

## Claims Management Regulation

# Implementation of the ban

Kevin Rousell

Head of Claims Management Regulation

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# Current Regulatory Structure

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**Direct regulation  
by the MoJ**

MoJ responsible since April 2007 under Part 2 of the Compensation Act 2006

**Claims Management  
Regulation Unit**

Partnership with a Compliance Office provided by Staffordshire County Council under contract to the MoJ

**Regulatory  
Consultative Group**

Interested parties/stakeholders: Includes reps from CMCs, other regulators, trade associations & consumer groups

**Secondments &  
partnerships**

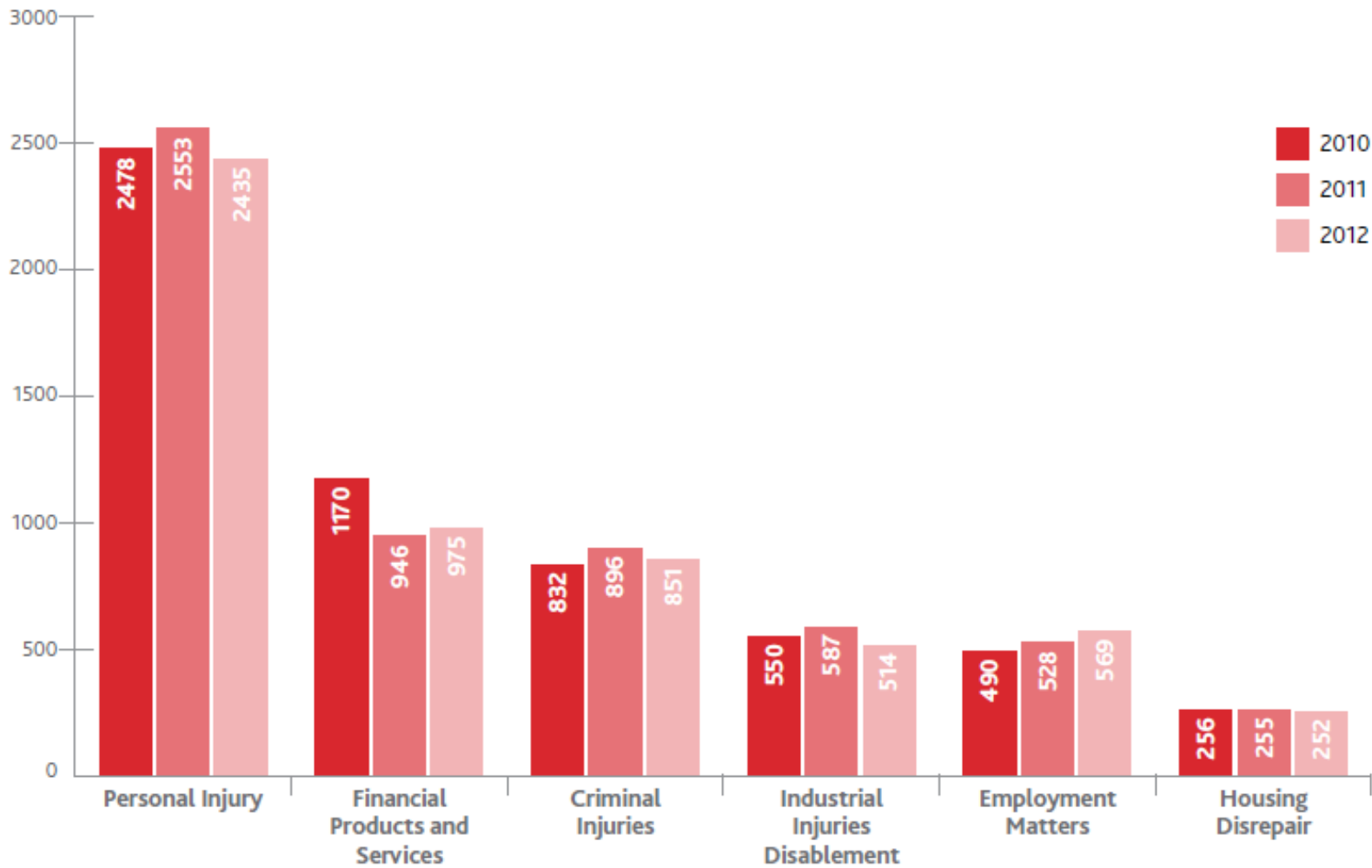
Secondees recruited since 2007 from regulators/complaint handlers – currently FOS and LeO

**Self funding**

Operating costs are financed by fees charged to CMCs (application fees and annual fees).

