



# **THE EVOLVING CLAIMS MANAGEMENT SECTOR IN ENGLAND AND WALES**

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The Association of  
Consumer Support  
Organisations (ACSO)

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## A message from the executive director

Reputable and well-governed claims management companies (CMCs) provide access to justice for consumers, many of whom may otherwise be unwilling or unable to make a claim themselves. Moreover, a well-functioning claims management sector serves as a check and balance on the conduct and complaint-handling processes of businesses.<sup>1</sup> In this sense, CMCs not only benefit individual claimants but also the public interest.

The sector has undergone large-scale changes in recent years as a result of regulative and legislative reforms. Historically, the regulatory oversight of the CMC sector was very limited in depth and resources. This changed once the Financial Conduct Authority (FCA) became the regulator of CMCs in 2019.

ACSO has compiled this report to understand better the changes which have happened, and to consider the future evolution of the sector.

Through the ACSO Claims Management Group, we are working with others to ensure there is effective and proportionate regulation of CMCs. Combined with better self-regulation, the identification and adoption of best practice and the eradication of malpractice, this will encourage greater competition, improve efficiencies and deliver better consumer outcomes.

This report will support our ongoing engagement with a wide range of stakeholders operating in or around the CMC sector. We hope it will aid the relevant ongoing work by the Ministry of Justice (MoJ), the FCA and the Financial Ombudsman (FOS), among others.

As ever, we are grateful for the support of our members – and we welcome your feedback.

Matthew Maxwell Scott  
Executive director  
**The Association of Consumer Support  
Organisations (ACSO)**



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<sup>1</sup> Brady, C. [Independent review of claims management regulation](#), March 2016, p.5.

## About ACSO

The Association of Consumer Support Organisations ([ACSO](#)) represents the interests of consumers in the UK's civil justice systems. Its members and partners are organisations from across the legal and insurance sectors who provide the highest standards of service and support to consumers when they need it the most.

ACSO engages positively with government policymakers, regulators and the media to help ensure there is a properly functioning, competitive and effective civil justice system for all.

## Executive summary

CMCs are commercial businesses or individuals which handle certain types of claims on behalf of consumers, such as those relating to financial services and products, personal injury (PI), employment matters, criminal injuries and some types of housing disrepair.<sup>2</sup> Although there is no legal definition for a CMC, the role of claims management companies has been described as follows:

*'Claims managers gather cases either by advertising or direct approach. The claims manager then either acts for the client to pursue a claim or as an intermediary between the claimant and the lawyers who may represent them. Claims managers make money from several sources - referral fees from solicitors, commission on auxiliary services, after-the-event insurance and sometimes from loans to the client.'*<sup>3</sup>

The CMC sector has undergone substantial change over recent years due to government legislation, in particular the 2012 Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), and regulatory reforms such as the responsibilities of the Claims Management Regulator (CMR) being passed to the FCA in 2019.

ACSO has compiled this report with the aim of better understanding the changing nature of CMCs and the claims management sector, as well as the implications upon consumer outcomes and access to justice.

### **Key findings**

- CMCs can play an important role in helping consumers to secure redress, in particular those who may otherwise be unwilling or unable to bring a claim themselves.
- The sector has undergone intense scrutiny over recent years and continues to suffer reputational damage owing to the poor conduct of some CMCs.<sup>4</sup>

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<sup>2</sup> Financial Conduct Authority (FCA), [Using claims management companies](#), 7 March 2019.

<sup>3</sup> Department for Constitutional Affairs, *Regulation of Claims Management Companies Policy Statement*, 02 March 2006, p.4.

<sup>4</sup> FCA, [Portfolio letter: Claims Management Companies \(CMCs\)](#), 26 October 2020.



- Numerous market dynamics have led to a considerable contraction in the number of authorised CMCs, including as a result of the dissolution of the CMR and the more robust regulatory framework introduced by the FCA in its stead. In addition, the impact of LASPO led to a reduction in the size of the PI CMC market as it became an offence for CMCs to pay or receive payment for a referral of PI cases.
- A longstanding charge against lead-generating CMCs is that they commonly engage in ‘cold calling’, where firms make unsolicited phone calls to individuals to sell services. Since amendments to the 2019 Privacy and Electronic Communications Regulation Act were implemented, there has been a considerable fall in the number of nuisance calls and text messages from CMCs, particularly those related to accident management and payment protection insurance (PPI) claims. For example, between 2017 and 2021 there has been an 88 per cent reduction in the number of PPI nuisance call and texts reported to the Information Commissioner’s Office (ICO), from 5,883 to 697.<sup>5</sup> Likewise, the number of accident management nuisance calls and texts has decreased from 25,196 in 2017 to 5,902 in 2021, a reduction of 77 per cent.<sup>6</sup>
- In November 2021, the FCA announced a fee cap of between 15 and 30 per cent for CMC charges related to financial services claims. The Solicitors Regulation Authority (SRA) has announced its intention to follow the FCA’s approach in capping the fees law firms charge for such claims management work.<sup>7</sup> This is expected to reduce further the number of participants in the CMC sector and result in market consolidation.
- The 2018 Civil Liability Act, and the creation of the Official Injury Claim (OIC) portal, had led to concerns it will become a “CMCs’ charter”, which will lead to an increase in poor behaviour from CMCs as firms look to offer services to claimants.<sup>8</sup> Despite the limited availability of data, initial figures from the Motor Insurers Bureau (MIB) found that of the 114,077 claims that were started via the OIC portal since its launch, only 209 (0.1 per cent) were represented by CMCs.<sup>9</sup> Moreover, with the greater oversight of CMCs provided by the FCA, coupled with the substantial contraction of the CMC sector and the reduced levels of general damages offered to consumers, the incidence of any such poor behaviour is likely to be limited.

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<sup>5</sup> Information Commissioner’s Office (ICO), [‘Nuisance calls and messages’](#), June 2021.

<sup>6</sup> *Ibid.*

<sup>7</sup> Solicitors Regulation Authority (SRA), [SRA Board: Implementing permanent fee rules that restrict charges for claims management activities](#), 8 June 2021.

<sup>8</sup> Carpenters Group, [The future of insurance fraud](#), 13 January 2021.

<sup>9</sup> Official Injury Claim, [Claims data: for the period 1 September – 30 November 2021](#), December 2021, p.4-5.

## Claims management companies and consumers

Well governed and effectively regulated CMCs can play an important role in helping consumers to secure redress, not least for those who may otherwise be unable or unwilling to bring a claim themselves. Yet CMCs who have not embraced the FCA regulatory regime present a risk to consumers. As such, the monitoring of inappropriate CMC behaviour is essential, as is the obligation on all parties who identify such behaviour to report this promptly to the FCA.

As recognised by the FCA, a well-functioning CMC market is able to act as a check and balance on the conduct and complaint-handling processes of businesses, all of which serves the public interest.<sup>10</sup> Furthermore, CMCs provide consumers with additional choice as to how to handle their claim; consumers can be either be unrepresented, seek assistance from a McKenzie friend, use a legal representative or have a CMC represent them. For many years, consumers have felt comfortable relying upon the services of CMCs, rather than representing themselves or relying upon the advice of lawyers or third-sector organisations.

