider investigating further. We continue to work closely with them to provide

intelligence, evidence and support as required. In one particular case we assisted Derbyshire Constabulary who brought fraud charges against an individual who had been providing claims management services without authorisation. Officers also provided evidence in a criminal trial at Bradford Crown Court in respect of insurance fraud and money laundering.

22. We actively engage and work with the following national organisations:

- City of London Police’s Insurance Fraud Enforcement Department
- Insurance Fraud Bureau
- Government Agency Intelligence Network
- National Crime Agency (Civil Recovery Team)
- Solicitors Regulation Authority
- HM Revenue and Customs
- Information Commissioner’s Office

23. Additionally, we work closely with regional police forces on individual operations and during the year have provided statements in respect to prosecutions brought by:

- South Wales Police
- Kent Police
- North Yorkshire and Northumbria Police
- West Midlands Police

## Unauthorised activity

24. The number of reports of unauthorised activity we receive increased last year to an average of 125 each month, as we improved intelligence collection and detection. Many reports have insufficient information for us to progress or will be about businesses not providing unauthorised activity (the business may in fact be authorised, exempt or a business providing non-regulated services). Following assessment, in the less serious cases we have taken non-statutory action in more than 400 cases, including working with Internet Service Providers to have websites disabled and warning unauthorised businesses.
25. Where businesses have ignored warnings, and where the activity is serious or there are aggravating factors (for example if the business was previously authorised but surrendered their authorisation and continued) we have commenced investigations. As well as assessing incoming reports, we have visited premises of hundreds of surrendered and cancelled businesses to determine whether they are continuing to provide claims services. During audit visits we often identify unauthorised introducers referring leads to authorised CMCs, and where we find this we take action against both businesses.
26. In May 2015 we successfully prosecuted a business that had provided regulated claims management services without authorisation with Compensation Act offences. The case was heard at Stafford Magistrates Court and the business was issued with a fine of £2,500 and ordered to pay costs amounting to £1,900. Several other cases are underway and being progressed to prosecution.
27. We have executed several warrants this year, entering premises with the support of local police and seizing documents and equipment which we believe contain evidence of unauthorised activity. The premises we have executed warrants against range from large call centres to residential addresses. We have conducted a number of Police and Criminal Evidence Act 1984 (PACE) interviews of individuals suspected to have been involved in unauthorised activity, both following execution of warrants and upon obtaining evidence by other means and inviting the individual to be interviewed.

