

If your money is managed by Hargreave Hale Limited trading as CGWM then read on.

## **COMPLAINTS HANDLING PROCEDURE – June 2016**

### **Background**

*Hargreave Hale appreciates any feedback from customers on the services and products provided. Where this feedback is negative it may be considered to be a complaint. The company requires that all complaints are reported and logged internally so that they may be used to improve the services offered by Hargreave Hale.*

*For the purpose of these procedures, in line with the criteria set by the FCA, a complaint is considered to be any expression of dissatisfaction either oral or written, justified or not, which is about the firm's provision of, or failure to provide, a financial services activity.*

*Our intention is to resolve complaints amicably and promptly and ensure that clients are treated fairly at all times.*

*Where the client is not satisfied with the outcome of a complaint they may refer the matter to the Financial Ombudsman Service free of charge ([www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)). This must be done within 6 months of us issuing our final response to the complaint.*

### **Firm-wide Responsibilities**

All staff, representatives, and directors should be aware that if they receive any complaint from any external source they should report it to their Manager or Director **and** the Compliance Director, who should record it on the appropriate log.

The report should be in writing and include the nature of the complaint, identify the complainant concerned and the date the complaint was received.

### **Complaint Handler**

All complaints should be handled by someone independent of the person about whom the complaint is made, although this does not prevent such a person being involved in resolving the complaint, where the handler consents to their involvement. The Complaint handler will be responsible for ensuring that the complaint is handled in accordance with these procedures, and that records of all contact with the client and all records used in the investigation are retained before being handed to the Compliance Director for storage.

Where the complaint is made against a member of staff, the handler will be the Department or Branch Manager. Where the complaint is made against a Manager the handler will be the responsible Director, and where the complaint is made against a Director the handler will be either the Joint Managing Directors or the Compliance Director.

Where the complaint is of such a serious nature, and subject to approval by one of the Joint Managing Directors, the Compliance Director may assume responsibility for handling the complaint at any time. Irrespective of the severity of the complaint, where the complaint remains unresolved 5 weeks after receipt, the Compliance Director reserves the right to become the handler.

Clients should be aware that where they are dissatisfied with our response, they may refer the matter to the **Financial Ombudsman Service** ([www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)), subject to them being eligible for this service.

### **Investigation**

Upon notification of a complaint, the handler should investigate the complaint competently, diligently, and impartially. They should promptly take the steps necessary to determine the basis of the complaint and determine whether the complaint should be upheld or rejected either in full or partially. This may involve contacting the client to obtain additional information.

In performing this investigation, the handler should consider, where relevant; FCA requirements, the firms published terms and conditions, industry practice, information previously provided to the customer, other similar complaints and customer expectations.

Where the complaint is upheld, the handler should consider appropriate remedial action or redress. Where appropriate this may be an apology or an amount of compensation due to the complainant. Where relevant the amount of compensation should be fair and should reflect any acts or omissions for which we were responsible and any loss incurred by the client as well as consideration for any inconvenience or distress.

After determining the outcome of the investigation the handler should communicate with the client, on the basis set out below and explain the decision to the client in a way that is fair, clear and not misleading.

## Record Keeping and Reporting

The handler performing the investigation should keep copies of all correspondence, including letters, faxes and e-mails, and a record of any telephone conversations relating to the complaint.

On the earlier of the dates set out below, copies of all the above should be forwarded to the Compliance Director:

1. Date the final response is issued, or
2. 8 weeks following the receipt of the complaint.

## Compliance Director Responsibilities

The Compliance Director will be responsible for:

- Retaining the records and reporting complaints in accordance with the rules of the FCA.
- Reviewing compliance with the above procedures and reporting to the Executive Committee.
- Reporting to the Board and the Joint Managing Directors on a regular basis on the number and nature of complaints received and on the progress made in resolving the complaints.
- Reporting complaints on to any other firm where appropriate.