However, the sector has faced intense scrutiny in recent times and suffered reputational damage owing to the inappropriate behaviour of some market players. For example, the FCA Supervisory Hub found that some CMCs have:

- brought claims on behalf of consumers who had not properly authorised the CMC to do so. At times, consumers reported they were unaware that a CMC was pursuing claims on their behalf;
- collected fees from the consumer before the consumer had received redress; and
- brought speculative claims to banking and insurance institutions stating products had been mis-sold, accompanied by lists of allegedly affected consumers, but with no further details of the circumstances of the relevant customers or why they were allegedly mis-sold.<sup>11</sup>

Such poor conduct by a number of rogue firms has led to adverse commentary, with Lord Beecham, a Labour shadow justice minister for many years, characterising CMCs as “a parasitic growth in our justice system, seemingly able to pursue potential clients via cold calling and seek disproportionately large fees out of the modest damages recovered”.<sup>12</sup>

Less has been said about the positive role that CMCs can play in securing access to justice for consumers. This is perhaps best reflected in the final report of the independent review of claims management regulation, commissioned by HM Treasury and the MoJ, which stated the overwhelming majority of stakeholders, including the industries which have been hardest hit by CMC misconduct, argued that there is a legitimate need for CMCs and that the government should not seek to regulate them out of existence.<sup>13</sup>

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<sup>10</sup> FCA, [CP21/1: Restricting CMC charges for financial products and services](#), p.17-19.

<sup>11</sup> FCA, Regulatory Consultative Group (RCG) meeting, 25 November 2020.

<sup>12</sup> House of Lords, [Second reading of the Civil Liability Bill](#), 24 April 2018.

<sup>13</sup> Brady, C., [Independent review of claims management regulation](#), March 2016, p.5.

The CMC sector has undergone considerable change, with the implementation of LASPO leading to a reduction in the number of PI CMCs, primarily due to the referral fee ban and reduction in fixed fees. Under the CMR, a former unit of the MoJ, the level of regulation and oversight (and resources available) of CMC activity was relatively low. The FCA's assumption of regulatory responsibility from the CMR saw the introduction of a far more robust and well-resourced regulatory framework. As expected, this has resulted in a substantial decline in the number of authorised CMCs, although it should be noted that this coincided with the conclusion of the period in which PPI claims could be made. As the FCA's authorisation process continues, only reputable firms should remain active in the market, thereby leading to a further reduction in poor behaviour. However, unregulated CMCs, including those that are based outside of the UK, present an ongoing challenge. This is discussed in section 4.

Additional improvements in market behaviour come in the form of the FCA's *Conduct of Business Rules* (CMCOB) and the Senior Managers and Certification Regime (SM&CR).<sup>14,15</sup> The former outlines the obligations that are specific to regulated claims management activities, including that a firm must act honestly, fairly and professionally in accordance with the best interests of its customer.<sup>16</sup> The latter replaces the Approved Persons Regime and aims to strengthen individual accountability in firms regulated by the FCA and raise standards of professionalism, conduct and governance. The FCA's proposals to introduce a new 'Consumer Duty', that would set higher expectations for the standards of care that firms provide to consumers, will apply to CMCs.<sup>17</sup> This duty has the potential, if enforced effectively, to create a shift in culture and behaviour whereby firms consistently focus on consumer outcomes and put customers in a position where they can act and make decisions in their interests.<sup>18</sup>

In addition, the FCA is currently reviewing rules to prohibit the practice of claims management 'phoenixing', which occurs when those connected to a wound-up financial services provider later reappear in connection with a CMC and charges consumers for seeking compensation against their former firm's poor conduct by bringing complaints to the Financial Services Compensation Scheme (FSCS).<sup>19</sup> This is discussed in section 10.

In short, the importance of the role that CMCs can play in ensuring access to justice for many consumers should not be understated. However, the value of CMCs is reliant upon an effective regulatory and supervisory regime, whereby well-documented areas of malpractice associated with the sector, such as cold calling, excessive charging and phoenixing have been addressed.

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<sup>14</sup> FCA, [Claims Management: conduct of business sourcebook](#), April 2019.

<sup>15</sup> FCA, [Senior Management and Certification Regime](#), 26 October 2020.

<sup>16</sup> FCA, [Claims Management: conduct of business sourcebook](#), April 2019, p.10.

<sup>17</sup> FCA, [CP21/12: A new Consumer Duty](#), May 2021.

<sup>18</sup> *Ibid*, p.3.

<sup>19</sup> FCA, [FCA announces plans to stop CMC phoenixing](#), 17 May 2021.

## Size of the claims management sector and its segmentation

In April 2019, regulation of CMCs became the responsibility of the FCA. Previously, annual figures on the size of the CMC sector were published by the CMR. In its final annual report, for 2017/2018, the CMR listed the number of authorised CMCs as 1,238.<sup>20</sup> This followed a long-term decline in this number, which was down from 3,213 in 2011, a fall of 61 per cent. Turnover for the claims management sector in 2018 was reported at £763 million.

The CMR recorded a fall in the number of regulated PI CMCs in 2018, down 16 per cent from the year before, from 752 to 630.<sup>21</sup> In 2018, the PI sector accounted for 25 per cent of the total industry turnover, compared to 2011 when it accounted for nearly two-thirds of industry revenue.<sup>22</sup> This long-term decline resulted from extensive regulatory reforms that impacted the sector, most notably the introduction of LASPO.<sup>23</sup>

The impact of the FCA taking regulatory responsibility for the sector was immediate and saw only 953 CMCs registered for temporary permissions, whereby they were expected to comply with the far higher standards of the FCA.<sup>24</sup> The commencement of the FCA's full application process saw the number of CMC applicants reduce further still to 811; a reduction of a third in just six months.<sup>25</sup>

On 21 February 2022, the FCA revealed that it had received 1,027 applications since April 2019, of which 707 had been approved and 41 were still to be determined.<sup>26</sup> A total of 282 applications (over 27 per cent) have been refused, withdrawn or rejected.<sup>27</sup> Moreover, the FCA has received 30 applications for cancellation in the last six months, and 16 firms have been cancelled, meaning the number of firms currently authorised by the FCA with CMC permissions totals 668.<sup>28</sup> As shown in the graph below, the number of claims management firms currently authorised with the FCA has reduced to just over half of the 1,238 CMCs registered with the CMR in March 2018. The reduction in the number of authorised firms could lead to increased regulatory costs for those still operating, although the FCA has not confirmed that this will be the case.

At present, the FCA is unable to provide an exact breakdown of the different types of firms that have received authorisation, with a number of CMCs applying for more than one regulatory permission. However, the FCA has stated that of the firms authorised, approximately half have the *seeking-out* permission only, meaning they are lead generating

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<sup>20</sup> Ministry of Justice, [Claims Management Regulation: Annual Report 2017-18](#), 5 July 2018, p.17.

<sup>21</sup> *Ibid*, p.18.

<sup>22</sup> *Ibid*, p.18.

<sup>23</sup> GOV.UK, [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#).

<sup>24</sup> FCA, Regulatory Consultative Group meeting, 28 October 2019. Further information on temporary permissions can be found on the FCA website, [here](#).

<sup>25</sup> FCA, Regulatory Consultative Group meeting, 28 October 2019.

<sup>26</sup> *Ibid*.

<sup>27</sup> FCA, Regulatory Consultative Group meeting, 21 February 2022.