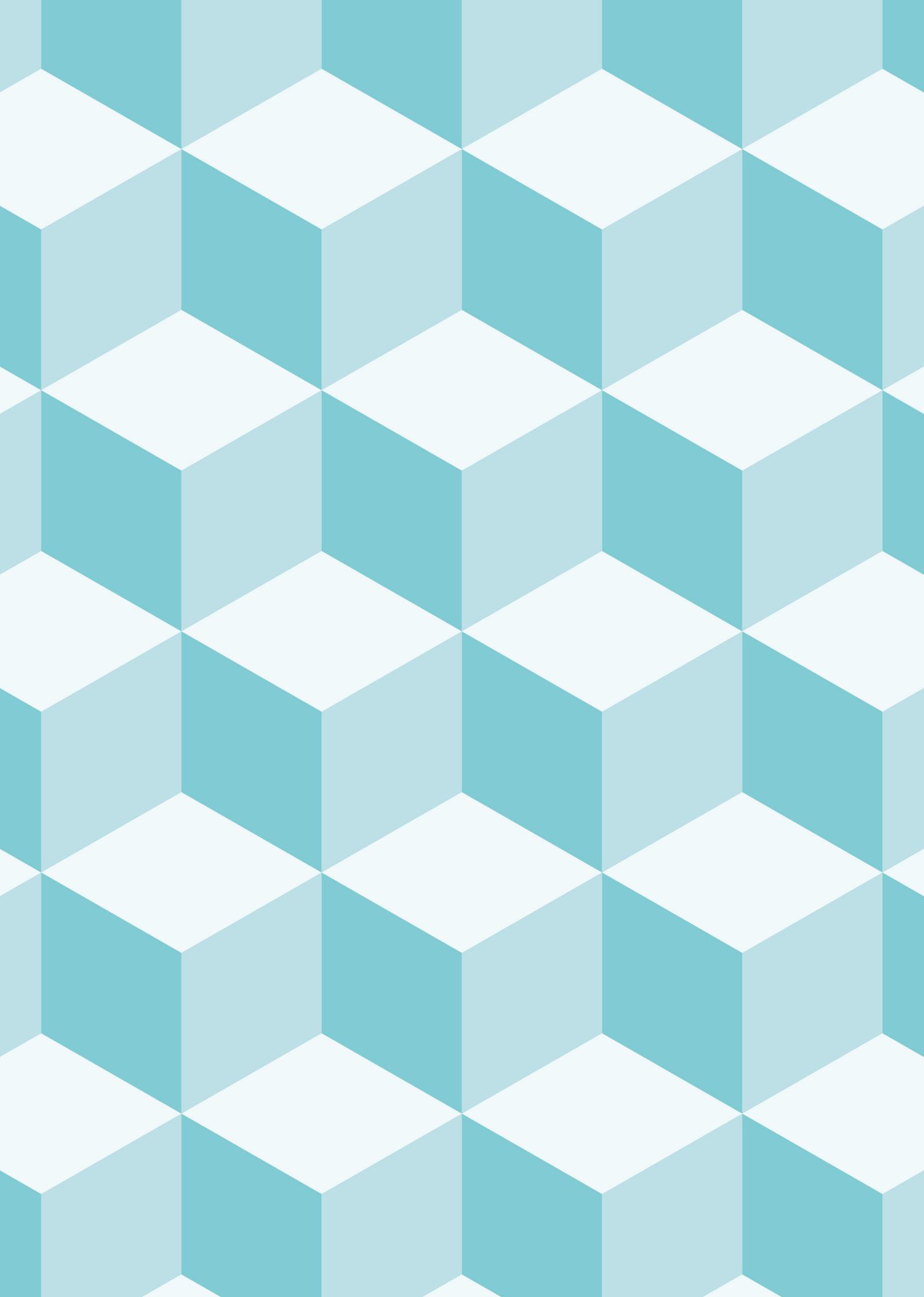
## CASE STUDY 4 – UNAUTHORISED TRADING

We were contacted by an authorised CMC who had received calls from upset consumers who had been contacted by a business using a very similar name to them and had taken £550 from them to investigate a mis-sold PPI claim. These consumers had been not heard anything further from the business and in most cases received no paperwork. We commenced an investigation and were able to identify the premises that the business was operating from and that they were not authorised. With the assistance of the local Police and Trading Standards a warrant was executed and documentation and computers were seized. A criminal investigation is ongoing into Compensation Act offences and conspiracy to defraud by five individuals operating the sham business.

28. We have established a close working relationship with a number of trading standard services in South Wales, particularly Swansea. We have worked with them to successfully disrupt and tackle individuals and businesses operating PPI or personal injury call centres in the area without authorisation. We have worked together to take action under the Compensation Act as well as consumer protection legislation which local trading standards enforce. We have worked with trading standards on unannounced visits, and on the warrant executions and also jointly interviewed suspects under PACE procedures.
29. We can encounter challenges in identifying those responsible for unauthorised activity, particularly marketing by telephone, due to progressive advancements in technology and the fact that some of this activity originates from overseas. Where it is difficult to identify or challenge the source due to its location, we will closely monitor other market activity and try to find out which authorised CMCs are receiving these leads and take appropriate action against them.

## Tribunal appeals

30. Decisions taken by the Claims Management Regulator to refuse an application, to impose a financial penalty, to vary the conditions, suspend or cancel a CMC's authorisation can be appealed. During 2015/2016 three appeals were made to the First-Tier Tribunal. All of the appeals are in respect of a statutory decision taken by the Claims Management Regulator under Regulation 48 to require the CMCs to pay a financial penalty.



# *Funding regulation*

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## Costs and income

1. The CMR Unit is self-financed, with costs met by regulated CMCs paying application and authorisation fees. The fees are set in advance of the financial year they apply to and based on estimates of the number of CMCs trading, the level of turnover forecast, and the number expected to apply for authorisation offset by the number of estimated market exits.
2. Fees for the 2015/16 regulation year were increased significantly in response to the potential decline of the industry which was forecast following the introduction of reforms such as the referral fee ban. Any such decline in the market would not be accompanied by a corresponding reduction in the levels of non-compliance, and CMR Unit resources would need to be maintained and increased to meet ongoing and new challenges of policing the industry. Full costs recovery was achieved in 2015/16.

## COSTS AND FEE RECEIPTS SUMMARY 2015/16

£million

<b>Costs</b>	
CMR Unit	6.7
<b>Fees income</b>	
Application fees	0.4
Annual regulation fees	6.3
<b>Total</b>	<b>6.7</b>

## Determining fee levels

3. The consultation paper published on 10 November 2015 set out the CMR Unit's proposals for the levels of regulation fees to be paid by CMCs for authorisation for the 2016/17 regulatory year, with a recommendation that fee levels should remain unchanged.
4. The proposed fee levels are designed to fully recover the costs of operating the regulatory regime and remain sufficient to support the necessary enforcement and compliance programmes, and build on the ongoing work to maintain and improve regulation. Having considered responses to consultation and all of the factors that contribute to the current and future size of the industry, and in particular taking into account the general stabilisation of the market, we decided that fee levels should remain unchanged for 2016/17 in a response to consultation paper published on 4 February 2016<sup>7</sup>. The fee levels for 2016/17 are:
  - The application fee will remain at £2,000
  - The annual regulation fee pay scales for CMCs with turnovers under £88,889 will remain unchanged
  - The percentages of annual turnover levied on CMCs with turnovers over the flat fee threshold of £88,889 will remain at 0.90% of annual turnover up to £1 million; 0.80% of annual turnover up to £5 million; and 0.75% of annual turnover over £5 million
  - The fees caps for both annual regulation and the financial products and services uplift will remain at £150,000
  - The existing financial products and services uplift levied on annual turnover from regulated activities in that sector will remain at 0.145%.