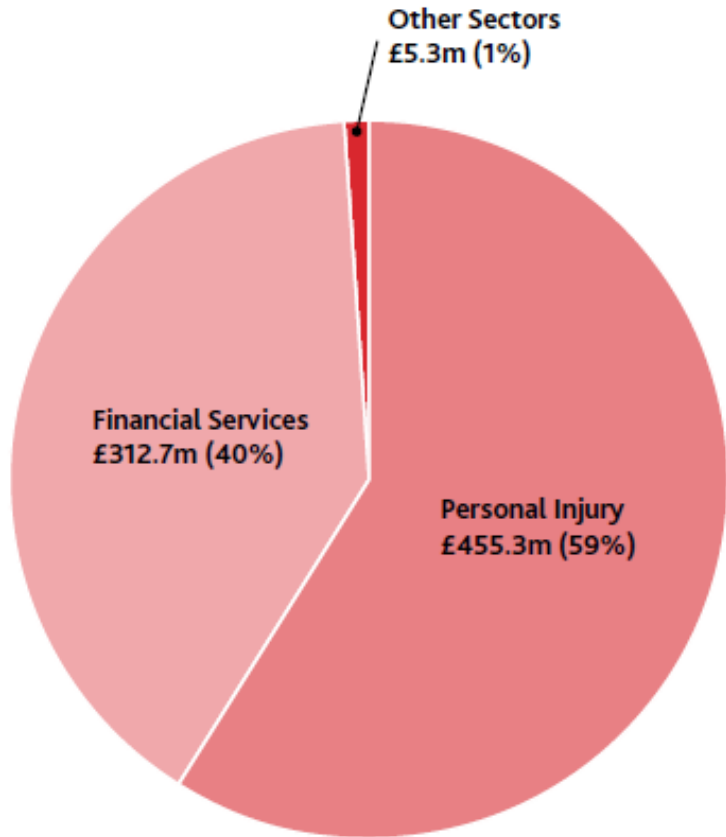


# Total CMCs in industry by sector: 2010 - 2012



# The Personal Injury Market

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- 76% of all authorised CMCs trade in the personal Injury (PI) sector.
- PI remains the largest sector with a turnover of £455m.
- 46% of PI CMCs are small businesses with a turnover of less than £26,000.
- The majority of PI CMCs refer claims to solicitors for a fee.
- The ban will not prevent CMCs from undertaking other regulated claims management activities.



# The Referral Fee Ban

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From April 2013 regulated persons will be prohibited from paying or receiving fees for referrals of prescribed legal business, in claims for damages following a personal injury (PI) or death.

- “Regulated persons” Includes authorised CMCs.
- “Payment” Includes any form of consideration whether any benefit is received by the regulated person or by a third party.
- “Prescribed legal business” Business that involves the provision of legal services to a client, where the legal services relate to a claim or potential claim for damages for personal injury or death, or the legal services relate to any other claim or potential claim for damages arising out of circumstances involving personal injury or death.
- “Referral” The provision to another of information that a provider of legal services would need to make an offer to the client to provide relevant services, and the person providing the information is not the client.



# The Effect of the Ban

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It is a condition of authorisation that authorised CMCs comply with the Conduct of Authorised Persons Rules 2007.

*General Rule 5: “a business shall observe all laws and regulations relevant to its business.”*

*Client Specific Rule 8: “where business is introduced to a solicitor, the business must not act in a way that puts the solicitor in breach of the rules governing solicitors’ conduct.”*

The receipt of a payment for the referral of client’s, or potential client’s, details in respect of a personal injury claim or death will breach the ban and also the CMC’s conditions of authorisation.

CMCs are to ensure their business arrangements are compliant with the ban and their conditions of authorisation.



# Regulatory Enforcement

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Where the Claims Management Regulator identifies a breach of the ban there are a number of enforcement tools available:

- warnings
- undertakings
- variations
- suspensions
- cancellations

The type of regulatory action required will be dependant on the circumstances of each case



# Compliance Projects and Consistency of Approach

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Regulatory resources will be increased in readiness for the implementation and subsequent enforcement of the ban, with:

- Sector specific compliance project
  - active engagement
  - monitor compliance
  - undertake audits
  - take enforcement action
- Strategic assessment to inform the enforcement approach post implementation

A consistent approach is important - we will continue our work with other regulators and organisations such as the SRA, FSA, FOS and LeO





# Key Activities

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- Preliminary guidance setting out how we intend to approach and enforce the ban.
- Referral fee webpage on the Claims Management website
- Ongoing work with the SRA and FSA to ensure a consistent approach.
- Active engagement with all authorised PI CMCs
- Strategic assessment of the sector



# Other Claims Management Reforms in 2013

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- Ban on inducements to make a claim
- Amendments to the Conduct of Authorised Persons Rules 2007
- Legal Ombudsman to take on complaint handling



# Contacts

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