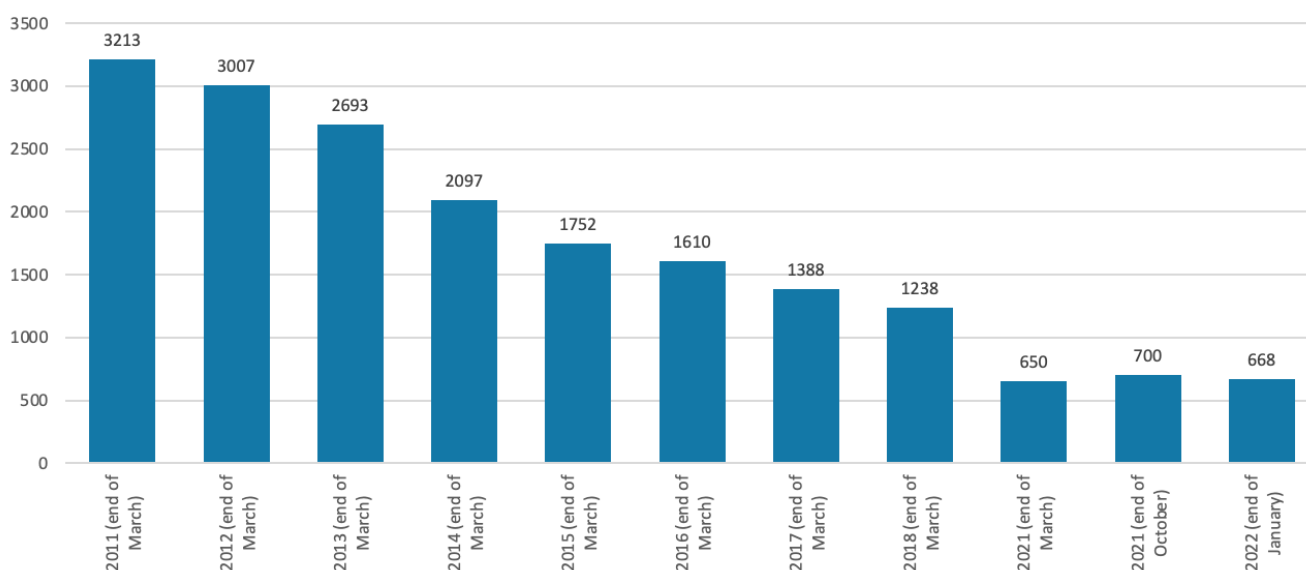
<sup>28</sup> *Ibid*.



firms. The split between PI firms and financial services firms is roughly equal, with slightly more PI firms due to the number of lead-generation-only CMCs.<sup>29</sup>

Many of the firms operating in the PI market have been authorised to carry out lead-generating activities only, with far fewer being authorised to offer advice on PI claims.<sup>30</sup> However, most of the FCA's new applications are for PI permissions, albeit as variation of permission (where an authorised firm wished to change or add to its regulated activities) as some firms look to change their models in response to the government's 2018 Civil Liability Act whiplash reforms.<sup>31</sup>

The total number of authorised claims management companies, 2011 – January 2022 <sup>32</sup>



In regard to turnover, the FCA stated that the CMC sector is populated by relatively small firms, certainly in comparison to other FCA-regulated sectors. The majority have a turnover of less than £500,000, and only a minority have a turnover of more than £50 million.<sup>33</sup> This is broadly similar to the structure of the CMC industry in 2017-18, where the CMR reported the largest 25 CMCs accounted for 57 per cent of all turnover, with the next 75 accounting for a further 27 per cent.<sup>34</sup>

<sup>29</sup> *Ibid.*

<sup>30</sup> FCA, Regulatory Consultative Group (RCG) meeting, 23 April 2021.

<sup>31</sup> FCA, Regulatory Consultative Group (RCG) meeting, 28 July 2021.

<sup>32</sup> As reported by the CRU ([Claims Management Regulation: Annual report 2010 – 2011](#), 28 July 2011, p.8; [Claims Management Regulation: Annual report 2012- 2013](#), 23 July 2013, p.8; [Claims Management Regulation: Annual Report 2014 - 2015](#), 13 July 2015, p.14; [Claims Management Regulator: Annual report 2015 - 2016](#), 26 July 2016, p.11; [Claims Management Regulator: Annual report 2016 – 2017](#), 4 August 2017, p.15; [Claims Management Regulation: Annual Report 2017-18](#), 5 July 2018, p.15) and the FCA (Regulatory Consultative Group meetings, 3 June 2019 to 21 February 2022).

<sup>33</sup> Email communication between ACSO and the FCA, 30 September 2020.

<sup>34</sup> Ministry of Justice, [Claims Management Regulation: Annual Report 2017-18](#), 05 July 2018, p.17.

## Complaint data analysis

### CMC complaints data 2018/19

On 1 April 2019, as the FCA took responsibility for managing the CMC sector, the responsibility for handling complaints for CMC-related activities transferred from the Legal Ombudsman Service (LeO) to the Financial Ombudsman Service (FOS).

The final set of data published by LeO concerning CMC complaints showed that during 2018/19, the ombudsman accepted 835 complaints for investigation, a reduction of 31 per cent from 1,212 in the previous year.<sup>35</sup> This reduction was due in part to fewer CMCs operating an up-front-fee business model, where historically LeO had seen the most complaints. Furthermore, as the transfer of CMC jurisdiction to FOS became known, LeO witnessed a reduction in the number of new complaints sent to them throughout the year.<sup>36</sup>

In its CMC jurisdiction, LeO resolved 1,185 complaints in 2018-2019, compared to 1,146 the year before.<sup>37</sup> On the nature of the complaints received, 85 per cent concerned financial products and services, 12 per cent concerned accident management and one per cent related to personal, criminal and industrial injury.<sup>38</sup> As with previous years, the types of complaints concerned excessive costs and a lack of cost information (38 per cent), poor communication (18 per cent), delays and/or failure to progress claims (18 per cent), failure to follow instructions (16 per cent) and a failure to advise (10 per cent).<sup>39</sup>

The percentage of complaint cases where LeO found reasonable service was provided by CMCs increased in 2018/19, following an upward trend from previous years (19 per cent in 2016-17; 28 per cent in 2017-18; and 39 per cent in 2018-19).<sup>40</sup>

### CMC complaints data 2019/20

In June 2020, FOS published its annual complaints data for the year ending 31 March 2020. It received 1,558 new complaints relating to CMC activities and upheld 42 per cent.<sup>41</sup> As with the LeO complaints data from the previous financial year, the key themes of the complaints were fees, delays and communication.

Claims linked to payment protection insurance (PPI) made up the largest part of FOS CMC casework. Consumers raised concerns that CMCs were either acting as fraudulent 'clone firms' (where scammers offer investments in products such as bonds, shares or cryptocurrency that are non-tradeable, worthless, overpriced or non-existent) or without authorisation from the FCA.<sup>42</sup> A number of consumers reported paying upfront fees on the promise of receiving substantial redress for mis-sold PPI or had been offered gift cards that

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<sup>35</sup> Legal Ombudsman (LeO), [Annual report and accounts: for the year ending 31 March 2019](#), 18 July 2019, p.9.

<sup>36</sup> *Ibid*, p.9.

<sup>37</sup> *Ibid*, p.14.

<sup>38</sup> *Ibid*, p.15.

<sup>39</sup> *Ibid*, p.16.

<sup>40</sup> *Ibid*. p.14.

<sup>41</sup> Financial Ombudsman Service (FOS), [Annual complaints data](#), June 2020.

<sup>42</sup> FCA, [Clone firms and individuals](#), August 2021.

did not materialise. Although FOS is not authorised to investigate these issues, it notifies the FCA.