<sup>7</sup> <https://www.gov.uk/government/consultations/regulation-fees-paid-by-claims-management-companies-2016-to-2017>

*Communications and  
partnerships*

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07

# “We responded to over 300 media enquiries relating to claims management stories this year.”

## Communications

1. We adopt an open and proactive approach to engagement with media and stakeholders to promote understanding and better represent and explain the CMR Unit’s activities and position. We aim to publicise our work widely to ensure we maximise the deterrent effect of our interventions and to inform, assist and exchange views with the wide variety of businesses, consumers and stakeholders with an interest in our work.
2. During 2015/16 we published 6 press notices, updating the media on our decisions and activities, as well as consultations, reports, and guidance notes, articulating the aims, role and achievements of the regulatory regime. We also issue regular online bulletins for CMCs, providing specialist advice and guidance on a range of issues, covering topics such as mis-sold packaged bank accounts and transferring/ending client relationships.
3. In the course of the year our contact centre dealt with over 13,000 telephone and written contacts from businesses, organisations, and members of the public and 19 letters from Parliamentarians. A range of subjects were covered – most commonly the poor practices of some CMCs operating in the financial claims sector, unsolicited calls and texts marketing claims services, and fraudulent personal injury claims.
4. We are proactive in working with organisations that represent CMCs, consumers, defendants and other interested parties. We listen to and act on their feedback in a number of ways to ensure that their expertise helps us to fine tune the way we work.
5. Eversheds Complaints Handling Workshop (June 2015)
6. Westminster Legal Policy Forum: The Future of the Claims Management Sector – Regulation Standards and Growth (June 2015)
7. Insurance Times Fraud Charter (various meetings)
8. Ethical Marketing Charter Roundtable (October 2015)
6. Feedback from these events has confirmed that our stakeholders welcome the opportunity to ask questions and hear at first-hand how we are performing. This includes highlighting where we need to do more and our plans for meeting the changing needs of the market as new business practices emerge, consumer expectations increase and compliance problems evolve.

## Consultative groups

7. We have a number of consultative forums for businesses, individuals, and representative bodies which meet regularly to deal with a wide range of strategic and operational issues. These forums continue to enable us to gauge stakeholders’ perceptions of CMR and track improvements over time. This insight is also helping to inform our future engagement work and assist us with our day-to-day work.
8. We have regular and constructive liaison meetings with a number of organisations which help to facilitate the exchange of intelligence on CMC activities and support the action we are taking on priority areas of concern. These include the ICO, Ofcom, Financial Ombudsman, FCA, British Bankers Association, Professional Financial Claims Association, LeO, Solicitors Regulation Authority, Insurance Fraud Bureau, Citizens Advice and other interested organisations. We have continued to build on these relationships to help tackle problematic CMC practices, and where appropriate, assist some stakeholders, particularly in the financial services industry with managing their relationship with CMCs.