## Procedures and Time Limits For Dealing with a Complaint

1. Staff must report any complaint to both their Manager and the Compliance Director as soon as practically possible after receipt. The report must be in writing.
2. The complaint handler should determine whether or not the complaint falls within the remit of FCA rules. The complaint will fall within the FCA rules if it is from an **eligible complainant** (see below) and either alleges **material distress**, or **material inconvenience** or a **financial loss (of any amount)**. The complaint does not need to be justified and can be made by another person on behalf of our client.
3. Complaints that do fall within the remit of FCA rules can be handled in two ways depending on the time taken to resolve the issue. Where the complaint is resolved within three business days from the day of receipt it is a **'Summary Complaint'**, where this is not the case it will be a **'Full Complaint'**.
4. The handler should contact the complainant as soon as practically possible, after reviewing the facts, to determine if the complaint can be resolved. A complaint is only considered "resolved" where the complainant has agreed to accept our response. This agreement does not need to be in writing, but it does need to be a positive confirmation. It is not sufficient for us to issue a response and assume that the complainant accepts it.
5. **Summary Complaints** - Where the complaint is resolved by the end of the third business day following receipt, the handler should issue a **'Summary Resolution Document'** to the client using the firm's standard template. The handler should then contact the Compliance Director to confirm that the issue has been resolved and provide copies of correspondence. No further action is required.

### 6. Full Complaints:

- a. **Acknowledgement Letter/Email\*** - The handler should write to the complainant promptly (i.e. within **5 days** of the complaint being received by the firm) to acknowledge receipt of the complaint. A copy of the acknowledgement template should be used in which the handler should identify themselves as the person who is handling the complaint.

A copy of this Complaints Procedure should be included with this letter or attached to the email\*.

- b. **8 Week Letter/Email\*** - Where the complaint remains unresolved **8 weeks** after original receipt, a second letter or email\* should be sent by the handler. If the complaint is resolved within 8 weeks, this letter/email\* does not need to be sent. This letter/email\* should explain the reason for the delay and inform the complainant when we will next contact them.

This letter/email\* should also inform the client that he may now refer the complaint to the Financial Ombudsman Service.

A copy of the Financial Ombudsman Service standard explanatory leaflet should be included in this letter or attached to the email\*.

- c. **Final Response** - A **'final response'** should be sent when the investigation has been completed. This letter/email\* should be clearly marked **'FINAL RESPONSE'** and should contain:

- the outcome of the investigation,
- a clear explanation as to why the complaint has been upheld or rejected,
- details of any redress or compensation offered,
- where appropriate, an apology, as well as details of measures that will be considered in order to prevent further similar complaints,
- a statement to the complainant that he/she may refer the complaint to the Financial Services Ombudsman within 6 months of the date of this letter/email\*.

A copy of the Financial Ombudsman Service standard explanatory leaflet should be included in this letter or attached to the email (a link to the Ombudsman's website should not be used).

\*email may only be used to communicate with the complainant, in respect of the complaint, where the complainant has previously communicated with us using this method. If the complainant objects to the use of email it should not be used and the postal service should be used instead.

7. For complaints that do not fall within the remit of the FCA rules the handler should liaise with the Compliance Director to discuss how to resolve the matter.

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An eligible complainant must be a person that is:<sup>2,3</sup>

- (1) <sup>4,5</sup>a consumer<sup>4,5</sup>;
- (2) a <sup>4,5</sup>micro-enterprise<sup>4,5</sup>;
  - (a) <sup>4,5</sup>in relation to a complaint relating wholly or partly to payment services, either at the time of the conclusion of the payment service contract or at the time the complainant refers the complaint to the respondent; or
  - (b) otherwise, at the time the complainant refers the complaint to the respondent;
- (3) a charity which has an annual income of less than £1 million at the time the complainant refers the complaint to the respondent; or
- (4) a trustee of a trust which has a net asset value of less than £1 million at the time the complainant refers the complaint to the respondent.