FOS witnessed an increasing number of complaints linked to accident management claims, many of which involved consumers who had been in a non-fault car accident. Their insurer may appoint a CMC to deal with their claims on their behalf and work with the third party's insurer to get their car repaired.

### CMC complaints data 2020/21

In 2020/21, FOS received a total of 1,113 complaints about CMCs, approximately 14 per cent less than the regulator predicted in its Plans and Budget for 2020/21.<sup>43</sup> In total, FOS resolved 1,228 complaints about CMCs, a decline of 29 per cent from 2019/20, and upheld 40 per cent, down two percentage points from the previous financial year.<sup>44</sup>

PPI claims remain the most-complained-about CMC activity, with 751 new complaints.<sup>45</sup> FOS reported a growing number of complaints where the CMC in question failed to refer the consumer's PPI claim to the relevant financial business before the deadline of 29 August 2019.<sup>46</sup> Following PPI, accident management claims were the second-most complained about CMC activity, with 231 complaints.

FOS's *Plans and budget 2020/21* references comments and concerns made by stakeholders who responded to the public consultation on its 2020/21 plan and budget and future strategy. This includes arguments that CMCs will drive complaints trends and volumes, especially as they look to replace PPI-related business. The areas highlighted included: Brexit uncertainty, including business behaviour such as stockpiling goods to protect against supply problems, and consumer issues such as motor accidents abroad; current account pricing and alerts; confirmation of payee; credit issues including persistent debt, affordability and overdrafts; and interest rates.<sup>47</sup>

To date, these concerns appear to be unfounded. In the 2020/21 financial year, FOS received a total of 278,033 new claims of which under 1 per cent related to claims management companies.<sup>48</sup> Although FOS received 42,040 new complaints relating to PPI, this represents a decrease of 66 per cent from 2019/20 and a decrease of 77 per cent since 2018/19.<sup>49</sup>

Furthermore, on the replacement of PPI-related business by CMCs, the expansion of claims management activities into other areas of the market should not necessarily be considered a negative. As stated above, reputable CMCs can provide consumers with additional choice on how to secure redress, as well as support and advice for those who may otherwise be unable or unwilling to bring a claim themselves. In the words of former justice minister Lord Keen of Elie QC, "we anticipate that the market is so flexible that it will adjust to changed

<sup>43</sup> FOS, [Plans and budget for 2020/21](#), 01 April 2020, p.7.

<sup>44</sup> FOS, [Annual complaints data and insights](#), 26 May 2021.

<sup>45</sup> FOS, [Data for financial year 2020/21](#), 25 May 2021.

<sup>46</sup> FOS, [CMC quarterly data](#), 25 August 2020.

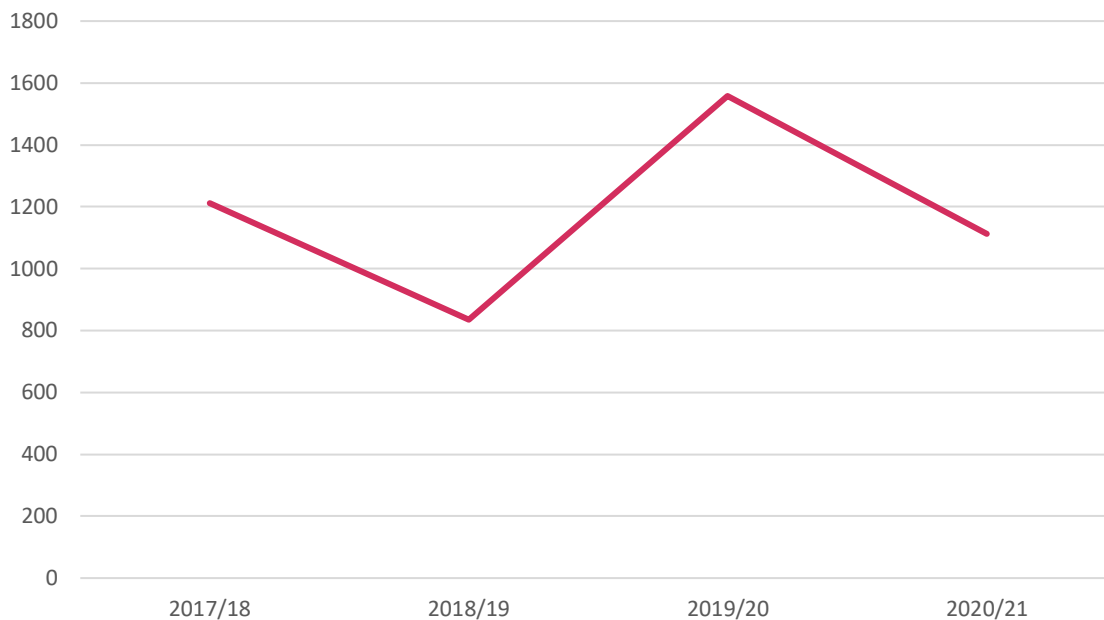
<sup>47</sup> FOS, [Plans and budget for 2020/22](#), 01 April 2020, p.30.

<sup>48</sup> FOS, [Annual complaints data and insights](#), 26 May 2021.

<sup>49</sup> FOS, [Financial Ombudsman Service publishes 2019/20 figures alongside future strategy](#), 3 June 2020.

circumstances. It has in the past, and we see no reason why it would not do so in future. It may be that claims management companies come into a part of the market they have not been in before; that is not of itself a bad thing”.<sup>50</sup>

Volume of claims management complaints 2017/18 – 2020/21 <sup>51</sup>



<sup>50</sup> House of Commons, Justice Committee, [Oral evidence: Small claims limit for personal injury](#), HC 659, 16 January 2018.

<sup>51</sup> FOS, [CMC quarterly data](#), 24 November 2021.



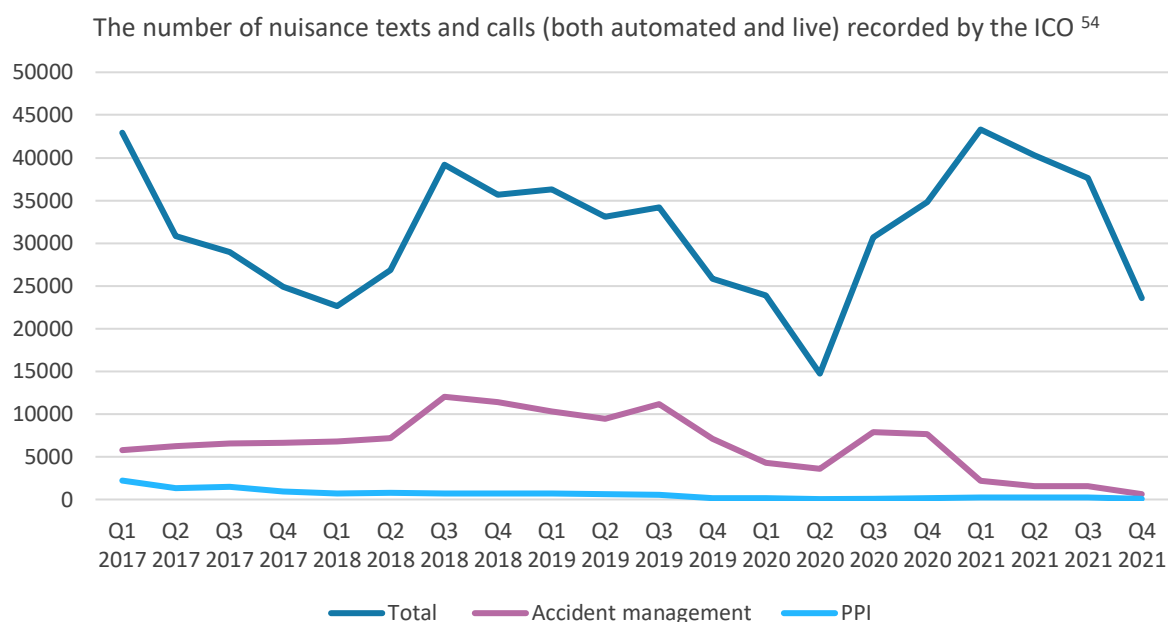
## Nuisance calls and text

Over recent years, many consumers have been targeted with nuisance text messages and calls, also known as ‘cold calls’, relating specifically to an injury-related claim, pensions, payment protection insurance (PPI) or other financial service-related claims. A substantial proportion of these nuisance texts and calls are made by CMCs who are seeking out persons who have a claim or a potential claim.