## Working with other organisations

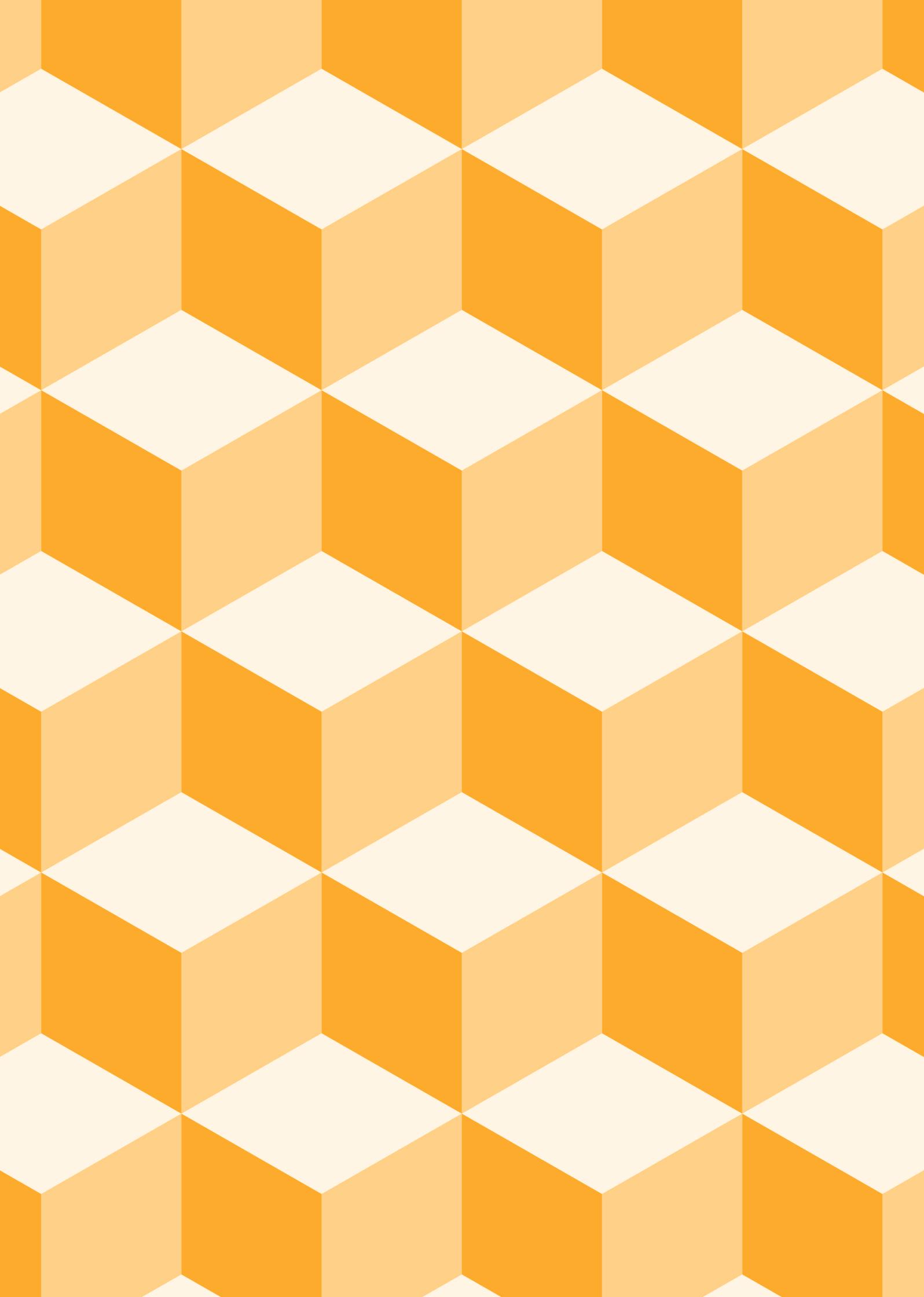
### Stakeholder events

5. Over the past year, we have hosted workshops for CMCs, and attended and given presentations at a number of seminars and conferences for stakeholders. These included:
  - Modern Claims Conference (May 2015)
  - Weightmans LLP Casualty Forum (May 2015)

9. The majority of our stakeholders are members of our Regulatory Consultative Group (RCG), a group established from the beginning of claims management regulation to ensure effective involvement of interested parties in the development and operation of the regime, which continues to meet regularly to review progress. A full list of RCG members is set out in Annex B. During 2015/16 we also attended several working groups, including cross government/industry round-tables led by the Department for Culture, Media and Sport (DCMS) on nuisance calls, an Insurance Fraud Taskforce, FCA Coordination Committee, and a quarterly Lenders Forum.
  - ‘Record £570,000 fine issued against claims firm’ (15 October 2015)
  - ‘Clampdown on rogue claims management companies’ (2 October 2015)
  - ‘First fine issued against rogue claims management company’ (5 August 2015)
14. These announcements were made to reinforce the CMR’s communication objectives for the year which included:
  - Communicating the new enforcement powers of the regulator to impose financial penalties on CMCs that break the rules
  - Making clear that the CMR Unit has a zero tolerance to CMCs who break the rules
  - Ensuring consumers know they can pursue claims without using a CMC
  - Raising consumer awareness about the changing landscape of the claims management industry
  - Raising awareness of new and proposed regulations
  - Supporting the DCMS messaging around the reform to unsolicited calls rules.

## Media stories and coverage

10. 2015/16 saw significant media interest in the claims management industry, with considerable coverage across several outlets, ranging from national broadcast media, including BBC Radio 4, World At One and BBC Radio 5 Live, to national press and more specialist interest in trade magazines and online.
11. Stories of mis-sold PPI claims, unsolicited marketing calls and fraudulent personal injury claims continue to dominate claims management related coverage in 2015/16. Throughout the year there was also notable media interest in enforcement action against rogue CMCs taken by the CMR and our regulatory partners such as the ICO and Ofcom.
12. A concerted effort by the MoJ External Communications team to promote the CMR’s work on clamping down on CMC malpractice – including the new power to impose financial penalties on firms that breached the rules – resulted in substantial and widespread positive coverage for the regulator during 2015/16, in national print (e.g. Daily Mail, Independent, Guardian) and broadcast media (e.g. LBC and BBC Radio 5 Live).
13. The External Communications team also worked closely with their counterparts in LeO and the ICO on stories that include data farm raids, financial penalties and the latest regulatory reforms. A number of proactive announcements were also made to ensure the CMR Unit is understood and featured positively on the media. Announcements included:
  - ‘Clampdown on high claims management fees’ (15 February 2016)
  - ‘Licence stripped from company that made 40 million nuisance calls’ (12 January 2016)
  - ‘Company fined £850,000 for millions of nuisance calls’ (2 December 2015)
15. The External Communications team responded to over 300 media enquiries relating to claims management stories this year and often provided background briefings to guide media outlets about any enforcement action, while also taking necessary steps to ensure ongoing investigations are not compromised. This led to accurate coverage, which highlights the work we are doing while maintaining absolute discretion around ongoing investigations.
16. Examples of positive media coverage:
  - Post Online (April 2016) – ‘Fraud Focus: Clampdown on CMCs’
  - The Telegraph (February 2016) – ‘PPI claims firms face crackdown on fees’
  - City A.M (February 2016) – ‘PPI claims: Ministry of Justice clamps down on claims management companies responsible for pesky PPI calls’
  - BBC news (January 2016) – ‘PPI firm that made 40 million nuisance calls has licence stripped’
  - Daily Mail (December 2015) – ‘Company fined £850,000 for millions of nuisance calls’
  - The Independent (December 2015) – ‘Claims manager fined record £850,000 for nuisance calls’



# *Regulatory reform*

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# “The government and FCA are developing a programme of work to deliver the legislative and organisational changes needed to transfer regulation.”