In determining whether an enterprise meets the tests for being a micro-enterprise, account should be taken of the enterprise's 'partner enterprises' or 'linked enterprises' (as those terms are defined in the Micro-enterprise Recommendation). For example, where a parent company holds a majority shareholding in a complainant, if the parent company does not meet the tests for being a micro-enterprise then neither will the complainant.]<sup>2,3</sup>

If there is in doubt about the eligibility of a business, charity or trust, we should treat the complainant as if it were eligible. If the complaint is referred to the Financial Ombudsman Service, the Ombudsman will determine eligibility by reference to appropriate evidence, such as audited accounts or VAT returns.<sup>2,3</sup>

To be an eligible complainant a person must also have a complaint which arises from matters relevant to one or more of the following relationships with the respondent:<sup>2,3</sup>

- (1) the complainant is (or was) a customer or payment service user<sup>4,5</sup> of the respondent;
  - (2) the complainant is (or was) a potential customer or payment service user<sup>4,5</sup> of the respondent;
  - (3) the complainant is the holder, or the beneficial owner, of units in a collective investment scheme and the respondent is the operator or depositary of the scheme;
  - (4) the complainant is a beneficiary of, or has a beneficial interest in, a personal pension scheme or stakeholder pension scheme;
  - (5) the complainant is a person for whose benefit a contract of insurance was taken out or was intended to be taken out with or through the respondent;
  - (6) the complainant is a person on whom the legal right to benefit from a claim against the respondent under a contract of insurance has been devolved by contract, assignment, subrogation or legislation (save the European Community (Rights against Insurers) Regulations 2002);
  - (7) the complainant relied in the course of his business on a cheque guarantee card issued by the respondent;
  - (8) the complainant is the true owner or the person entitled to immediate possession of a cheque or other bill of exchange, or of the funds it represents, collected by the respondent for someone else's account;
  - (9) the complainant is the recipient of a banker's reference given by the respondent;
  - (10) the complainant gave the respondent a guarantee or security for:
    - (a) a mortgage;
    - (b) a loan;
    - (c) an actual or prospective regulated consumer credit agreement;
    - (d) an actual or prospective regulated consumer hire agreement; or
    - (e) any linked transaction as defined in the Consumer Credit Act 1974 (as amended);
  - (11) the complainant is a person about whom information relevant to his financial standing is or was held by the respondent in operating a credit reference agency as defined by section 145(8) of the Consumer Credit Act 1974 (as amended);
  - (12) the complainant is a person:<sup>6,7</sup>
    - (a) from whom the respondent has sought to recover payment under a regulated consumer credit agreement or regulated consumer hire agreement in carrying on debt-collecting as defined by section 145(7) of the Consumer Credit Act (1974) (as amended); or<sup>6,7</sup>
    - (b) in relation to whom the respondent has sought to perform duties, or exercise or enforce rights, on behalf of the creditor or owner, under a regulated consumer credit agreement or regulated consumer hire agreement in carrying on debt administration as defined by section 145(7A) of the Consumer Credit Act (1974) (as amended);<sup>6,7</sup>
  - (13) the complainant is a beneficiary under a trust or estate of which the respondent is trustee or personal representative;<sup>8</sup>
  - (14) (where the respondent is a dormant account fund operator) the complainant is (or was) a customer of a bank or building society which transferred any balance from a dormant account to the respondent.<sup>8</sup>
- 2,3

### Exceptions

<sup>2,3</sup>The following are not eligible complainants:

- (1) (in all jurisdictions) a firm, payment service provider,<sup>4,5</sup>licensee or VJ participant whose complaint relates in any way to an activity which:
  - (a) the firm itself has permission to carry on; or
  - (ab) <sup>4,5</sup>the firm or payment service provider itself is entitled to carry on under the Payment Services Regulations; or
  - (b) the licensee or VJ participant itself conducts; and which is subject to the Compulsory Jurisdiction, the Consumer Credit Jurisdiction or the Voluntary Jurisdiction;
- (2) (in the Compulsory Jurisdiction) a complainant, other than a trustee of a pension scheme trust, who was:
  - (a) a professional client; or
  - (b) an eligible counterparty;in relation to the firm and activity in question at the time of the act or omission which is the subject of the complaint; and
- (3) (in the Consumer Credit Jurisdiction):
  - (a) a body corporate;
  - (b) a partnership consisting of more than three persons;
  - (c) a partnership all of whose members are bodies corporate; or
  - (d) an unincorporated body which consists entirely of bodies corporate.