In January 2018, the Privacy and Electronic Communications (Amendment) (No.2) Regulations 2018 were implemented. These amendments included a ban on CMCs for cold calling, as well as emails and texts, making such activity unlawful and subject to fines of up to £500,000. CMCs now must obtain prior consent from individuals before they can contact them by telephone to market their services. Furthermore, the FCA’s *Code of Business* stated that a claims management firm “must not carry out a cold call in person”.<sup>52</sup>

The number of nuisance texts and calls reported to the Information Commissioner’s Office (ICO) declined overall throughout 2020 when compared on a quarterly basis to 2019.<sup>53</sup> Of particular relevance to the CMC sector are the number of nuisance texts and calls, both automated and live, recorded by the ICO that relate to accident management and PPI.

The table below shows the quarterly change in nuisance call and texts reported the ICO between 2017 and 2021 for the total number of reported calls and texts and those relating to accident management and PPI.



<sup>52</sup> FCA, [‘Claims Management: conduct of business sourcebook’](#), April 2019, p.10.

<sup>53</sup> Information Commissioner’s Office (ICO), [‘Nuisance calls and messages’](#), June 2021.

<sup>54</sup> ICO, [‘Nuisance calls and messages’](#), July 2021.

In the first quarter of 2021, there was a total of 43,303 nuisance call and texts recorded by the ICO. Of these, 5 per cent (2,158) were accident management calls and texts. There was a 72 per cent decrease in the number of accident management calls and texts between the last quarter of 2020 and the first quarter of 2021. Year-on-year comparisons also show a substantial fall in the number of accident management calls and texts, from 25,196 in 2017 to 5,902 in 2021, a decline of 77 per cent.<sup>55</sup>

There has been a dramatic decline in the number of nuisance calls and texts relating to PPI since the deadline for PPI claims passed on 29 August 2019, from a total of 2,212 calls and texts in the first quarter of 2017, to just 110 in the last quarter of 2020.<sup>56</sup> As could be expected, there was a 55 per cent increase in the number of PPI-related nuisance calls and texts from July 2019 to August 2019, as claims management companies rushed to meet the deadline. This was followed by a 73 per cent decline in September 2019.<sup>57</sup>

Eradicating nuisance calling entirely remains a challenge. As Lord Keen has stated, “effectively stopping cold calling is an immensely complex process, because cold calling nowadays is carried out by unregulated entities from outside the United Kingdom. We have instances of it being carried out in South America to the UK. They then spoof their telephone numbers - as it is termed – so that it is impossible to trace the origins of the call. Therefore, it is a problem that [the government] are looking at and constantly monitoring”.<sup>58</sup>

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<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> Rt Hon Lord Keen of Elie QC, [oral evidence: small claims limit for personal injury](#), HC 659, House of Commons Justice Committee, 16 January 2018.

## The FCA *Financial Lives* Survey

The FCA's *Financial Lives* survey is the largest tracking survey of UK adults of its kind. The survey, which began in 2017, is conducted with the aim of better understanding the financial products consumers have, their experiences engaging with financial services firms and their attitudes around dealing with money and the financial services market.<sup>59</sup> The second survey concluded in February 2020 and focused on consumers' financial positions before the covid-19 pandemic and their likely ability to manage financial shocks.<sup>60</sup> It does not contain specific data on CMCs. However, at the time of writing the FCA is conducting its survey for 2022 and it is hoped greater attention will be paid to the CMC sector so that further lessons can be learned as required.

For the 2017 *Financial Lives* survey, 13,000 consumers across the UK were interviewed. The survey found that 50 per cent of adults in the UK display one or more characteristics that signals their potential vulnerability, such as limited financial resilience, low financial capability, bereavement, redundancy, divorce or health-related issues.<sup>61</sup> By October 2020, an additional 3.7 million consumers showed characteristics of vulnerability, with young adults being disproportionately affected.<sup>62</sup>

On financial products, four in five (82 per cent) adults held at least one general insurance policy. Motor insurance was found to be the most widely held product (61 per cent), with product holding higher in more rural areas.<sup>63</sup> In addition, only 40 per cent of UK adults are confident in the UK financial services industry, and only 31 per cent feel that financial firms are honest and transparent. Also, only 52 per cent of UK adults feel that they are financially savvy when it comes to products and services, only 37 per cent feel confident in managing their money and 88 per cent prefer to stick to financial brands that they know.

The survey found seven in ten (69 per cent) consumers had received unsolicited approaches by a CMC in the 12 months prior to the interview, by telephone, text or email, offering to make a claim for compensation.<sup>64</sup> Results ranged from 79 per cent of adults in the North East, to 62 per cent of adults in core cities and 63 per cent in London. The 2020 *Financial Lives* Survey found that in the 12 months to February 2020, 18 per cent of adults (9.3 million) received at least one unsolicited approach, however these involved pensions, investments and retirement planning and were thought to be a scam, rather than an unsolicited approach from a CMC.<sup>65</sup> The 2020 survey does not include any specific data on unsolicited calls and/or texts from CMCs.

The FCA highlighted the potential for significant consumer detriment resulting from the high occurrence of characteristics which contribute to vulnerability in UK adults, coupled with the

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<sup>59</sup> FCA [Financial Lives](#), 29 July 2020.

<sup>60</sup> FCA, [Financial lives 2020 survey: the impact of coronavirus](#), February 2021.

<sup>61</sup> FCA, Financial Conduct Authority (FCA), [The financial lives of Consumers across the UK](#), 20 June 2018.

<sup>62</sup> FCA, [The financial lives of Consumers across the UK](#), 20 June 2018, p.10.

<sup>63</sup> *Ibid*, p.46.

<sup>64</sup> *Ibid*, p.101.

<sup>65</sup> *Ibid*, p.24.

occurrence of unsolicited approaches by CMCs. The regulator stated its intention to monitor closely consumer interaction with financial services firms to improve financial resilience amongst consumers and help protect them from unsolicited approaches by CMCs in future. However, the high occurrence of characteristics which contribute to consumers' vulnerability combined with the low levels of consumer confidence in the UK financial services industry, reinforced the significant role reputable CMCs can play in enabling access to justice.