## Fees cap

1. In the 2015 summer Budget, the Chancellor announced proposals to introduce a cap on the fees that regulated CMCs can charge consumers for financial claims. Following that announcement, we launched a public consultation<sup>8</sup> which ran from 15 February to 11 April 2016 and sets out the proposals. We are considering the evidence received from the consultation.

## Independent review of claims management regulation

2. The government also announced as part of the summer 2015 Budget, an independent and fundamental review of claims management regulation led by Carol Brady, Chair of the Board of the Chartered Trading Standards Institute. The review, which was jointly commissioned by HM Treasury and the Ministry of Justice, examined the nature and extent of misconduct within the claims management industry and the powers and resources required for a strengthened regulatory regime. This specifically covered: regulatory architecture, authorisation, supervision, enforcement, and funding.
3. A wide range of CMR's stakeholders were consulted through a series of roundtables, bilateral meetings and a call for evidence. While concerns were expressed – for example, about CMR's limited resources – the majority of stakeholders had broadly positive views on the CMR's performance in the five areas examined.
4. The outcome of the review<sup>9</sup> was published as part of the March 2016 Budget and the government announced its intention to establish a tougher regulatory regime for CMCs by
  - transferring responsibility for claims management regulation to the Financial Conduct Authority;

- re-authorising all CMCs under a more robust process; and
  - holding managers of CMCs personally accountable for the action of their businesses under a senior manager's regime.
5. The government and FCA are developing a programme of work to deliver the legislative and organisational changes needed to transfer regulation and implement the Review's recommendations, as appropriate. More details will be published in due course.

## Better Regulation Programme

### The Business Impact Target

6. Government has, for a number of years, sought to provide open and transparent reporting against the impacts of new legislation affecting business or voluntary and community bodies. In the last Parliament this operated through One-In, Two-Out – an administrative process that required departments to find £2 of regulatory savings for every £1 of new regulation that imposed costs on business.
7. The Small Business, Enterprise and Employment (SBEE) Act 2015 put this administrative process onto a statutory footing, committing the Government of the day to set and report on performance against a Business Impact Target (BIT). The BIT is a target in respect of the economic impact to business of new regulation that comes into force or ceases to have effect over the course of the Parliament. CMR is in scope of the BIT – and the extension of the BIT under the Enterprise Act 2016 will enable most regulators to contribute to the government's deregulatory target of £10 billion over the current Parliament.

8 <https://www.gov.uk/government/consultations/cutting-costs-for-consumers-in-financial-claims>

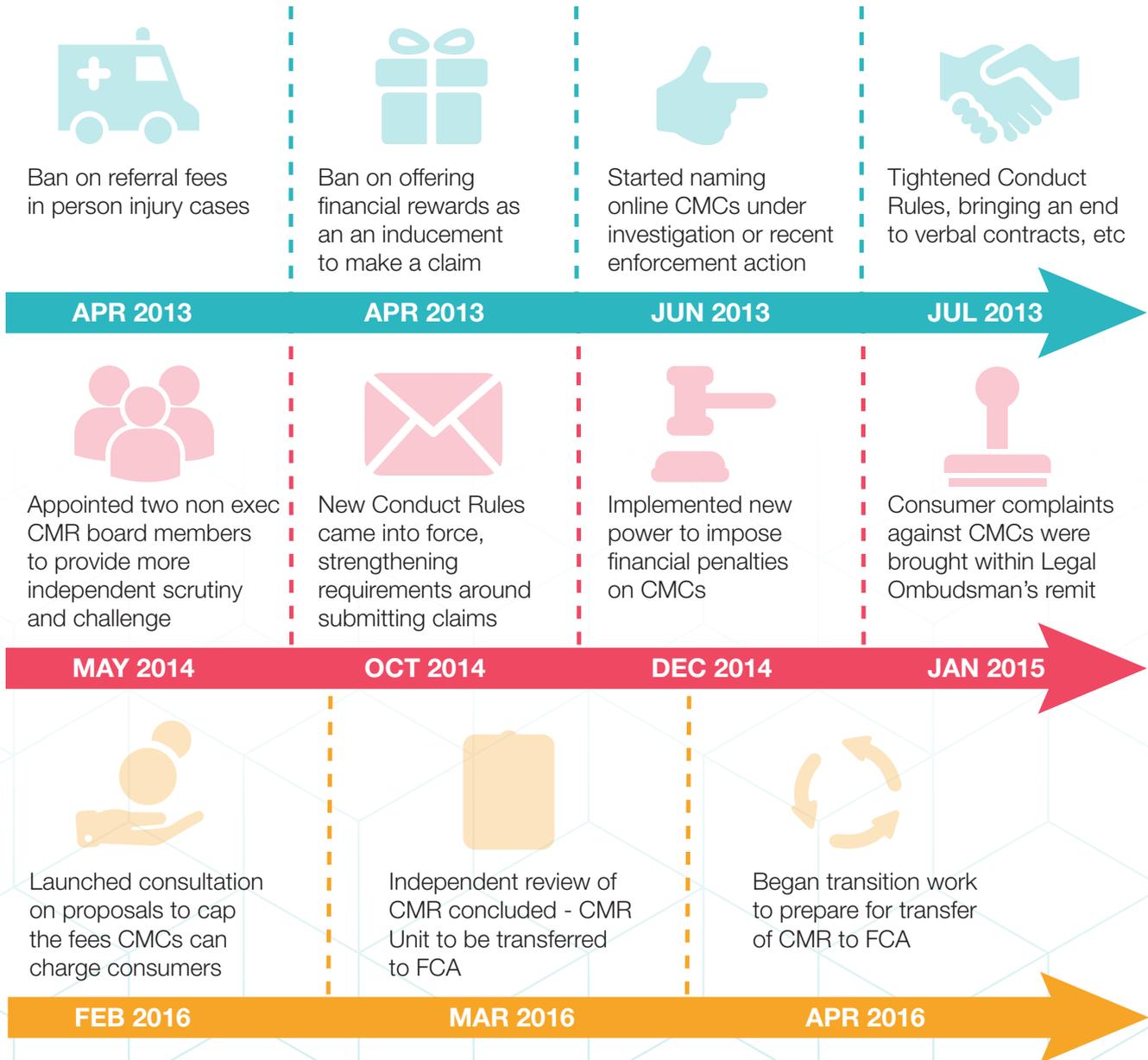
9 <https://www.gov.uk/government/publications/claims-management-regulation-review-final-report>