In its July 2020 report *Financial Lives: The experiences of vulnerable consumers*,<sup>66</sup> the FCA defines a vulnerable consumer as someone who, owing to their personal circumstances, is especially vulnerable to harm, particularly when a firm is not acting with appropriate care.<sup>67</sup> The FCA considers the four key drivers of vulnerability to be health, such as poor mental or physical health, low financial or emotional resilience, life events such as bereavement or divorce, and low capacity, including poor digital (e.g. ability to communicate and transact online), language and cognitive skills as well as low financial capability. For these reasons, vulnerable consumers may be significantly less able to represent their own interests, they may have different needs and may be more prone to behavioural biases that negatively impact their decision making.

The FCA survey found that just under half (46 per cent) of UK adults aged 18 and over (24.1 million people) displayed one or more characteristics of vulnerability.<sup>68</sup> Potential harms that vulnerable consumers may be more likely to experience include financial exclusion, difficulty accessing services, difficulty engaging with markets and to search for products effectively, an inability manage a product or services, buying inappropriate products or services and being more susceptible to scams and financial abuse.

On 23 February 2021, the FCA published guidance for firms on the fair treatment of vulnerable consumers, which intends to ensure that firms embed the fair treatment of vulnerable consumers into their culture, policies and processes.<sup>69</sup> Although vulnerable consumers may be more likely to suffer some of the potential harms listed above at the hands of disreputable claims management firms, the contraction of the CMC market has led to a decline in the number of CMCs which fall into this category. This has largely resulted from the FCA's ongoing authorisation process, which has led to a number of applications being withdrawn after the FCA became aware of potential harm to consumers or levy payers from CMC activity. Furthermore, the consideration of consumer vulnerability has already been embedded into the FCA rules for CMCs. For example, a firm carrying on regulated claims management activities "must establish and implement clear, effective and appropriate policies and procedures to identify and protect vulnerable consumers".<sup>70</sup>

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<sup>66</sup>FCA, [Financial Lives: The experiences of vulnerable consumers](#), July 2020.

<sup>67</sup> *Ibid*, p.4.

<sup>68</sup> *Ibid*, p.9

<sup>69</sup> FCA, [FG21/1 Guidance for firms on the fair treatment of vulnerable consumers](#), 23 February 2021.

<sup>70</sup> FCA, [Handbook, CMCOB 2.1 General principles](#).



## Impact of the 2018 Civil Liability Act

The Civil Liability Act (CLA), which received Royal Assent on 20 December 2018, is intended to reduce the cost of road traffic accident compensation claims, with the bulk of the resulting savings passed on to motor insurance customers through lower premiums.<sup>71</sup> After repeated delays owing to the complexity of the reforms and the outbreak of the covid-19 pandemic, the CLA was implemented on 31 May 2021. This saw the launch of the Official Injury Claim (OIC) portal, designed for claimants to pursue their own claims, with support or independently as litigants in person (LiPs), where the damages are less than £5,000.<sup>72</sup>

Although the OIC portal promised to be simple and user friendly in design, there is already evidence to suggest that LiPs (as well as professional users) are finding it difficult to navigate the new process. For example, data from the Motor Insurers Bureau, which operates the OIC, shows that since the launch of the portal 114,077 claims have been submitted, yet only 10,564 (9 per cent) were unrepresented.<sup>73</sup> Unrepresented consumers with vulnerabilities or those with more complex cases are more likely to have difficulty progressing their claims through the OIC portal.

For this reason, a number of insurers, amongst others, have raised concerns that the CLA is a 'CMCs' charter', as CMCs will increasingly target LiPs.<sup>74</sup> As such, individuals may be registered as a LiP on the portal system while in reality they may be guided by a claims management firm which may not be regulated. This has the potential to cause substantial reputational damage within the sector and lead to consumer detriment by CMCs seeking disproportionately large fees from the damages recovered.

It cannot be guaranteed that consumers will not ask third-party agents to progress their claim, nor would it be appropriate for them to do so. However, the limited data that is available at present does not show a large-scale increase in the use of CMCs for low-value road traffic accident claims. Of the 114,077 claims that were started via the OIC portal since its launch on 31 May 2021, only 209 claims (0.1 per cent) were represented by CMCs.<sup>75</sup>

Since the launch of the OIC portal, there has been no evidence to suggest that there has been an increase in poor behaviour by CMCs, whether regulated or unregulated, and there are several reasons why it is unlikely to emerge. First, as has been discussed throughout this report, there has been a considerable reduction in the number of authorised CMCs, thereby reducing the number of disreputable market players. Second, as a regulator, the FCA has robust supervision and enforcement mechanisms, more so than that the CMR. Third, the number of motor injury claims has declined substantially over the last decade but especially following the implementation of the CLA, meaning there is less incentive for CMCs to enter the market. For example, the number of motor injury claims reported to the Compensation

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<sup>71</sup> GOV.UK, [Civil Liability Act 2018](#), 20 December 2018.

<sup>72</sup> [Official Injury Claim](#), 31 May 2021.

<sup>73</sup> Official Injury Claim, [Claims data: for the period 31 September – 30 November 2021](#), December 2021, p.3.

<sup>74</sup> For example, see: Hyde, J., [Insurers warned CMCs will run riot in new claims regime](#), The Law Society Gazette, 13 June 2019.

<sup>75</sup> Official Injury Claim, [Claims data: for the period 31 September – 30 November 2021](#), December 2021, p.4.

Recovery Unit (CRU), the government body for reporting claims, fell to 98,774 between October and December 2021, compared to 139,758 for the same period in 2020.<sup>76</sup>

Despite stakeholder concerns that CMC operating models will evolve to avoid FCA regulation, as raised in FOS's *Plans and budget 2020/21*, individual authorised firms are subject to ongoing checks to ensure they are meeting the FCA's required standards and complying with rules.<sup>77</sup> When a firm does not meet the required regulatory standards, the FCA has a range of tools and powers at its disposal, ranging from giving the firm the opportunity or requiring them to address the issue, placing requirements or varying permissions to restrict what they can do, to opening an enforcement investigation and ultimately imposing an enforcement sanction (such as a financial penalty) if there is serious misconduct.<sup>78</sup> Between April 2019 and July 2021, the FCA opened 1,239 supervisory cases and closed 1,158 cases. Moreover, the FCA is expecting to commence its multi-firm work on the OIC portal and whiplash claims in spring 2022, which will identify and mitigate harms. It is notable that the delay to the commencement of this work is due in part to the continuing low number of CMCs operating in this area.

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<sup>76</sup> The Association of Consumer Support Organisations (ACSO), [ACSO comments on the latest CRU claims data](#), 25 January 2022.

<sup>77</sup> FOS, [Plans and budget for 2020/22](#), 01 April 2020, p.31.

<sup>78</sup> FCA, [CMCs: how we will authorise and regulate firms](#), 01 April 2019.

## Financial restrictions and fee caps

The 2018 Financial Guidance and Claims Act introduced an interim fee cap for Payment Protection Insurance (PPI) claims of 20 per cent (excluding VAT).<sup>79</sup> In addition, it gave the FCA and the Solicitors Regulation Authority (SRA) the power to set rules with the aim of “securing an appropriate degree of protection against excessive charges for the provision of a service which is, or which is provided in connection with, a regulated claims management activity”.<sup>80</sup> The interim fee cap will remain in place until the FCA imposes a new fee cap, and the regulators will consult on any proposed fee cap rules.

In 2019, both regulators commenced a review on the capping of fees across all claims management activities. This included a thematic review with consumers to understand better their awareness of the detriment caused by the current fees and funding arrangements.