## The Better Enforcement Programme

8. The BIT sits alongside and supports the Better Enforcement Programme – a suite of statutory measures aimed at supporting regulatory bodies to create a healthier business environment by making regulation more proportionate, transparent, and accountable. CMR is within the scope of these measures, and they comprise of:

- ***The Growth Duty***: A duty in the Deregulation Act 2015 that places a requirement on persons exercising regulatory functions to have regard to the desirability of promoting economic growth. The Growth Duty recognises that those exercising regulatory functions can have an effect on the promotion of economic growth by exercising their functions in a way which ensures that regulatory action is taken only when it is needed, and action taken is proportionate. The Growth Duty is expected to come into force in autumn 2016 and we will take necessary to implement those provisions.
- ***Small Business Appeals Champion***: A duty in the SBEE Act 2015 that requires Ministers to appoint reviewers (to be known as Small Business Appeals Champions) to review and report on the appeals and complaints processes in respect of the regulatory functions to which the policy applies. This is to support and encourage regulators to ensure that those processes are accessible and fair to businesses. The duty to appoint a Champion is expected to come into force in autumn 2016 and we are making preparations to implement that duty.
- ***The Regulators' Code***: A principles-based framework that supports regulators to design their services and procedures that guide their regulatory activity, in a way that suits the needs of business. The Code was implemented in 2014. Examples of how we comply and meet the principles of the Code are set out at Annex C.

# CMR Reform Timeline



*Compliance priorities  
for 2016/17*

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We conduct an intelligence led strategic assessment of the claims management market each year which informs our annual compliance priorities. This exercise identified the same compliance priorities for 2016/17 although likely reforms in the coming year mean the focus within each of the priorities will shift slightly. Our priorities for 2016/17 are as follows:

## Nuisance calls and texts

*Working with partners to identify and tackle non-compliant marketing*

- Work to ensure CMCs in the data supply chain conduct sufficient due diligence to ensure that data they, or their agents use, has been obtained legally and compliantly. This includes those introducing the data are also authorised or are not required to be and that the consumer has appropriately consented to receive the call regarding claims management services.
- Robustly respond to any changes and increases in non-compliant marketing as a result of any significant reforms announced and/or implemented during 2016/17.
- Continue to work closely with stakeholders and lead regulators in the area to contribute to the cross-government response to the nuisance calls issue and identify sources of unsolicited marketing and/or CMCs receiving leads from these sources.

## Financial claims

*Managing the impacts of significant regulatory reform*

- Continue to insist CMCs do sufficient customer fact finds before submitting enquiries and gather sufficient information to present a specific and non-generic complaint to the relevant financial services provider.
- Respond to and proportionately deal with any misconduct arising from any relevant reforms of the sector following announcement and implementation.
- Maintain an overview of the financial claims sector to address any emerging issues in the PPI sector as well as PBA and any growth claim areas in the sector.

## Personal injury claims

*The ban on referral fees and support partners to combat fraud*

- Monitor the sector to ensure that any arrangements fully comply with the referral fee ban and take enforcement action where appropriate.
- Identify CMCs marketing by telephone and ensure that sales staff are honest, not misleading and do not place pressure upon consumers to make a claim where they do not want to.
- Continue to work closely with fellow regulators and law enforcement agencies to combat fraud being committed in the personal injury sector.

## Unauthorised activity

*Tackle with targeted enforcement action*

- Use intelligence to identify and deal with call centres calling consumers and conducting claims management services without authorisation.
- Tackle other unauthorised activity and identify priority targets, working with partner agencies where appropriate, on a risk assessed basis.

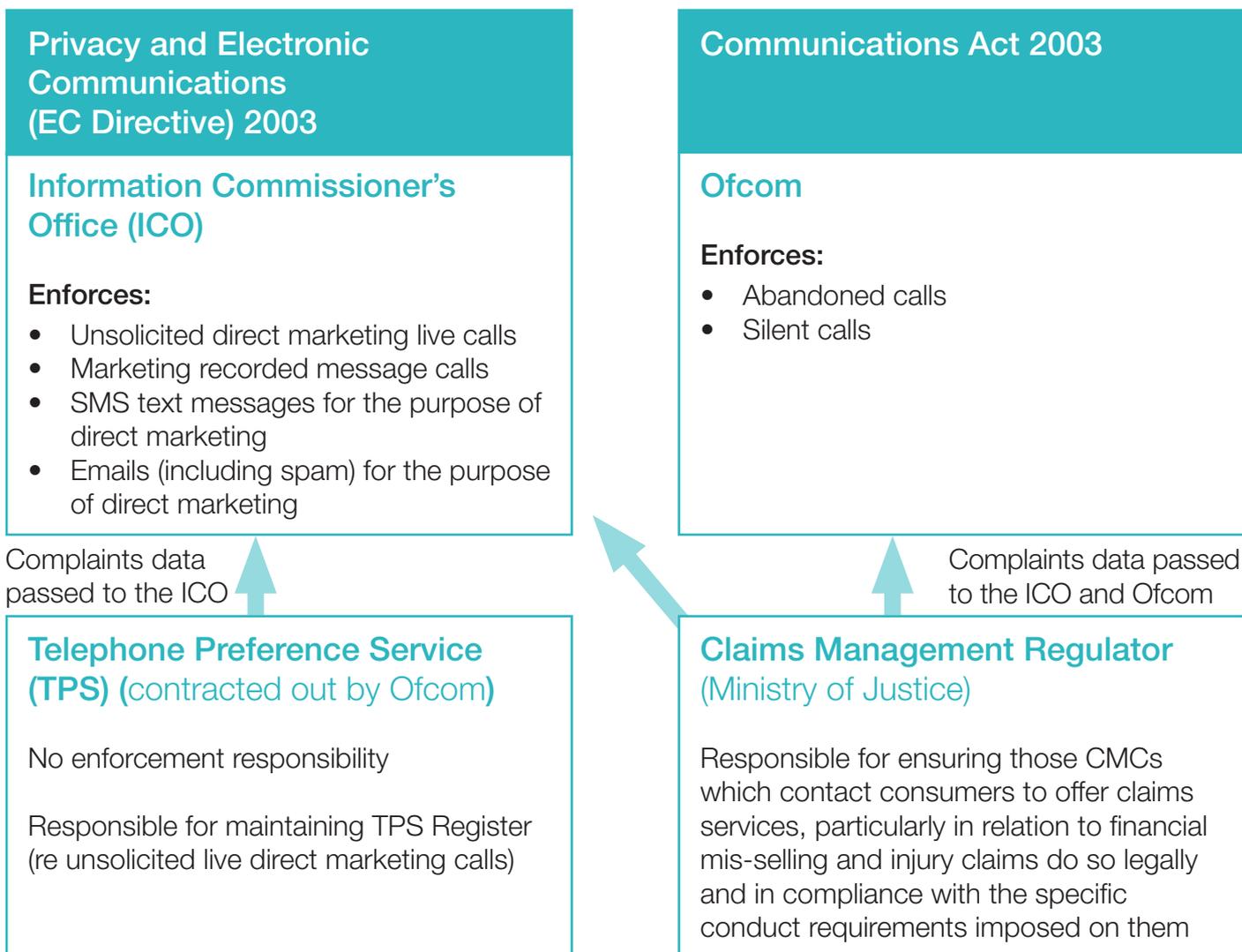
# *Glossary*

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- BBA** – British Bankers Association
- CMC** – Claims management company
- CMR** – Claims Management Regulation
- DCMS** – Department for Culture, Media and Sport
- HMT** – Her Majesty’s Treasury
- FCA** – Financial Conduct Authority
- ICO** – Information Commissioner’s Office
- IFB** – Insurance Fraud Bureau
- IFT** – Insurance Fraud Taskforce
- LeO** – Legal Ombudsman
- MoJ** – Ministry of Justice
- PFCA** – Professional Financial Claims Association
- RCG** – Regulatory Consultative Group
- SRA** – Solicitors Regulation Authority
- TPS** – Telephone Preference Service

# Annex A

## Diagram of how nuisance calls and texts are regulated



### What is allowed?

**Live calls** – Unless a consumer has signed up to the TPS there is nothing to prevent a company making a marketing call to them. Once on TPS consumers can only be phoned if they have provided consent. This consent can be given inadvertently, e.g. by not unchecking a box when making a purchase online. If a consumer asks not to be phoned again by a company then they should not be.

**Recorded calls** – All calls, whether made from UK or by UK companies operating outside the UK, require consumer consent.

**Texts** – Consumers need to have consented to receive text messages, unless the consumer has an existing relationship with the company who may then advertise additional products to them via text. This only covers personal numbers, not business numbers.

**Emails** – As with texts, consumers need to have consented for emails to be sent, unless the consumer has an existing relationship with the company who may then advertise additional products to them via email. Again this covers only personal addresses, not business addresses.