In January 2021, the FCA opened a public consultation seeking feedback on its proposed restriction for CMC charges on financial products and services claims, to which ACSO submitted a response.<sup>81</sup> The proposed fee cap of between 15–30 per cent of redress is intended by the FCA to provide consumers with the clarity and certainty they need to make informed decisions before entering into a contract with a CMC. However, as ACSO has highlighted in its ongoing engagement with the FCA, a reduction in CMC charges must be balanced with the need to maintain a viable and competitive market. While the FCA intends to protect consumers, an ill-considered cap could lead to firms refusing to represent customers, thereby creating clear consumer detriment. Any new regime must protect access to justice in addition to deterring exploitation and malpractice. The FCA’s proposed fee cap is, as with all fee caps, arbitrary. As such, ACSO urged the FCA to keep the impact of the proposed changes under review.

On 29 November 2021, the FCA published *Policy Statement 21/18*, which outlined how the FCA decided to change the following two elements of the proposed fee cap and implement the remainder of the cap as consulted on.<sup>82</sup> First, the cap will not apply to pre-existing contracts except where the contracts are varied to increase fees or add new fees and except where new claims are added to the contract of the consumer did not authorise or instruct the firm to act in relation to the claim until after the rules came into force (in which case, the new claims will be subject to the cap). The FCA has not proceeded with its proposal to apply the cap to all claims under contracts that were entered into before the rules come into force. Second, in certain circumstances the cap will not apply to claims management services provided in relation to court proceedings even if the claim is eligible for referral to a statutory ombudsman or compensation scheme. The rules and guidance will be in place from 1 March 2022.<sup>83</sup>

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<sup>79</sup> [Financial Guidance and Claims Act 2018](#).

<sup>80</sup> *Ibid*, Section 28(3).

<sup>81</sup> FCA, [CP21/1: Restricting CMC charges for financial products and services claims](#), January 2021.

<sup>82</sup> FCA, [Restricting CMC charges for financial products and services claims: Policy statement PS21/18](#), November 2021.

<sup>83</sup> *Ibid*, p.9.

The PI sector does not fall within the scope of the FCA's fee cap owing to the significant changes the sector has undergone in May 2021 following the implementation of the 2018 Civil Liability Act measures. In regard to the remaining segmentation of the CMC market, the FCA has stated it will review the impact of the proposals upon the financial services market before implementing further fee caps.

On 8 June 2021, the SRA published a board paper outlining its approach to meeting the statutory duty placed on it in the 2018 Financial Guidance and Claims Act.<sup>84</sup> Here, the SRA states it will engage with law firms and consumer organisations to understand how consumers might be impacted, and alludes to the FCA consultation which argues the proposals will help older people who are more likely to have pensions claims and younger people who are more likely to have loans claims.<sup>85</sup> On 7 July 2021 the SRA published a discussion paper on restricting fees for some claims management services to enable it to build knowledge and gather information about how the c.10,500 law firms it regulates operate in the CMC market and how the fee restrictions might impact on them.<sup>86</sup> The discussion paper also enabled the SRA to "test the FCA's assumptions and proposals to restrict fees" and allowed it to decide whether it is appropriate to apply them to SRA regulated law firms. The deadline for submissions to the discussion paper was the 29 September 2021. At the time of writing, the SRA is continuing to review the consultation responses and has not set a target date for when it intends to update the public on its next steps.

As with the FCA, the SRA has stated it does not intend to invoke its powers to make rules that would restrict fees in other claims management areas, such as PI. However, the regulator intends to keep this matter under review.<sup>87</sup>

In conjunction with the ongoing reviews by the FCA and the SRA, ACSO is engaging with both regulators to help ensure an informed debate continues as to the potential implications of fee caps and financial restrictions on the CMC sector. ACSO is working to ensure that the setting of any fee cap/financial restrictions will neither adversely affect consumers nor unfairly penalise reputable CMCs.

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<sup>84</sup> SRA, [SRA Board: Implementing permanent fee rules that restrict charges for claims management activities](#), 8 June 2021.

<sup>85</sup> *Ibid*, p.2.

<sup>86</sup> SRA, [Discussion paper: Restricting fees for some claims management services](#), 7 July 2021.

<sup>87</sup> SRA, [SRA Board: Implementing permanent fee rules that restrict charges for claims management activities](#), 8 June 2021, p.6.



## Additional regulatory changes

### Claims management phoenixing

In regard to other proposed regulatory changes, in May 2021 the FCA opened a consultation outlining its proposals to address the practice of ‘claims management phoenixing’ by individuals in financial services firms.<sup>88</sup> Claims management phoenixing occurs when an individual or individuals connected to a financial services firm that has gone out of business later reappear in connection with a CMC and charges consumers for seeking compensation against their former firm’s poor conduct by bringing complaints to the Financial Services Compensation Scheme (FSCS).<sup>89</sup>

Of the 250 CMCs regulated by the FCA with permission to manage financial services claims, at least 18 (7 per cent) have connections to former financial services firms.<sup>90</sup> This could allow individuals from those CMCs to benefit from the firms’ previous poor conduct.<sup>91</sup> This is not to suggest that all 18 firms are practicing claims phoenixing, only that they have the potential to do so. However, the FCA does not always have access to the information it needs to identify connections between CMCs and the claims they manage or seek to manage, meaning it is difficult to determine the true extent to which phoenixing might be occurring.

In terms of harms, the practice incentivises financial services firms to wind up when redress liabilities arise in the knowledge they have the potential to charge customers fees of up to 40 per cent for any future claims management activity. Phoenixing results in reputational damage for the CMC sector, as well as the financial services sector more broadly, not least as consumers should feel confident that their chosen firm is acting in their best interest. In addition, phoenixing has an impact upon fair competition as it creates an advantage for those firms that have preferential access to or advance knowledge of redress claims.

The FCA intends to prohibit CMCs from carrying on any regulated claims management activity in respect of a claim or potential claim to the FSCS in the following circumstances:

- a. Any employee or controller of the CMC, or any member of the CMC’s governing body, was directly involved in or had responsibility for managing the financial services activity that is the subject of the claim or potential claim; and/or
- b. A member of the CMC’s governing body is related to a person who was directly involved in or had responsibility for managing the financial services activity that is the subject of the claim or potential claim; and/or
- c. The CMC or a member of its governing body has transferred or agreed to transfer a financial benefit to a person who was directly involved in or had responsibility for managing the financial services activity that is the subject of the claim or potential claim.

However, CMCs would have the ability to apply for a waiver from the rules in the event that a relationship between persons exists without any material connection or flow of benefits

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<sup>88</sup> FCA, [CP21/14: Preventing claims management phoenixing by financial services firms](#), May 2021.

<sup>89</sup> FCA, [FCA announces plans to stop CMC phoenixing](#), 17 May 2021.

<sup>90</sup> FCA, [CP21/14: Preventing claims management phoenixing](#), 17 May 2021, p.3.

<sup>91</sup> *Ibid*, p.3.

between parties. Likewise, if a person had direct involvement in a related financial services activity and subsequently received a financial benefit from the CMC for a reason that is unconnected with the regulated activity of the claim arising from it, the CMC in question should be able to apply for a waiver from the rules. This will stop the proposals unfairly preventing CMCs from managing claims in some circumstances and will ensure consumers continue to receive access to justice through their chosen claims management firm.