# Annex B

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## Claims Management Regulatory Consultative Group – 2015/16

Advisory, Conciliation and Arbitration Service (ACAS)

[www.acas.org.uk](http://www.acas.org.uk)

Advertising Standards Authority (ASA)

[www.asa.org.uk](http://www.asa.org.uk)

Association of British Insurers (ABI)

[www.abi.org.uk](http://www.abi.org.uk)

Association of Mortgage Intermediaries (AMI)

[www.a-m-i.org.uk](http://www.a-m-i.org.uk)

Association of Personal Injury Lawyers (APIL)

[www.apil.org.uk](http://www.apil.org.uk)

Association of Professional Financial Advisors (APFA)

[www.apfa.net](http://www.apfa.net)

Association of Regulated Claims Management Companies

[www.arcmc.org.uk](http://www.arcmc.org.uk)

British Bankers Association (BBA)

[www.bba.org.uk](http://www.bba.org.uk)

British Insurance Brokers Association (BIBA)

[www.biba.org.uk](http://www.biba.org.uk)

Building Societies Association (BSA)

[www.bsa.org.uk](http://www.bsa.org.uk)

Citizens Advice Bureau (CAB)

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Council of Mortgage Lenders (CML)

[www.cml.org.uk](http://www.cml.org.uk)

Direct Marketing Association Ltd (DMA)

[www.dma.org.uk](http://www.dma.org.uk)

Employment Appeal Tribunal

[www.employmentappeals.gov.uk](http://www.employmentappeals.gov.uk)

Financial and Leasing Association (FLA)

[www.fla.org.uk](http://www.fla.org.uk)

Financial Conduct Authority (FCA)

[www.fca.org.uk](http://www.fca.org.uk)

Financial Ombudsman Service (FOS)

[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

Financial Services Compensation Scheme (FSCS)

[www.fscs.org.uk](http://www.fscs.org.uk)

Law Society

[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

Legal Ombudsman (LeO)

[www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Motor Accident Solicitors Society (MASS)

[www.mass.org.uk](http://www.mass.org.uk)

Ofcom

[www.ofcom.org.uk](http://www.ofcom.org.uk)

Professional Financial Claims Association (PFCA)

[www.pfca.org.uk](http://www.pfca.org.uk)

Solicitors Regulation Authority (SRA)

[www.sra.org.uk](http://www.sra.org.uk)

UK Cards Association

[www.theukcardsassociation.org.uk](http://www.theukcardsassociation.org.uk)

Trade Union Congress (TUC)

[www.tuc.org.uk](http://www.tuc.org.uk)

# Annex C

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## The Regulators' Code

The Regulators' Code covers six areas of regulation, which are set out below with examples of how CMR meets these principles.

### **Regulators should carry out their activities in a way that supports those they regulate to comply and grow**

CMR supports this principle by:

- providing clear, brief and accessible guidance to businesses on CMR website on all key areas of regulation
- free compliance reviews of paperwork/contracts of regulated businesses allowing compliant businesses to operate and grow
- pre populate renewal forms, so that businesses only have to inform us of changes - minimising information requested from business
- give advice via an advice line provided at a 'local rate' charge
- carrying out joint audits (e.g. with the ICO – meaning one visit, not two) where possible
- collecting annual fees on behalf of LeO – business only deals in one organisation
- reduced application processing times

### **Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views**

CMR supports this principle by:

- holding regular meetings with regulated businesses representatives as part of the Regulatory Consultative Group
- carrying out formal consultation exercises on changes to procedures, regulation fees, and content of the regulatory rules
- maintaining an effective website, with clear relevant updated information for business

- offering relationship management for nominated businesses
- providing direct telephone contact numbers of officers to deal with issues
- providing nominated officers for each application (one on one)
- providing regular quarterly and special electronic business bulletins
- conduct new applicant interviews by telephone as well as in person

### **Regulators should base their regulatory activities on risk**

CMR supports this principle by:

- adopting a risk based assessment for applications to determine whether an inspection is required
- providing clear details of enforcement policy as a framework for determination of compliance
- applying the UK National Intelligence Model, to determine the cases of highest risk, and appropriate response
- bringing non-compliant businesses back to compliance, taking action against those who present greatest risk

### **Regulators should share information about compliance and risk**

CMR supports this principle by:

- exchanging information with other regulators, government departments, and law enforcement bodies where agreed/allowed
- the renewal process where businesses can review their data, and update anything that has changed
- providing regular quarterly electronic business bulletins

**Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply**

CMR supports this principle by:

- publicising enforcement policy/process and undertaking consultations on substantive changes
- maintaining stakeholder consultative groups
- give advice via a dedicated advice line provided at a 'local rate' charge
- providing regular quarterly electronic business bulletins
- attending regulated business conferences
- hosting workshops for new businesses to provide information and advice about common compliance issues

**Regulators should ensure that their approach to their regulatory activities is transparent**

CMR supports this principle by:

- providing guidance on the application process, and the required standards and decisions
- advice on how decisions on compliance and enforcement are reached
- publishing details of action taken and investigations together with the outcome of appeals
- providing regular quarterly electronic business bulletins.

# *Contact Information*

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**Website:** [www.gov.uk/moj/cmr](http://www.gov.uk/moj/cmr)