Firms may also be required to notify the FCA of (i) any financial services activity in respect of which an employee or controller of the CMC, or any member of its governing body, is or was directly involved in or responsible for managing; and/or (ii) any member of the firm's governing body who is related to a person who is or was directly involved in or responsible for managing financial services activity. This will help to prevent the practice of claims management phoenixing and provide the FCA with the information needed to detect the majority of such cases.

The FCA consultation closed on 21 June 2021, with any agreed rules on claims management phoenixing expected in 2022.

### The FCA CMC portfolio strategy

In a letter to firms within its claims management portfolio, dated 26 October 2020, the FCA identified the following issues during their assessment of CMCs applying for authorisation:

- misleading, unclear and unfair advertising;
- poor disclosure of pre-contractual information about fees and/or the availability of free alternatives to make a claim, meaning consumers are not able to make well-informed decisions;
- unclear fee structures which can mean consumers are not aware of how much they will need to pay a CMC or that a CMC's fee will significantly reduce the amount of redress they might otherwise receive;
- poor service standards, including low-quality advice, inadequate processes and procedures and sub-standard representation;
- failing to undertake sufficient checks and collect relevant information before presenting claims to third parties, resulting in the submission of spurious claims, slower processing and poor outcomes;
- some CMCs have been established by, or have had close associations with, individuals at previous firms involved in misconduct such as the mis-selling of financial products (see above); and
- some firms have been looking to use existing data to recycle and re-market claims, giving rise to nuisance calls.<sup>92</sup>

Although avoidance of the above issues is common sense to reputable claims management firms, the letter reflects that poor and inappropriate behaviour by a number of market players remains a problem. However, once the FCA authorisation process is complete, we expect to see a substantial reduction in the issues identified above.

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<sup>92</sup> FCA, ['Portfolio letter: Claims Management Companies \(CMCs\)'](#), 26 October 2020.

On the issue of ‘unfair, unclear and fair advertising’, the FCA has published guidance to help ensure CMCs avoid the common mistakes it sees in claims management promotion, such as:

- failing to identify as a CMC;
- failing to prominently include information about a consumer’s right to make a claim for themselves for free;
- failing to include the name of the relevant ombudsman or compensation scheme; and
- using the ‘No-Win-No-Fee’ statement or a similar statement without disclosing the fee and/or termination fees where applicable.<sup>93</sup>

In April 2019 the FCA sought to impose its financial promotions guidance and regulation on CMCs, whereby the proposed disclaimers would have amounted to a ban on CMCs using Google advertising.<sup>94</sup> Following engagement with the FCA, ACSO succeeded in persuading the regulator not to impose its full financial promotions rules on the CMC sector, thereby helping to promote competition and consumer choice. From the 30 August 2021, financial services advertisers have needed to show they are authorised by the FCA or qualify for one of Google’s limited exemptions.<sup>95</sup> At present, the FCA does not believe this will have a huge impact on regulated CMCs, except that they are likely to have to confirm their details including their Financial Services Register reference number. Moreover, in February 2022, the FCA confirmed there has been a decrease in breaches relating to misleading advertising.<sup>96</sup>

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<sup>93</sup> FCA, [Financial promotions case studies](#), 09 July 2021.

<sup>94</sup> FCA, [Financial promotions and adverts](#), 05 May 2015.

<sup>95</sup> FCA, Regulatory Consultative Group (RCG) meeting 28 July 2021.

<sup>96</sup> FCA, Regulatory Consultative Group (RCG) meeting 21 February 2022.

## Conclusion

A well-functioning and effectively regulated CMC market benefits consumers by providing an additional means to secure redress and well as easily accessible advice and support. Numerous market dynamics have led to a considerable contraction in the number of authorised CMCs, including the dissolution of the CMR and the more robust regulatory framework introduced by the FCA. In addition, the conclusion of the period in which PPI claims could be made saw a further reduction in the number of authorised CMCs.

From 1 March 2022, once the FCA's new rules are implemented on restricting claims management charges for financial products and services claims, it is possible that more CMCs will leave the market, move to offer different services, or change the way they set their fees. The FCA will monitor the effectiveness of the rules through regulatory returns and ongoing supervisory work and will review the cap in later years if it finds evidence that it is not achieving its objective.<sup>97</sup> In *Policy Statement 21/18*, the regulator stated it has chosen to focus on restricting charges for financial services claims before considering other CMC sectors, although does not intend to intervene in the PI sector in the near future owing to the significant changes the sector has been undergoing.<sup>98</sup> However, no commitment was made to review fully the impact of its intervention in the financial services market before implementing further fee caps in other CMC sectors.

There has been a steady long-term decline in the number of CMCs operating in the PI sector, as recorded by both the CMR and the FCA. This trend has been fuelled in large part by LASPO, which introduced an offence for CMCs to pay or receive payment for a referral of PI. At present, many of the firms operating in the PI market have been authorised by the FCA to carry out lead-generating activities only, with far fewer being authorised to offer advice on PI claims.<sup>99</sup> This is reflected in the delay caused to the FCA's multi-firm work on the OIC and whiplash claims, which was announced in the FCA's portfolio strategy letter in October 2020 although is now expected to commence in spring 2022.<sup>100,101</sup>

Despite concerns that the creation of the OIC portal will lead to an increase in poor behaviour from CMCs, there is no evidence at present to support this. Between 31 May and 31 August, only 0.2 per cent of claims were represented by CMCs.<sup>102</sup> Moreover, with the greater oversight of CMCs provided by the FCA, coupled with the substantial contraction of the CMC sector and the reduced levels of general damages offered to consumers, the incidence of poor behaviour is likely to be limited.

At present, where a CMC carries out a claims management activity regulated by the FCA, it has to meet the wider principles and specific rules in the FCA handbook, as well as, when

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<sup>97</sup> FCA, [Policy statement \(PS21/18\): Restricting CMC charges for financial products and services claims](#), November 2021, p.7.

<sup>98</sup> *Ibid*, p.32.

<sup>99</sup> FCA, Regulatory Consultative Group (RCG) meeting, 23 April 2021.

<sup>100</sup> FCA, Regulatory Consultative Group (RCG) meeting, 21 February 2022.

<sup>101</sup> FCA, [Portfolio Strategy: Claims Management Companies \(CMCs\)](#), 26 October 2020.

<sup>102</sup> Official Injury Claim, [Claims data: for the period 31 May – 31 August 2021](#), 21 October 2021, p.4.



implemented, the FCA's proposed Consumer Duty.<sup>103</sup> In particular, the firm would have to comply with CMCOB rule 2.1.7R which prohibits it from pursuing a baseless, fraudulent or vexatious claim.<sup>104</sup> Yet challenges remain which pose risks to consumers, not least as the FCA has found that many CMCs have demonstrated a poor understanding of, and sometimes attitude to, their regulatory obligations.<sup>105</sup>

The value of the sector in ensuring access to justice is reliant upon an effective regulatory and supervisory regime, whereby well-documented areas of malpractice associated with CMCs, such as cold calling, excessive charging, offshore activity and phoenixing, have been addressed. It is essential that the FCA continues to engage with CMCs and the wider sector, including organisations such as ACSO, to help drive better consumer outcomes, eradicate malpractice and identify best practice within the CMC market.

## Further information

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<sup>103</sup> FCA, [CP21/13: A new Consumer Duty](#), May 2021.

<sup>104</sup> FCA, [FCA Handbook: CMCOB 2.1 General principles](#).

<sup>105</sup> FCA, [Portfolio Strategy: Claims Management Companies \(CMCs\)](#), 26 October 2020.